AGENDA
BOARD OF SUPERVISORS
WEDNESDAY, MAY 13, 2026
7:00 PM
BOARD MEETING ROOM
107 NORTH KENT STREET, WINCHESTER, VIRGINIA 22601

1. **Call to Order**
2. **Invocation**
3. **Pledge of Allegiance**
4. **Adoption of Agenda**
5. **Citizen Comments – For agenda items that are not the subject of a Public Hearing**
6. **Consent Agenda – *Roll Call Vote***

6.A. Approval of Closed Session and Regular Meeting Minutes of April 22, 2026

BOS05-13-26MinutesClosed260422.pdf

BOS05-13-26MinutesRegMtg260422.pdf

6.B. Approval of Closed Session & Work Session Minutes of May 6, 2026

BOS05-13-26MinutesClosed260506.pdf

BOS05-13-26MinutesWorkSession260506.pdf

6.C. Acceptance of Parks & Recreation Commission Report of April 14, 2026

BOS05-13-26ParksRecCommReportApril2026.pdf

6.D. Acceptance of Transportation Committee Report of April 27, 2026

BOS05-13-26TransportationCommReport.pdf

6.E. Eastern Frederick County Transportation Study (EFCTS): Phase II

Authorization - The Transportation Committee recommends acceptance of the proposal from McCormick Taylor, the County's on-call transportation consultant, for completion of the Eastern Frederick County Transportation Study Phase II, including a "new road /new location" analysis required for Smart Scale eligibility, with an estimate of about $233,622.04, significantly lower than competing bids.

Consent Agenda, *continued*

6.F. Mitigation Agreement for Smithfield Avenue Public Safety Radio Tower

BOS05-13-26MitigationAgreementFredCo-SVBF-SmithfieldRadioTowerSite.pdf

7. **Board of Supervisors Comments**

8. **County Officials** - None

9. **Appointments to Boards, Committees, and Commissions**

9.A. Social Services Board - Shawnee District Rep.
4-year term of Dolores Stottlemyer expires 6/30/26.
Ms. Stottlemyer is eligible and willing for reappointment.

9.B. Parks & Recreation Commission - Stonewall District Rep.
4-year term of Jennifer Myers 6/23/26
Ms. Myers does not wish to be reappointed. See the attached application of Christopher Luebcke.

BOS05-13-26App_LuebckeChristopher_Redacted.pdf

9.C. Community Policy and Management Team (CPMT)
2-year term of Robert Johnson as Private Provider Rep. expires 6/30/26
See attached letter requesting Mr. Johnson's reappointment.

BOS05-13-26CPMT_ PPR_Johnson_Redacted.pdf

9.D. Extension Leadership Council - Stonewall District Rep.
4-year term of John D. Cline expires 7-13-26.
Mr. Cline has chosen not to be reappointed. See the attached application of Lauren Morrison.

BOS05-13-26App_MorrisonLauren_Redacted.pdf

10. **Committee Business** - None

11. **Public Hearings (Non Planning Issues)**

11.A.

Proposed Boundary Line Adjustment - Notice is Hereby Given that the Frederick County Board of Supervisors Will Consider Approval of an Agreed Boundary Line Adjustment Between the County and the Town of Stephens City, Virginia Concerning a Single Parcel Located at 5145 Passage Lane, Stephens City, Virginia, Tax Map # 74-A-44, Owned by Margaret J. Wolfrays, Trustee; Helen Pyne; and Louis C. Carbaugh; Wherein the Portion of the Property Comprising 3.3. Acres Now Lying in Frederick County Would be Located Within the Boundary of Stephens City by Virtue of Said Adjustment.

BOS05-13-26StephensCityBoundaryLineAdjustment.pdf

12. **Planning Commission Business - Public Hearings**

12.A.

Ordinance Amendment to the Frederick County Code – Modifications to Chapter 165 – Zoning Ordinance to Reorganize the Chapter, to Remove any Redundant and Conflicting Language, and to Convert Narrative Standards into Tables and Graphics, Where Appropriate. The Amendment Also Adds or Modifies Provisions and References from Chapter 22 of Title 15.2 of the Code of Virginia that are Not Codified in the Current Zoning Ordinance.

BOS05-13-26ZoningOrdinance_Update.pdf

12.B.

Ordinance Amendment to the Frederick County Code – Modifications to Chapter 144 – Subdivision Ordinance to Reorganize the Chapter, to Remove any Redundant and Conflicting Language, and to Convert Narrative Standards into Tables and Graphics, Where Appropriate. The Amendment Also Adds or Modifies Provisions and References from Chapter 22 of Title 15.2 of the Code of Virginia that are Not Codified in the Current Subdivision Ordinance.

BOS05-13-26SubdivisionOrdinanceUpdate.pdf

Planning Commission Business - Public Hearings, *continued*

12.C.

Ordinance Amendment to the Frederick County Code – Modification to Amend Chapter 161 – Sewage Disposal and Sewers to Consider Clarifying How and When Portable Restrooms Can Be Utilized and Not Be Classified as an Illegal Pump and Haul. More Specifically, Clarify Allowances for Seasonal and Special Event Related Use for Public or Community Spaces and Events.

Chapter 161 – Sewage Disposal and Sewers

Article I – General Provisions; Definitions; Appeals

Part 101 General Provisions

- 161-101.02 Definitions

Article II. General Requirements and Maintenance of On-Site Sewage Systems

Part 201 On-Site Sewage Systems

- 161-201.05 Permanent Pump and Haul Systems

BOS05-13-26Chapter161Amend_SeasonalUse.pdf

13. **Planning Commission Business - Other Planning Business** - None

14. **Board Liaison Reports**

15. **Citizen Comments**

16. **Board of Supervisors Comments**

17. **Adjourn**

Board of Supervisors
Agenda Item Detail
Meeting Date: May 13, 2026
Agenda Section: Consent Agenda

Title: Approval of Closed Session and Regular Meeting Minutes of April 22, 2026

Attachments:
BOS05-13-26MinutesClosed260422.pdf
BOS05-13-26MinutesRegMtg260422.pdf

MINUTES
CLOSED SESSION
FREDERICK COUNTY BOARD OF SUPERVISORS
WEDNESDAY, APRIL 22, 2026
6:00 P.M.
BOARD ROOM, COUNTY ADMINISTRATION BUILDING
107 NORTH KENT STREET, WINCHESTER, VIRGINIA

ATTENDEES

Board of Supervisors: John F. Jewell, Chairman; Robert W. Wells, Vice Chairman; Robert T. Liero; Jason C. Aikens; Albert L. Orndorff; Michael D. Guevremont; and Gary R. Oates were present.

Staff present: Michael Bollhoefer, County Administrator; Jay E. Tibbs, Deputy County Administrator; Andrew R. Fox, County Attorney; Wyatt Pearson, Planning Director; Karen Vacchio, Public Information Officer; Patrick Fly, Director of Information Technologies; and Ann W. Phillips, Deputy Clerk to the Board of Supervisors.

CALL TO ORDER

Chairman Jewell called the meeting to order at 6:00 p.m.

CLOSED SESSION

Vice Chairman Wells moved that the Board of Supervisors of Frederick County enter a closed session pursuant to Virginia Code Section 2.2-3711 (A)(8) for consultation with legal counsel employed by the public body, specifically for discussion with legal counsel and County staff regarding the application of and potential amendments to the County Zoning Ordinance concerning high-energy use facilities and data centers. Supervisor Liero seconded the motion, which carried on a voice vote.

At 6:30 p.m., the Board members being assembled within the designated meeting place in the presence of members of the public and the media desiring to attend, the meeting was reconvened on the motion of Vice Chairman Wells, seconded by Supervisor Oates, and carrying on a voice vote. Vice Chairman Wells moved that the Board of Supervisors of Frederick County

certify that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed, or considered by the Board. Supervisor Oates seconded the motion which carried as follows on a recorded vote:

Michael D. Guevremont	**Aye**	**Robert T. Liero**	**Aye**
Albert L. Orndorff	**Aye**	**Robert W. Wells**	**Aye**
Gary R. Oates	**Aye**	**Jason C. Aikens**	**Aye**
John F. Jewell, Chairman	**Aye**		

ADJOURN

At 6:32 p.m., the meeting was adjourned until the regular meeting at 7:00 p.m.

MINUTES
REGULAR MEETING
FREDERICK COUNTY BOARD OF SUPERVISORS
WEDNESDAY, APRIL 22, 2026
7:00 P.M.
BOARD ROOM, COUNTY ADMINISTRATION BUILDING
107 NORTH KENT STREET, WINCHESTER, VIRGINIA

ATTENDEES

Board of Supervisors: John F. Jewell, Chairman; Robert W. Wells, Vice Chairman; Robert T. Liero; Jason C. Aikens; Albert L. Orndorff; Michael D. Guevremont; and Gary R. Oates were present.

Staff present: Michael Bollhoefer, County Administrator; Jay E. Tibbs, Deputy County Administrator; Andrew R. Fox, County Attorney; Karen Vacchio, Public Information Officer; Joe Wilder, Director of Public Works; Patrick Fly, Director of Information Technologies; and Ann W. Phillips, Deputy Clerk to the Board of Supervisors.

CALL TO ORDER

Chairman Jewell called the meeting to order at 7:00 p.m.

INVOCATION

Pastor John Van Drunen of Fellowship Bible Church delivered the invocation.

PLEDGE OF ALLEGIANCE

Vice Chairman Wells led the Pledge of Allegiance.

ADOPTION OF AGENDA - APPROVED

Supervisor Aikens moved to add an agenda item for an appointment to fill a vacancy on the Economic Development Authority. Supervisor Guevremont seconded the motion, which carried on a voice vote.

Vice Chairman Wells moved for the adoption of the modified draft agenda. Supervisor Liero seconded the motion, which carried on a voice vote.

CITIZEN COMMENTS

Ross Hewett, Back Creek District, commented on the recent Public Works Committee report which

explained fee increases and the closure of one of the cells at the landfill. He said there is a trend toward bad planning and spending by the County regarding the landfill.

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ADOPTION OF CONSENT AGENDA – APPROVED

Vice Chairman Wells moved for the adoption of the consent agenda. Supervisor Guevremont seconded the motion, which carried on the following recorded vote:

Michael D. Guevremont	**Aye**	**Robert T. Liero**	**Aye**
Albert L. Orndorff	**Aye**	**Robert W. Wells**	**Aye**
Gary R. Oates	**Aye**	**Jason C. Aikens**	**Aye**
John F. Jewell, Chairman	**Aye**		

- Approval of Regular Meeting Minutes of April 8, 2026 - CONSENT AGENDA APPROVAL

- Acceptance of Public Works Committee Report of March 31, 2026 - CONSENT AGENDA APPROVAL, Appendix 1

- The Director of Public Works requests a $50,000 General Fund supplemental appropriation representing funds for a new pet recreation area at the Animal Shelter. - CONSENT AGENDA APPROVAL

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- Approval of Revisions to County Code – Chapter 143 – Stormwater/Erosion and Sediment Control Ordinance as Requested by the Public Works Committee - CONSENT AGENDA APPROVAL

- Request from the Commissioner of the Revenue for Refund and Supplemental Appropriation: LEVEL 1 PROPERTY SOLUTIONS LLC- $12,084.00, CONSENT AGENDA APPROVAL

- Resolution for Changes in the Secondary System of State Highways: One Logistics Park- CONSENT AGENDA APPROVAL

WHEREAS, the streets described on the attached Form AM-4.3, fully incorporated herein by reference, are shown on plats recorded in the Clerk's Office of the Circuit Court of Frederick County; and
WHEREAS, the Resident Engineer of the Virginia Department of Transportation has advised this Board that the streets meet the requirements established by the Secondary Street Acceptance Requirements of the Virginia Department of Transportation; and
WHEREAS, the County and the Virginia Department of Transportation have entered into an agreement on June 9, 1993, for comprehensive stormwater detention which applies to this request for addition; and
NOW, THEREFORE, BE IT RESOLVED, this Board requests the Virginia Department of Transportation to add the streets described in the attached Form AM-4.3 to the secondary system of state highways, pursuant to 33.2-705, Code of Virginia, and the Department's Secondary Street Acceptance Requirements; and
BE IT FURTHER RESOLVED, this Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills and drainage; and
BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Resident Engineer for the

Virginia Department of Transportation.

Resolution for Changes in the Secondary System of State Highways: Raven Oaks CONSENT AGENDA APPROVAL

WHEREAS, the streets described on the attached Form AM-4.3, fully incorporated herein by reference, are shown on plats recorded in the Clerk's Office of the Circuit Court of Frederick County; and
WHEREAS, the Resident Engineer of the Virginia Department of Transportation has advised this Board that the streets meet the requirements established by the Secondary Street Acceptance Requirements of the Virginia Department of Transportation; and
WHEREAS, the County and the Virginia Department of Transportation have entered into an agreement on June 9, 1993, for comprehensive stormwater detention which applies to this request for addition; and
NOW, THEREFORE, BE IT RESOLVED, this Board requests the Virginia Department of Transportation to add the streets described in the attached Form AM-4.3 to the secondary system of state highways, pursuant to 33.2-705, Code of Virginia, and the Department's Secondary Street Acceptance Requirements; and
BE IT FURTHER RESOLVED, this Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills and drainage; and
BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

- Resolution of the Frederick County Board Of Supervisors Approving of the County's Participation in the Proposed Combined Settlement Agreement Resolving Opioid-Related Claims Against Associated Pharmacies, Inc. (and American Associated Pharmacies); J M Smith Corporation; Louisiana Wholesale Drug Company, Inc; Morris And Dickson Co.; North Carolina Mutual Wholesale Drug Company, Inc.; and United Natural Foods, Inc. (Including its Subsidiaries Supervalu and Advantage Logistics) (Collectively Referred to as the Six Remnant Defendants), and Directing the County Administrator to Execute the Documents Necessary to Effectuate the County's Participation in the Settlement- CONSENT AGENDA APPROVAL

A RESOLUTION OF THE FREDERICK COUNTY BOARD OF SUPERVISORS APPROVING OF THE COUNTY'S PARTICIPATION IN THE PROPOSED COMBINED SETTLEMENT AGREEMENT RESOLVING OPIOID-RELATED CLAIMS AGAINST ASSOCIATED PHARMACIES, INC. (AND AMERICAN ASSOCIATED PHARMACIES); J M SMITH CORPORATION; LOUISIANA WHOLESALE DRUG COMPANY, INC; MORRIS AND DICKSON CO.; NORTH CAROLINA MUTUAL WHOLESALE DRUG COMPANY, INC.; AND UNITED NATURAL FOODS, INC. (INCLUDING ITS SUBSIDIARIES SUPERVALU AND ADVANTAGE LOGISTICS) (COLLECTIVELY REFERRED TO AS THE SIX REMNANT DEFENDANTS), AND DIRECTING THE COUNTY ADMINISTRATOR TO EXECUTE THE DOCUMENTS NECESSARY TO EFFECTUATE THE COUNTY'S PARTICIPATION IN THE SETTLEMENT

WHEREAS, the opioid epidemic that has cost thousands of human lives across the country also impacts Frederick County by adversely impacting the delivery of emergency medical, law enforcement, criminal justice, mental health and substance abuse services, and other services by
Frederick County's various departments and agencies; and

WHEREAS, Frederick County has been required and will continue to be required to allocate substantial taxpayer dollars, resources, staff energy and time to address the damage the opioid epidemic has caused and continues to cause the citizens of Frederick County; and

WHEREAS, a settlement proposal has been negotiated that will cause six opioids defendants, Associated Pharmacies, Inc (and American Associated Pharmacies); J M Smith Corporation; Louisiana Wholesale Drug Company, Inc.; Morris and Dickson Co.; North Carolina Mutual Wholesale Drug Company, Inc.; and United Natural Foods, Inc. (including its subsidiaries SuperValu and Advantage Logistics) ("Six Remnant Defendants") to pay approximately $97,625,000 nationwide to resolve opioid-related claims by state subdivisions against it; and

WHEREAS, Frederick County will be entitled to a portion of the settlement proceeds despite not having filed suit against any of the Six Remnant Defendants; and

WHEREAS, the County seeks recovery of the public funds previously expended and to be expended in the future to abate the consequences and harms of the opioid epidemic; and

WHEREAS, the County's outside opioid litigation counsel has recommended that the County participate in the Six Remnant Defendants settlement in order to recover its share of the funds that the settlement would provide; and

WHEREAS, the County Attorney has reviewed the available information about the proposed settlement and concurs with the recommendation of outside counsel;

NOW THEREFORE BE IT RESOLVED that the Frederick County Board of Supervisors, this 22nd day of April, 2026, approves of the County's participation in the proposed settlement of opioid-related claims against the Six Remnant Defendants and their related corporate entities, and directs the County Administrator to execute the documents necessary to effectuate the County's participation in the settlement, including the required release of claims against the Six Remnant Defendants.

-Resolution Ratifying the Declaration of an Emergency Ban on Open-air Burning - CONSENT AGENDA APPROVAL

RESOLUTION
RATIFYING DECLARATION OF AN EMERGENCY BAN ON OPEN-AIR BURNING

WHEREAS, because of extreme atmospheric and drought conditions, the threat of wildfires due to minimum relative humidity, winds, and extremely low fuel moisture is increased, thereby facilitating the possibility of multiple and possibly large incidents that could threaten lives and property within Frederick County; and

WHEREAS, following the identification of the above-stated circumstances, the Frederick County Fire Marshal, in coordination with the County Administrator, implemented emergency measures and declared an emergency ban on open-air burning effective Thursday, April 16, 2026.

NOW, THEREFORE, BE IT RESOLVED that the Frederick County Board of Supervisors, pursuant to Chapter 45, Article II, Section 45-10E of the Code of Frederick County, ratifies the declaration of the emergency ban on open-air burning issued on Thursday, April 16, 2026.

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BOARD OF SUPERVISORS COMMENTS

Supervisor Oates noted an upcoming application for a data center on the property adjoining the Flying J retail operation in the northern part of the County. He said the property owner is his client, and he will recuse himself from any discussion or deliberation on the application.

COUNTY OFFICIALS

DOUG RINKER APPOINTED TO FILL AN UNEXPIRED TERM ON THE ECONOMIC DEVELOPMENT AUTHORITY

Supervisor Aikens moved to appoint Doug Rinker to fill the unexpired term ending September 11, 2026, on the Economic Development Authority. Vice Chairman Wells seconded the motion, which carried on the following recorded vote:

Michael D. Guevremont	**Aye**	**Robert T. Liero**	**Aye**
Albert L. Orndorff	**Aye**	**Robert W. Wells**	**Aye**
Gary R. Oates	**Aye**	**Jason C. Aikens**	**Aye**
John F. Jewell, Chairman	**Aye**		

APPOINTMENTS TO BOARDS, COMMITTEES, AND COMMISSIONS - None

COMMITTEE BUSINESS – None

PUBLIC HEARINGS (NON PLANNING ISSUES)

PROPOSED AMENDMENT TO THE LEASE AGREEMENT BETWEEN THE COUNTY OF FREDERICK, VIRGINIA, AND H&R BLOCK EASTERN ENTERPRISES, INC. - APPROVED

Deputy County Administrator Tibbs reviewed the proposed amendment to the existing lease agreement between the County of Frederick, Virginia, and H&R Block Eastern Enterprises, Inc., for space located at 223 Sunnyside Plaza Drive.

Chairman Jewell opened the public comment period.

No one addressed the Board.

Chairman Jewell closed the public comment period.

Vice Chairman Wells moved to approve the amendment to extend the existing lease for an additional two years commencing on May 1, 2026, and expiring on April 30, 2028. Supervisor Guevremont seconded the motion which carried on a recorded vote as follows:

Michael D. Guevremont	**Aye**	**Robert T. Liero**	**Aye**
Albert L. Orndorff	**Aye**	**Robert W. Wells**	**Aye**
Gary R. Oates	**Aye**	**Jason C. Aikens**	**Aye**
John F. Jewell, Chairman	**Aye**		

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GRANTING OF A UTILITY EASEMENT FOR LOT 10 OF ECHOTA TRAIL - APPROVED

Chairman Jewel noted that Public Works Director Joe Wilder was in attendance and could answer any questions from the Board.

Chairman Jewell opened the public comment period.

No one addressed the Board.

Chairman Jewell closed the public comment period.

Supervisor Orndorff moved to approve the granting of a Utility Easement for Lot 10 of Echota Trail, identified by Frederick County, Virginia, Tax Map No.49A02 2 F, within the Back Creek Magisterial District. Supervisor Aikens seconded the motion, which carried on a recorded vote as follows:

Michael D. Guevremont	**Aye**	**Robert T. Liero**	**Aye**
Albert L. Orndorff	**Aye**	**Robert W. Wells**	**Aye**
Gary R. Oates	**Aye**	**Jason C. Aikens**	**Aye**
John F. Jewell, Chairman	**Aye**		

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ORDINANCE – SALARIES OF THE BOARD OF SUPERVISORS (FY 2026-2027) - APPROVED

Chairman Jewell opened the public comment period.

Jay Marts, Gainesboro District, commented that the Board's salaries were much lower than those in nearby localities.

Blaine Dunn, Red Bud District, spoke in favor of the Board having a salary increase.

Chairman Jewell closed the public comment period.

The Board discussed their salaries not having been adjusted for 25 years, even though the cost of living has continued to rise.

Supervisor Oates moved to provide an increase of $ 3,000 per board member and to index the Board's annual increases to match the percentage salary increase County employees receive each year.

Supervisor Aikens offered an amendment to add the Board salaries to be studied during the planned salary survey. Supervisor Oates agreed to amend his motion as stated. Vice Chairman Wells seconded the motion as amended, which carried on a recorded vote as follows:

Michael D. Guevremont	**Aye**	**Robert T. Liero**	**Aye**

Albert L. Orndorff	**Aye**	**Robert W. Wells**	**Aye**
Gary R. Oates	**Aye**	**Jason C. Aikens**	**Aye**
John F. Jewell, Chairman	**Aye**		

ORDINANCE
SALARIES OF THE BOARD OF SUPERVISORS
FISCAL YEAR 2026-2027

BE IT ORDAINED, the annual salary for each member of the Frederick County Board of Supervisors, for the fiscal year beginning July 1, 2026, shall be as follows: Chairman, $13,800; Vice Chairman, $13,200; and Each Other Member of the Board of Supervisors at $12,000.

Supervisor Oates suggested that the salaries of Planning Commission members also be reviewed as part of the upcoming salary survey.

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AN ORDINANCE TO AMEND THE FREDERICK COUNTY CODE, CHAPTER 155 TAXATION, ARTICLE XIV TRANSIENT OCCUPANCY TAX, SECTION 155-51 TAX IMPOSED, TO INCREASE THE TRANSIENT OCCUPANCY TAX FROM 3.5% TO 6%, EFFECTIVE JULY 1, 2026. - APPROVED

County Administrator Bollhoefer explained that this ordinance updates the County Code to reflect the increase in the Transient Occupancy Tax from 3.5% to 6%, effective July 1, 2026, enacted as part of the Fiscal Year 2027 County budget.

Supervisor Oates said he would like to see 1% of the increased revenue designated for Parks & Recreation.

Supervisor Aikens said the Board and City of Winchester representatives need to review the joint Winchester-Frederick County agreement regarding Tourism.

Chairman Jewell opened the public comment period.

Leslie Spencer, Gainesboro District, spoke in support of the Transient Occupancy tax increase.

Chairman Jewell closed the public comment period.

Supervisor Aikens moved to adopt the Ordinance to Amend The Frederick County Code, Chapter 155 Taxation, Article XIV Transient Occupancy Tax, Section 155-51 Tax Imposed, to Increase the Transient Occupancy Tax From 3.5% to 6%, Effective July 1, 2026, and further moved that 0.5 percent of the tax revenue be earmarked for Parks & Recreation use. Supervisor Oates seconded the motion, which carried on a recorded vote as follows:

Michael D. Guevremont	**Aye**	**Robert T. Liero**	**Aye**
Albert L. Orndorff	**Aye**	**Robert W. Wells**	**Aye**
Gary R. Oates	**Aye**	**Jason C. Aikens**	**Aye**
John F. Jewell, Chairman	**Aye**		

ORDINANCE
April 22, 2026

The Board of Supervisors of Frederick County, Virginia, hereby ordains that Frederick County Code, Chapter 155 Taxation, Article XIV Transient Occupancy Tax, Section 155-51 Tax Imposed be amended, effective July 1, 2026, as follows (deletions shown in ~~bold strikethrough~~ and additions shown in **bold underline**):

CHAPTER 155 TAXATION
Article XIV Transient Occupancy Tax
§ 155-51 Tax Imposed

In addition to all other taxes of every kind now or hereafter imposed by law, there is hereby imposed and levied on each and every transient a tax equivalent to ~~**3.5%**~~ **6%** of the total amount paid for room rental by or for any such transient to any accommodation.

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AN ORDINANCE TO AMEND THE FREDERICK COUNTY CODE, CHAPTER 155 TAXATION, ARTICLE XIX MEALS TAX, SECTION 155-118 TAX IMPOSED, TO INCREASE THE MEALS TAX FROM 4% TO 6%, EFFECTIVE JULY 1, 2026. - APPROVED

County Administrator Bollhoefer explained that this ordinance updates the County Code to reflect the increase in the Meals Tax from 4% to 6%, effective July 1, 2026, enacted as part of the Fiscal Year 2027 County budget.

Chairman Jewell opened the public comment period.

No one addressed the Board.

Chairman Jewell closed the public comment period.

Supervisor Aikens moved to adopt the Ordinance to Amend the Frederick County Code, Chapter 155 Taxation, Article XIX Meals Tax, Section 155-118 Tax Imposed, to Increase the Meals Tax from 4% to 6%, Effective July 1, 2026. Supervisor Liero seconded the motion, which carried on a recorded vote as follows:

Michael D. Guevremont	**Aye**	**Robert T. Liero**	**Aye**
Albert L. Orndorff	**Aye**	**Robert W. Wells**	**Aye**
Gary R. Oates	**Aye**	**Jason C. Aikens**	**Aye**
John F. Jewell, Chairman	**Aye**		

ORDINANCE
April 22, 2026

The Board of Supervisors of Frederick County, Virginia, hereby ordains that Frederick County Code, Chapter 155

Taxation, Article XIX Meals Tax, Section 155-118 Tax Imposed be amended, effective July 1, 2026, as follows (deletions shown in ~~**bold strikethrough**~~ and additions shown in **bold underline**):

CHAPTER 155 TAXATION
Article XIX Meals Tax

§ 155-118 Tax Imposed

In addition to all other taxes and fees of any kind now or hereafter imposed by law, there is hereby levied and imposed on the purchaser of every meal served, sold or delivered in the County by a restaurant or caterer a tax equivalent to ~~**4%**~~ **6%** of the amount paid for the meal. There shall be no tax if the total amount paid is less than $0.50; on larger amounts, a fractional cent of tax due shall be rounded to the next higher cent.

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PLANNING COMMISSION BUSINESS – PUBLIC HEARINGS - None

PLANNING COMMISSION BUSINESS - OTHER PLANNING BUSINESS - None

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BOARD LIAISON REPORTS

Supervisor Orndorff provided an update from the Planning Commission.

Vice Chairman Wells provided an update from the Public Works Committee.

Chairman Jewell provided an update from the Northern Shenandoah Valley Regional Commission.

CITIZEN COMMENTS

Kurt Creager, Back Creek District, commented on the legal memo distributed after the Board's closed session earlier in the evening. He suggested the Board could remove data centers from the zoning ordinance to a date certain, such as until after the updated comprehensive plan is adopted.

Blaine Dunn, Red Bud District, asked the Board to consider whether the Transfer of Development Rights (TDR) program benefited the County or only benefited the landowners who sell the development rights.

Leslie Spencer, Gainesboro District, asked the Board to wait for the updated comprehensive plan to be adopted before addressing the issue of allowing data centers in the County.

Kim Watt, Gainesboro District, addressed the earlier comment on the TDR program, saying that farmers did not create the program and are not abusing the program.

Theresa Ostertag, Back Creek District, spoke in opposition to data centers being approved in the County.

BOARD OF SUPERVISORS COMMENTS

Supervisors Liero, Guevremont, and Aikens discussed the Transitional Occupancy tax, the need for updated facilities to host sports tournaments, and the need for a revenue stream to fund such improvements.

Chairman Jewell announced the upcoming comprehensive plan update meeting. He announced the upcoming Apple Blossom Festival.

ADJOURN

On motion of Vice Chairman Wells, seconded by Chairman Jewell, the meeting was adjourned at 7:59 p.m.

Board of Supervisors
Agenda Item Detail
Meeting Date: May 13, 2026
Agenda Section: Consent Agenda

Title: Approval of Closed Session & Work Session Minutes of May 6, 2026

Attachments:
BOS05-13-26MinutesClosed260506.pdf
BOS05-13-26MinutesWorkSession260506.pdf

MINUTES
CLOSED SESSION
FREDERICK COUNTY BOARD OF SUPERVISORS
WEDNESDAY, MAY 6, 2026
5:00 P.M.
BOARD ROOM, COUNTY ADMINISTRATION BUILDING
107 NORTH KENT STREET, WINCHESTER, VIRGINIA

ATTENDEES

Board of Supervisors: John F. Jewell, Chairman; Robert T. Liero; Jason C. Aikens; Albert L. Orndorff; Michael D. Guevremont; and Gary R. Oates were present. Robert W. Wells, Vice Chairman, was absent.

Staff present: Michael Bollhoefer, County Administrator; Jay E. Tibbs, Deputy County Administrator; Andrew R. Fox, County Attorney; Wendy May, Interim EDA Executive Director; Nick Sabo, Regional Airport Authority Executive Director; and Ann W. Phillips, Deputy Clerk to the Board of Supervisors.

Also present was Winchester Regional Airport Authority member Gene Fisher.

CALL TO ORDER

Chairman Jewell called the meeting to order at 5:02 p.m.

CLOSED SESSION

Chairman Jewell moved that the Board of Supervisors of Frederick County enter a closed session pursuant to Virginia Code Section 2.2-3711 (A)(5) for discussion concerning a prospective business or industry where no previous announcement has been made of the business's or industry's interest in locating or expanding its facilities in the community; and Virginia Code Section 2.2-3711 (A)(29) for discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body. Supervisor Oates seconded the motion, which carried on a voice vote.

At 5:45 p.m., the Board members being assembled within the designated meeting place in the presence of members of the public and the media desiring to attend, the meeting was reconvened on the motion of Chairman Jewell, seconded by Supervisor Orndorff, and carrying on

a voice vote. Supervisr Orndorff moved that the Board of Supervisors of Frederick County certify that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed, or considered by the Board. Chairman Jewell seconded the motion which carried as follows on a recorded vote:

Michael D. Guevremont	**Aye**	**Robert T. Liero**	**Aye**
Albert L. Orndorff	**Aye**	**Robert W. Wells**	**Absent**
Gary R. Oates	**Aye**	**Jason C. Aikens**	**Aye**
John F. Jewell, Chairman	**Aye**		

ADJOURN TO WORK SESSION

At 5:46 p.m., the meeting was adjourned to the scheduled work session..

MINUTES
WORK SESSION
FREDERICK COUNTY BOARD OF SUPERVISORS
WEDNESDAY, MAY 6, 2026
5:30 P.M.
BOARD ROOM, COUNTY ADMINISTRATION BUILDING
107 NORTH KENT STREET, WINCHESTER, VIRGINIA

ATTENDEES

Board of Supervisors: John F. Jewell, Chairman; Robert W. Wells, Vice Chairman; Robert T. Liero; Jason C. Aikens; Albert L. Orndorff; Michael D. Guevremont; and Gary R. Oates were present.

Staff present: Michael Bollhoefer, County Administrator; Jay E. Tibbs, Deputy County Administrator; Andrew R. Fox, County Attorney; Patrick Fly, Director of Information Technologies; and Ann W. Phillips, Deputy Clerk to the Board of Supervisors.

CALL TO ORDER

Chairman Jewell called the meeting to order at 5:46 p.m., following a closed session.

DISCUSSION - BOARD OF SUPERVISORS STRATEGIC PLAN

Economic Development Authority Strategy

Supervisor Aikens shared information on the Board's newly drafted plans for changes at the EDA, including hiring a new executive director. By consensus, the Board agreed to direct staff to move forward with the changes as discussed.

Communications Department

Supervisor Guevremont discussed options for establishing a communications department following the retirement of the current Public Information Officer, Karen Vacchio. By consensus, the Board authorized the County Administrator to move forward with the expenses necessary to adjust salaries to fill the existing position and add a new position in the new department.

DISCUSSION - USE OF PUBLIC, EDUCATIONAL, AND GOVERNMENTAL (PEG) FUNDS FOR BOARD OF SUPERVISORS MEETING ROOM RENOVATION

County Administrator Bollhoefer noted the estimate to replace the carpet and paint in the Board meeting room is approximately $36,500.

Supervisor Aikens said the ceiling tiles are also in need of replacement.

By consensus, the Board authorized the County Administrator to use existing Public, Educational, and Governmental (PEG) Funds received from the current cable franchise agreement to make improvements in the Board meeting room, including carpeting replacement, painting, and ceiling tile replacement.

OTHER

Supervisor Oates said the Treasurer has reported that, as billed, the tax revenues are expected to be $6 to $7 million more than estimated before the budget season. He suggested the Board revisit the budgeted salary increases because of the disparity between the non-uniformed staff increase of 3% and the uniformed staff increase of 7%. He suggested that the County return to the practice of doing performance reviews.

County Administrator Bollhoefer offered to gather information about the unexpected revenue increase and possible salary adjustment costs.

ADJOURN

There being no further business, the meeting was adjourned at 6:07 p.m.

Board of Supervisors
Agenda Item Detail
Meeting Date: May 13, 2026
Agenda Section: Consent Agenda

Title: Acceptance of Parks & Recreation Commission Report of April 14, 2026

Attachments:
BOS05-13-26ParksRecCommReportApril2026.pdf

PARKS AND RECREATION COMMISSION REPORT to the BOARD OF SUPERVISORS
Tuesday, April 14, 2026
7:00 p.m.
107 NORTH KENT STREET, WINCHESTER, VIRGINIA

The Parks and Recreation Commission met on Tuesday, April 14, 2026. Members present were Gary Longerbeam, Dennis Grubbs, Jenny Myers, Patrick Anderson, Vaughn Whitacre, Michael Stottlemyer, Randy Carter, Charles R. Sandy, Jr., and non-voting Board Liaison, Mr. Robert Liero.

Members absent: None

ITEMS REQUIRING ACTION BY BOARD OF SUPERVISORS:

1. None

ITEMS SUBMITTED FOR INFORMATION ONLY

1. A motion to accept the Portable Athletic Goal Policy (100.27) was made by Mr. Sandy, seconded by Mr. Stottlemyer, carried unanimously (8-0).
2. A motion to accept a funding opportunity to provide a dog park for Frederick County at the Sherando Park Warrior Drive entrance was made by Mr. Carter, seconded by Mr. Anderson, carried unanimously (8-0).

Cc: Jennifer Myers, Chairperson
Robert Liero, Liaison, Frederick County Board of Supervisors

Board of Supervisors
Agenda Item Detail
Meeting Date: May 13, 2026
Agenda Section: Consent Agenda

Title: Acceptance of Transportation Committee Report of April 27, 2026

Attachments:
BOS05-13-26TransportationCommReport.pdf

TRANSPORTATION COMMITTEE REPORT to the BOARD OF SUPERVISORS
Monday, April 27, 2026
8:30 a.m.
107 NORTH KENT STREET, WINCHESTER, VIRGINIA

ATTENDEES:

Committee Members Present: John Jewell Chair (Voting), Robert Liero (Voting) Dustin Simkhovitch (Voting) and Tim Stowe (Voting)

Committee Members Absent: Kevin Kenney (Voting) and Jason Aikens (Voting)

Staff Present: John Bishop, Assistant Director and Kathy Smith

ITEMS REQUIRING ACTION BY THE BOARD OF SUPERVISORS

Eastern Frederick County Transportation Study (EFCTS): Phase II Authorization: Staff presented the proposal (attached) from McCormick Taylor, the County's on-call transportation consultant, for completion of the Eastern Frederick County Transportation Study Phase II. Staff recommended moving forward with Phase II of the study, which includes a "new road / new location" analysis required for Smart Scale eligibility. The selected consultant proposal totaled is about $233,622.04, significantly lower than competing bids. Environmental studies will occur during the design phase. The Phase II timeline aligns ahead of the Comprehensive Plan update, allowing adjustments before adoption. A follow-up modeling study for the Comprehensive Plan is expected next month.

Recommended Action: Upon a motion made by Tim Stowe, seconded by Robert Liero, the Committee recommends that the Board of Supervisors approve the selected-on-call consultant McCormick Taylor proposal.

ITEMS FOR INFORMATION ONLY:

I**nterstate, Primary, and Secondary Road Plans Update**: Staff and VDOT presented the draft Six-Year Secondary Program (SSYP)along with the Draft Interstate and Primary Road Plans. Supporting documents included current-year road plans and VDOT's draft SSYP. The updated Interstate priorities: Exit 307 language refined, the Exit 313 moving forward, MPO study starting for Exits 321/323, and continued emphasis on full I-81 widening. The Primary updates include progress on Highfield Road, Wardensville Grade safety upgrades, and multiple revenue-sharing awards (Back Mountain, Brucetown/Hopewell, Shawnee Drive, Warrior Drive Extension, Brandy Lane). VDOT presented the Secondary Six-Year Plan, including Rural Rustic paving projects for Park Road, Timber Ridge Road, Heishman Road, and Grace Church Road. The Committee recommended the Interstate, Primary and Secondary Road Plans Updated as presented.

County Projects Update: Renaissance Drive The project is complete. Staff are awaiting the final

invoice and CSX reimbursement to finalize project closeout and request previously discussed additional funds from VDOT.

Gainesboro Road Review of the 30% design plans by the School Division, Public Works, and VDOT has been completed. Comments have been forwarded to Timmons.

Other Business: Upcoming Meeting Schedule change due to the holiday, the next Transportation Committee meeting is rescheduled to June 1.
VDOT briefed the Committee on the traffic calming process, noting increased requests and engineering limitations (speed humps, maintenance, emergency access).
Sheriff's Office reported speeding trends, school-zone camera performance, and efforts to direct revenue to safety improvements after the equipment is paid off.

~~March 6, 2026~~
Revised March 26, 2026

Mr. John Bishop, AICP
Assistant Planning Director
Frederick County
107 N. Kent Street, Suite 202
Winchester, VA 22601

Re: RFP – Phase II – Eastern Frederick County Transportation Study

Dear Mr. Bishop:

At your request, McCormick Taylor, Inc. is pleased to present this scope and fee proposal to assist Frederick County with services for Phase II – Eastern Frederick County Transportation Study (EFCTS). McCormick Taylor has previously assisted Frederick County with EFCTS Phase I and other localities with similar studies to meet specific criteria of funding sources such as SMART SCALE, TA, RS, BRIC, and RAISE (now BUILD). We have also assisted the Winchester-Frederick County Metropolitan Planning Organization (WinFred MPO), in cooperation with Frederick County and VDOT staff, with their Safe Streets for All Action Plan. We will utilize that experience in preparing EFCTS Phase II to strengthen the County's submissions.

McCormick Taylor's efforts will involve updating data and analysis (as needed) provided in EFCTS Phase I for Route 37 Bypass Phase 1, and Phase 2 as Limited Access Parkway style roadways outlined in EFCTS Phase I. We will also include up to two Potential Added Recommendations developed in consultation with the Transportation Committee and Frederick County Project Manager. McCormick Taylor will utilize VDOT estimating tools (e.g., Project Estimate Summary) to prepare comprehensive cost estimates based on the intended improvements. We will conduct a site visit to better understand the current conditions and potential risks associated with each location. In addition, we will coordinate with County and VDOT staff and provide the engineering support necessary to generate a competitive application. Our work will also consider any previous application documentation put forth by the County.

The following outlines our proposed work for the RFP Scope of Services Requested, along with a schedule and fee estimate for the core scope with possible risks or challenges. It will be important to ascertain potential costs related to those risks/challenges to establish thorough cost estimates.

PROJECT UNDERSTANDING AND APPROACH

EFCTS Phase I was a preliminary re-evaluation of the long-planned completion of the Route 37 Limited Access Bypass on the east side of I-81. The re-evaluation addressed funding constraints, changes in the study area since initial planning of the study, and safety concerns. In EFCTS Phase I, McCormick Taylor recommended five (5) potential improvements in coordination with the stakeholders committee, three (3) as Partial Limited Access Roadways that were segments along the original Route 37 Bypass alignment, and two potential improvements to existing roadway segments.

EFCTS Phase II will be an update of EFCTS Phase I to provide new data where available and to better align with VDOT SMART SCALE criteria for project funding. McCormick Taylor recommends that EFCTS Phase II follow through on the Frederick County staff spring presentations to the Board of Supervisors and Planning Commission. In that presentation, staff recommended going forward with the Route 37 Bypass Phase 1 (EFCTS Phase I, Potential Improvement Project 1: Route 37 Extension from US 11 to Route 7) and Phase 2 (EFCTS Phase I, Potential Improvement Project 3: from Tasker Road/Route 37 to US 522).

McCormick Taylor recognizes that potential additional recommendations may need further re-evaluation in that there may be proposed changes to the roadway network that were not contemplated in EFCTS Phase I, as well as more recent data and development. Given those considerations, McCormick Taylor recommends that EFTCS Phase II consider up to two (2) Potential Additional Recommendations in addition to Route 37 Bypass Phase 1 and Phase 2.

PROJECT MANAGEMENT AND COORDINATION

McCormick Taylor will implement management controls that will be tailored to the needs of the project. This will include the following efforts:

Project Correspondence

McCormick Taylor will be responsible for the preparation of all correspondence for the project including agendas, meeting minutes, project memoranda, and transmittals in both hardcopy and electronic formats. We can also develop a project-specific SharePoint site for project team members to share data, with deliverables and project information uploaded so all stakeholders can access it. Status meeting information, such as dates, times, and location (in-person or video/conference call), will be included on the SharePoint calendar.

Invoicing and Progress Reports

Monthly progress reports and invoices will be submitted according to County requirements. Progress reports will detail tasks performed and submissions made during the billing period. Upcoming work efforts, future submissions, and action items required by the County will also be included in the status report. Invoices will detail the budget for each task, previous and current costs, and the balance remaining for each task.

Status Meetings

McCormick Taylor will prepare for and attend status meetings for the project throughout the duration of the study. It is anticipated that these status meetings will include bi-weekly conference calls and potentially monthly in-person meetings at Frederick County offices. McCormick Taylor will work with the project team to identify status meeting dates and times that are convenient for all parties. We will prepare meeting minutes and post them to the SharePoint site for review by the project team.

TASK 1 – INITIAL PUBLIC ENGAGEMENT

McCormick Taylor proposes to revisit the Public Engagement Plan (PEP) that was adopted for Phase I of the EFCTS project and will review and update the key stakeholders list developed in EFCTS Phase I. The updated PEP will continue to be consistent with VDOT's Governance Document Public Involvement Manual (Revised November 2021). The proposed PEP update will be submitted to the Frederick County Project Manager prior to finalization and use.

McCormick Taylor proposes to work in coordination with the Frederick County Project Manager on up to:

- Twelve (12) coordination meetings with County staff, consisting of include monthly conference calls or in-person status meetings with County staff.
- Three (3) meetings with the Transportation Committee or as otherwise directed by the Frederick County Project Manager.

- One (1) meeting with VDOT. It is anticipated that VDOT will be represented on the Transportation Committee, and this is a separate meeting (as necessary) in addition to Transportation Committee meetings.
- Two (2) Transportation Forum Meetings at the County offices to engage with local officials, other interested/engaged decision makers, and the public as appropriate or necessary.

McCormick Taylor also proposes to update and collaborate with the Frederick County Project Manager on content updates for the EFCTS Phase I website developed by McCormick Taylor for the duration of EFCTS Phase II, including a composite web map.

Additionally, McCormick Taylor anticipates providing collateral materials (as needed) for the project including PowerPoint presentations, social media content and graphics, and meeting materials such as sign-in sheets, name badges, and agendas. Most materials will be produced in a draft and final format.

Task 1 Deliverables:

- Updated PEP.
- Updated project website with content and visual graphics, and up to four (4) updates to the website.
- Up to three (3) PowerPoint presentations.
- Six (6) mounted display boards.
- Up to two (2) social media posts including graphics and content generation.
- Content generation for up to two (2) press releases.

TASK 2 – TRANSPORTATION ANALYSIS

This study will develop required traffic, safety, and planning-level documentation to support a competitive SMART SCALE application to VDOT for a new roadway on new alignment, in full compliance with the SMART SCALE Technical Guide (Revised December 2025) criteria. Given the enhanced requirements for new alignment projects such as Route 37 Bypass Phase 1 (EFCTS Phase I Potential Improvement Project 1 Route 37 extension from US 11 to Route 7) and Phase 2 (EFCTS Phase I Potential Improvement Project 3 from Tasker Road/Route 37 to US 522), the effort will include a comparative analysis evaluating the proposed roadway with up to two (2) alternative options. Alternatives will be assessed using consistent criteria such as traffic operations, safety, feasibility, and cost to identify and document a preferred alternative for application submission.

Geographic location plays a critical role in the SMART SCALE scoring process. Depending on where a project is located, the relative importance of Safety, Congestion Mitigation, Accessibility, Economic Development, and Environmental Quality varies substantially, directly influencing how project benefits are translated into an overall SMART SCALE score. As a result, a technically strong project that is not aligned with its geographic weighting profile may underperform relative to a project that is strategically tailored to the priorities of its location.

As the proposed project is in Category C, the scoring framework places comparatively greater emphasis on Safety (30%) and Economic Development (25%), with moderate weight assigned to Congestion Mitigation (20%) and Accessibility (15%). This study will be structured to maximize performance under this weighting profile by focusing on robust safety benefit estimation (including expected crash reduction), clear demonstration of economic development support (particularly through travel time reliability), and operational analysis that documents meaningful congestion relief. By aligning the technical analyses with

the factors that matter most in Category C locations, the study will identify and emphasize a project's strongest benefits that will carry the greatest scoring value in the SMART SCALE evaluation process.

VTrans Mid-Term Need Confirmation

Our work will begin with confirmation that the proposed facility addresses an adopted VTrans Mid-Term Need under the appropriate travel market. The analysis will clearly document how the new alignment resolves identified capacity, connectivity, or safety deficiencies, ensuring consistency with SMART SCALE screening requirements and minimizing risk of pre-application rejection. Early coordination with County and VDOT District representatives will be used to validate need alignment and analytical assumptions.

Planning Study and Alternatives Analysis

Consistent with SMART SCALE readiness requirements for roadway-on-new-alignment projects, the study will include a formal planning-level evaluation that documents a preferred alternative and evaluates reasonable non-alignment options.

The alternatives analysis will assess proposed new alignments for Route 37 Bypass Phase 1 and Phase 2 proposed in EFCTS Phase I as Potential Improvement Project 1: Route 37 extension from US 11 to Route 7, Potential Improvement Project 3: from I-81 interchange/Tasker Road/Route 37 to US 522, and any EFCTS Phase II-identified Potential Additional Recommendations that are new segments. McCormick Taylor proposes to address SMART SCALE Technical Guide (Revised December 2025) criteria as follows:

- Update the EFCTS alternatives analysis as needed to consider improvements to the existing roadway network consistent with SMART SCALE criteria for Roadway on New Alignment.
- Update the crash data and Crash Mitigation Factors (CMF) and calculate a Percent Expected Crash Reduction for changes in travel patterns from the new roadways.
- Calculate the Percent Expected Crash Reduction and the number of crashes to be added to the network consistent with 6.1 S.1 EPDO of Fatal and Injury Crashes Methodology identified on Page 59 and 6.2 S.2 EPDO Rate of Fatal and Injury Crashes on Page 60.

The alternatives analysis will also include travel demand modeling as needed. McCormick Taylor proposes utilizing the current VDOT Transportation and Mobility Planning Division travel demand model for the WinFred MPO to complete the following:

- Evaluate the Traffic Analysis Zone (TAZ) structure utilized in the EFCTS Phase I analysis compared to the provided model, including documentation of any adjustments to the model.
- Perform No-Build analysis.
- Perform Build analysis with the recommended improvements.
- Perform Build analysis of all phases of the Route 37 Bypass (if requested by VDOT).
- Identify changes in vehicle travel due to alternative route choices.
- Identify links in the regional network operating below the posted speed limit in a future No-Build scenario with greater than 10 percent reduction of traffic for the different alternative improvements as compared to the No-Build scenario (SMART SCALE Section 7.1 C.1 Person Throughput/Methodology/New/Complex Roadway Facilities).
- Estimate vehicle delay (SMART SCALE Section 7.2 C.2 Person Hours of Delay Methodology for New Roadway Facilities).

- Identify any additional segments for further analysis.

Additionally, the alternatives analysis will include improvements based on comparison of the No-Build and Build analyses to existing parallel facilities including I-81, US 11, Route 7, and Tasker Road. The analysis will also consist of operational or intersection-based improvements (further described in Traffic Operations Analysis below) and other feasible strategies addressing the identified need.

Each alternative will be evaluated using consistent performance measures including operational efficiency, safety performance, constructability, environmental considerations at a planning level, and relative cost. The preferred alternative will be supported by quantitative findings and documented in a format suitable for direct inclusion in the SMART SCALE submission.

Traffic Operations Analysis

A comprehensive traffic operations analysis will be conducted using Synchro to support Congestion Mitigation and Accessibility measures. Existing and future conditions will be evaluated using VDOT-accepted methodologies appropriate for planning-level analysis.

For developing existing conditions, McCormick Taylor will work with the County to obtain existing intersection and mainline volume and classification traffic count data. Depending on the availability of these data, additional turning movement counts (TMC) and 24-hour classification/tube counts may be necessary and can be coordinated with the County once the needs are identified.

Future year traffic volumes will be developed using regional travel demand model outputs, County growth forecasts, and corridor-level planning data. No-Build and Build conditions will be evaluated to quantify changes in person hours of delay and person throughput. Documented results will be consistent with SMART SCALE evaluation methodologies to present defensible scoring inputs.

Economic Development and Travel Time Reliability

To support economic development scoring, this study will evaluate each project's impact on Travel Time Reliability, consistent with SMART SCALE economic development measures. For new alignment facilities, reliability improvements often result from network redundancy, bottleneck relief, improved geometry, and reduced incident exposure.

The analysis will quantify changes in travel time variability between No-Build and Build conditions and document how the new facility improves predictability for commuters, freight operators, and regional traffic movements. Reliability benefits will be framed in terms of improved freight efficiency, workforce accessibility, and overall corridor resilience.

Regional travel demand model outputs will establish baseline and forecast travel times. Travel time reliability will be evaluated using simulation-based travel time distributions and percentile travel time comparisons derived from multiple SimTraffic model runs with varied demand and stochastic seeds.

To improve the credibility of the travel time reliability analysis, SimTraffic models will be calibrated using travel time data collected from the field at the tie-in roads, major collectors feeding the corridor, and parallel roadway facilities. TruTraffic 10.0 will be used to collect the travel time data from the field and travel time runs will be conducted at both AM and PM peaks. For this proposal, it is assumed that travel time runs will be conducted at up to five (5) arterial facilities.

The results will be used to assess relative improvements in travel time consistency between the No-Build and Build conditions. Assumptions, model inputs, and performance measures will be documented in a manner consistent with SMART SCALE validation and review procedures to ensure transparency and defensibility during scoring.

Safety Performance Evaluation

A planning-level safety assessment will be prepared to support safety factor scoring. This will include evaluation of historical crash patterns on parallel and connecting facilities and estimation of anticipated crash reductions associated with traffic diversion, improved geometry, and reduced conflict exposure.

Where required, documentation will include AADT data, field observations, geometric review, and a predictive safety analysis with severity weighted projected crash reduction benefits calculated using Highway Safety Manual methodologies. The resulting analysis will provide defensible inputs for EPDO-based safety scoring measures.

Project Definition and Readiness Documentation

New alignment projects are subject to elevated readiness expectations. This study will place strong emphasis on clearly defining scope and preparing documentation necessary to satisfy SMART SCALE readiness gates.

A conceptual project sketch will be prepared showing alignment limits, termini, cross-section, access characteristics, and multimodal components. A realistic project development schedule will outline environmental documentation, right-of-way acquisition, design development, and construction milestones.

Planning-level cost estimates will be developed consistent with VDOT cost estimating practices and will include defined costs, appropriate allowances, and risk-based contingencies.

Risk Management and Schedule Control

New alignment projects inherently involve uncertainty related to right-of-way, environmental considerations, and traffic forecasting. To protect the SMART SCALE schedule, this study will incorporate early identification of technical risks and data gaps.

Traffic, safety, reliability, alternatives, and cost components will be developed in parallel to maintain schedule control within SMART SCALE submission timelines. Coordination with VDOT District staff and OIPI will occur as needed to confirm assumptions and resolve issues prior to final application submission. Where assumptions are required due to schedule constraints, they will be documented transparently.

Task 2 Deliverables

- Traffic Forecasting Memorandum.
- SMART SCALE Memorandum for Route 37 Bypass Phase 1, Route 37 Bypass Phase 2, and each Potential Additional Recommendation.
    - VTrans mid-term need confirmation memorandum.
    - Planning study with alternatives analysis (including non-alignment alternatives).
        - Traffic operations analysis (No-Build and Build conditions).
        - Travel time reliability analysis (economic development support).
        - Safety analysis and planning-level benefit estimation.
        - Conceptual project sketch for new roadway alignment(s).
        - Preliminary project development schedule and planning-level cost estimate with contingencies.

TASK 3 – POTENTIAL ADDITIONAL RECOMMENDATIONS

McCormick Taylor will utilize the current VDOT Transportation and Mobility Planning Division travel demand model to evaluate segments or intersections that may be on the current Potential Safety Improvement (PSI) list and that were not on the PSI list during EFCTS Phase I. We propose to compare v/c ratios from the No-Build model output and crash data from 2020 to 2025 to evaluate each Potential Additional Recommendation in a SMART SCALE Memorandum as described in Task 2.

TASK 4 – FATAL FLAWS ANALYSIS

McCormick Taylor will develop a fatal flaws analysis for Route 37 Bypass Phase 1, Route 37 Bypass Phase 2, and each Potential Additional Recommendation. For each recommendation, the fatal flaws analysis will address VDOT standards, safety, constructability, public opposition, and cost. While not specified in the RFP, McCormick Taylor also recommends addressing environmental considerations. The fatal flaws analysis will be included in the project report described in Task 6.

TASK 5 – UPDATED COST ESTIMATES

McCormick Taylor will update the cost estimates for Route 37 Bypass Phase 1, Route 37 Bypass Phase 2, and any Potential Additional Recommendations consistent with the current VDOT Cost Estimating Manual (Revision March 25, 2025). The cost estimate for each recommendation will be included in the SMART SCALE Memorandum described in Task 2.

TASK 6 – REPORT

McCormick Taylor proposes submitting a draft report and a final report. Both reports will include an executive summary, travel demand forecasting procedures, traffic analysis methodologies, SMART SCALE analysis, justifications, recommendations, and cost estimates.

Task 6 Deliverables

- Draft Executive Summary.
- Draft Final Report.
- Executive Summary.
- Final Report.

TASK 7 – PUBLIC INFORMATION MEETING AND BOARD OF SUPERVISORS PRESENTATION

Meaningful involvement of project stakeholders is essential to fostering acceptance and support of planned transportation improvements like what will be studied under EFCTS Phase II. Our in-house staff of GIS specialists, graphic designers, digital technicians, and communications and public involvement specialists have extensive and relevant experience presenting complex engineering and environmental information and conceptual designs in manner that is easy for the public to understand.

McCormick Taylor will work closely with County staff to plan and implement a Public Information Meeting (PIM) to share project details, outcomes, and justifications with local officials and interested citizens. Building on our experience conducting public engagement for EFCTS Phase I, the PIM plan will lay out the logistics for the event, including meeting date, time and location, as well as the meeting room layout (understanding that this effort may be less if the meeting is held in conjunction with a regularly scheduled meeting like the Transportation Forum).

McCormick Taylor will develop draft meeting materials including a PowerPoint presentation, comprehensive project handout, display boards, a comment form, sign-in sheets and nametags to be reviewed and approved by the County prior to final production. A dry run will be planned to underscore the meeting purpose and finalize project team meeting attendance for County approval.

McCormick Taylor will collaborate with the County on a publicity plan that will include the use of the County's website, social media channels, a press release and paid advertisement (proof of publication) if required. Following the PIM, we will provide a meeting summary and compilation and analysis of public comments received and other meeting documentation as appropriate within two (2) weeks after the meeting date.

McCormick Taylor also anticipates presenting the study findings to the County Board of Supervisors at a regularly scheduled meeting, if possible.

POTENTIAL RISKS/CHALLENGES

According to the WinFred MPO 2045 Metropolitan Transportation Plan, none of the Potential Improvement Projects are included in Table 9: WinFred 2045 Constrained Long Range Plan, while Figure 13 shows the Route 37 Bypass as included in the Frederick County Comprehensive Plan. The Route 37 Bypass and some of the potential improvement projects are shown in the Frederick County Comprehensive Plan recommendations tables and needs maps.

The following are some risks or challenges we have identified worth assessing as part of the EFCTS Phase II study:

- Given the significant increase in pavement for roadway extensions and widenings, what are the environmental impacts and potential stormwater management needs? Where would stormwater facilities be located and how much would the improvements cost, including right-of-way acquisition and utility impacts? At the planning stage, future roadway cost estimates for construction, permitting requirements, and right-of-way acquisition, including business damages, all have a significant amount of uncertainty. As a basis for comparison of potential improvements, McCormick Taylor will utilize the VDOT Cost Estimating Manual (Revision March 25, 2025).
- The WinFred MPO 2045 Metropolitan Transportation Plan was adopted in November 2022 and long-range transportation plans are typically updated every five (5) years. The population and employment projections utilized for the travel demand model require periodic adjustment to reflect new developments and changes in population and employment. While no activity was reflected in the 2025 MPO meeting minutes, it is possible that the population and employment projections in the current VDOT Transportation and Mobility Planning Division travel demand model for the WinFred MPO model may be concurrently evaluated for the next update of the model and/or the next update of the Metropolitan Transportation Plan. It is also possible that a subarea model may have been developed for an area project (I-81 improvements or local land use developments), which may include adjustments to TAZs, the roadway network, or socioeconomic data. McCormick Taylor proposes to ascertain the most appropriate travel demand model for use in EFCTS Phase II. Similar to EFCTS Phase I, we will document the version of travel demand model used and any adjustments made to that travel demand model as part of the Traffic Forecasting Report.
- As was verified during the EFCTS Phase I public engagement, McCormick Taylor anticipates that strong support of the Route 37 Bypass will continue.

SCHEDULE

McCormick Taylor proposes an 18-month schedule from Notice to Proceed (NTP) to completion. We will coordinate with the County on an exact deliverable schedule once we receive NTP. Presuming NTP coincides with the beginning of the Frederick County fiscal year, final deliverables are intended to be submitted no later than December 31, 2027 so County staff and other stakeholders have adequate time to process a comprehensive plan amendment and prepare SMART SCALE application(s) in 2028 based on the EFCTS Phase II Study findings.

The following preliminary schedule is anticipated (this will be refined following project award):

- Task 1 – Initial Public Engagement ..... July 2026 – August 2026
- Task 2 – Transportation Analysis ..... July 2026 – February 2027
- Task 3 – Potential Additional Recommendations ..... November 2026 – February 2027
- Task 4 – Fatal Flaws Analysis ..... February 2027
- Task 5 – Updated Cost Estimates ..... February 2027
- Task 6 – Draft Report ..... April 2027
  – Final Report ..... June 2027
- Task 7 – Public Information Meeting ..... Spring or Summer 2027
  – Board of Supervisors Presentation ..... Spring or Summer 2027

FEE

This will be a lump sum contract, with a total no to exceed cost of $233,622.04. Our fee breakdown is attached.

Thank you for providing McCormick Taylor with the opportunity to submit on this task. Please let me know if you have any questions regarding this proposal.

Sincerely,

McCormick Taylor, Inc.

Brian St. John, PE, PTOE
Vice President, Transportation Services
O 717.540.6040
D 717.775.5807
C 717.215.7893
bstjohn@mccormicktaylor.com

Proposal Summary

Eastern Frederick County Transportation Study - Phase II

Job No. 11474

Work Order 1

Billing Rate Total		$ 209,704.04	(a)
Direct Costs Other Than Payroll		23,918.00	(b)
Direct Costs of Services and Work Performed by Others:		-	(c)
Subtotal (a)+(b)+(c)		233,622.04	(d)
Total Cost		**$ 233,622.04**	(f)
Total Estimated Man-Hours:	McCormick Taylor, Inc.	1,258	
	Total	**1,258**	

Engineer's Name:
McCormick Taylor, Inc.
1818 Market Street
16th Floor
Philadelphia, PA 19103

Fed. I. D. No.: 23-1683759

Contact Person:
Bryan Hanover
Deputy Director
(667) 219-3293

Prepared By: Bryan Hanover

McCORMICK TAYLOR

Name: Eastern Frederick County Transportation Study - Phase II
Work Order 1

Job #: 11474

Date: March 6, 2026

By: Bryan Hanover

TASK	Hours											
	Engineer VII/SME	Engineer V	Engineer IV	Engineer III	Engineer II	Engineer I	Technical Specialist VI/SME	Technical Specialist V	Technical Specialist III	Technical Specialist II	Total Hours	Total Dollars
	256.30	237.77	169.87	153.19	142.59	124.76	227.45	189.14	143.38	108.94		
											-	-
Task 1 – Initial Public Engagement	16	20	24				75	20	24	60	**239**	**43,752.15**
											-	-
Task 2 – Transportation Analysis	10	60	60	60	125	220	4	16			**555**	**85,419.79**
											-	-
Task 3 – Potential Additional Recommendations	4	16	16	16	24	12	2		18		**108**	**17,953.50**
											-	-
Task 4 – Fatal Flaws Analysis	4	24					2				**30**	**7,186.58**
											-	-
Task 5 – Updated Cost Estimates	4				40	16	2			8	**70**	**10,051.38**
											-	-
Task 6 – Report	16		8				8		24	40	**96**	**15,078.08**
											-	-
Task 7 – Public Information Meeting and Board of Supervisors Presentation	8						16		24	40	**88**	**13,488.32**
											-	-
											-	-
											-	-
											-	
TOTAL	**102**	**136**	**124**	**76**	**189**	**248**	**109**	**36**	**90**	**148**	**1,258**	**$ 209,704.04**

McCORMICK TAYLOR

Proposal Summary

Eastern Frederick County Transportation Study - Phase II
Job No. 11474
Work Order 1

1) Travel							
a. Client Office							
10 trips @		250	miles r/t x $0.725 per mile	=		1,812.50	
10 trips @		4	tolls per trip	=		40.00	
b. On Site Travel							
100 miles @	$	0.725	per mile	=		72.50	
Subtotal							**$ 1,925.00**
2) Report Reproduction (For deliverables only, to be billed at cost)							
a. Black and White Printing							
200 copies @	$	0.10	/pg (8 1/2 x 11)	=	$	20.00	
200 copies @	$	0.20	/pg (11 x 17)	=		40.00	
b. Color Printing							
200 x	$	0.60	/copy (8 1/2 x 11)	=		120.00	
200 x	$	1.00	/copy (11 x 17)	=		200.00	
c. Color Cover							
10 Sets @	$	2.00	per set	=		20.00	
d. Binding and Collating							
10 reports @	$	2.25	each	=		22.50	
Subtotal							**$ 422.50**
3) Meeting Expenses (For deliverables only, to be billed at cost)							
a. Black and White Printing							
200 copies @	$	0.10	/pg (8 1/2 x 11)	=	$	20.00	
200 copies @	$	0.20	/pg (11 x 17)	=		40.00	
b. Comment Form or Survey Questionnaire - Single Sided							
50 x	$	0.07	per copy (Black and White)	=		3.50	
0 x	$	0.90	per copy (Color)	=		-	
c. Comment Form or Survey Questionnaire - Double Sided w/ mailer on back							
50 x	$	0.14	per copy (Black and White)	=		7.00	
0 x	$	1.80	per copy (Color)	=		-	
d. Graphic Foam Core Displays (6.5' x 8.0')							
6 number @	$	75.00	per display	=		450.00	
e. Display Boards Dry Mounted (3' x 4')							
6 x	$	150.00	per display	=		900.00	
Subtotal							**$ 1,420.50**
4) Rental Expenses (For deliverables only, to be billed at cost)							
a. Traffic Data Collection (3rd Party)				=	$	20,000.00	
Subtotal							**$ 20,000.00**
5) Other Miscellaneous Costs (For deliverables only, to be billed at cost)							
a. Graphic Supplies (Name Tags, Portfolios)				=		150.00	
Subtotal							**$ 150.00**
TOTAL DIRECT COSTS OTHER THAN PAYROLL							**$ 23,918.00**

Board of Supervisors
Agenda Item Detail
Meeting Date: May 13, 2026
Agenda Section: Consent Agenda

Title: Eastern Frederick County Transportation Study (EFCTS): Phase II Authorization - The Transportation Committee recommends acceptance of the proposal from McCormick Taylor, the County's on-call transportation consultant, for completion of the Eastern Frederick County Transportation Study Phase II, including a "new road /new location" analysis required for Smart Scale eligibility, with an estimate of about $233,622.04, significantly lower than competing bids.

Attachments:

Board of Supervisors
Agenda Item Detail
Meeting Date: May 13, 2026
Agenda Section: Consent Agenda

Title: Mitigation Agreement for Smithfield Avenue Public Safety Radio Tower

Attachments:
BOS05-13-26MitigationAgreementFredCo-SVBF-SmithfieldRadioTowerSite.pdf

COUNTY ADMINISTRATOR'S OFFICE
COUNTY of FREDERICK

Jay E. Tibbs
Deputy County Administrator

540/665-6382
Fax: 540/667-0370
E-mail: jtibbs@fcva.us

To: Board of Supervisors

From: Jay E. Tibbs, Deputy County Administrator

Date: May 6, 2026

Re: Mitigation Agreement for Smithfield Avenue Public Safety Radio Tower

Attached please find an agreement between the County of Frederick and the Shenandoah Valley Battlefields Foundation for the mowing of gravel and grass trails at Third Winchester Battlefield Park. The purpose of this agreement is to help mitigate any visual impact to the battlefield caused by the County's public safety radio tower located on Smithfield Avenue.

This agreement was developed as part of mandatory historic preservation review under Section 106 of the National Historic Preservation Act, which is part of the review of the County's FCC licensing application for this site. The Section 106 process requires applicants to evaluate the potential effects of proposed communication towers and related facilities on historic properties (sites, buildings, districts, or archaeology) before construction. While this review typically focuses on an Area of Potential Effect (APE) within a ½ to ¾ mile radius, Third Winchester Battlefield Park falls outside of that range; however, the County recognized the potential for visual impact on this historic site and worked collaboratively with representatives of the Battlefields Foundation to develop a mitigation strategy.

During the negotiation of this agreement, staff were able to secure usage of the trail network at Third Winchester Battlefield Park for Parks & Recreation sponsored races, events, and programs. This provision will expand Parks & Recreation's opportunities to provide additional recreation and programs for residents and visitors.

Staff is requesting Board approval of this agreement and authorization for the County Administrator to sign on behalf of the County.

MOWING AGREEMENT

This agreement effective as of _____ day of _____, 2026, by the County of Frederick, Virginia (the "County"), a political subdivision of Virginia, and the Shenandoah Valley Battlefields Foundation ("SVBF"), a non-profit organization:

WHEREAS, the County proposes to construct a countywide emergency communications system, consisting of ten (10) towers; and

WHEREAS, the County constructed a 250-foot self-supporting lattice emergency communications tower (254' with lightning rod) at 250 Fort Collier Road, Winchester, VA 22603, to support emergency communications for its FCC-licensed service to support the County of Frederick's Emergency Medical Services, Fire Services, and Law Enforcement as well as the Towns of Middletown and Stephens City, the Laurel Ridge Community College, and the Frederick County Public Schools; and further supporting Virginia State Police, Virginia Department of Transportation, and Virginia Department of Motor Vehicles; and

WHEREAS, the County is a licensee of the FCC and intends to use antennas on the tower in connection with the provision of its licensed service to provide emergency communications; and

WHEREAS, the SVBF is the owner of Third Winchester Battlefield Park which is composed of more than 600 acres of preserved land and includes over 6 miles of walking trails, monuments, and more than 30 interpretive markers; and

WHEREAS, the emergency communications tower is visible from the grounds of Third Winchester Battlefield Park; and

WHEREAS, the County, through its Parks & Recreation Department, is tasked with meeting recreational needs of the community and recognizes the trail amenities provide for fulfilling an identified community need.

NOW, THEREFORE, the County and SVBF hereby agree as follows:

1. The County will mow the areas identified on Exhibit A. There will be no mowing during holidays or when the County is closed.

2. The County shall mow six (6) feet on either side of the gravel trails, shown in the blue area on Exhibit A. Mowing shall be performed on a bi-weekly basis, dependent on growing conditions, during the mowing season.

3. The County shall mow the grass trails shown in the red area on Exhibit A with a singular pass Six (6) feet in width. Mowing shall be performed on a bi-weekly basis, dependent on growing conditions, during the mowing season.

4. The SVBF agrees to allow public access to the trail areas for recreational purposes.

DRAFT

5. The SVBF agrees to allow the County, through its Parks & Recreation Department, to utilize the trail network at Third Winchester Battlefield Park for Parks & Recreation sponsored races, programs, and events, provided the dates and times are coordinated in advance with the SVBF.

6. The County and SVBF shall keep in force and effect during the term of the agreement General Liability Insurance in mutually agreeable amounts. Parties shall provide the other with a Certificate of Insurance annually.

The initial term of this agreement shall commence on June 1, 2026 and end on May 31, 2031. The Agreement may be renewed for an additional five-year term. At the end of the second five-year term, this agreement may be renewed for consecutive one-year periods not to exceed 10 years. The Agreement may be modified only with the written consent of both parties.

The Agreement and any renewal term for this agreement may be terminated by either party only upon written notice to the other party, no less than three (3) months prior to the expiration of the initial term or any renewal term; otherwise, this agreement shall renew and continue as provided above. In addition, during any renewal term, either party may terminate this agreement at any time upon no less than three (3) months written notice to the other.

The Agreement constitutes the entire agreement between the parties, and any understandings, changes, or additions hereto shall not become binding upon either party until they are reduced to writing, accepted, and signed by both parties and attached as amendments.

WITNESS the following signatures and seals this _____ day of _____, 2026.

SHENANDOAH BATTLE FIELDS FOUNDATION	**FREDERICK COUNTY, VIRGINIA**
BY: _____	**BY:** _____
TITLE: _____	**TITLE:** _____
DATE: _____	**DATE:** _____

DRAFT

APPROVED AS TO FORM:

_____
County Attorney

DRAFT

Board of Supervisors
Agenda Item Detail
Meeting Date: May 13, 2026
Agenda Section: Appointments to Boards, Committees, and Commissions

Title:

Social Services Board - Shawnee District Rep.

4-year term of Dolores Stottlemyer expires 6/30/26.

Ms. Stottlemyer is eligible and willing for reappointment.

Attachments:

Board of Supervisors
Agenda Item Detail
Meeting Date: May 13, 2026
Agenda Section: Appointments to Boards, Committees, and Commissions

Title:

Parks & Recreation Commission - Stonewall District Rep.

4-year term of Jennifer Myers 6/23/26

Ms. Myers does not wish to be reappointed. See the attached application of Christopher Luebcke.

Attachments:
BOS05-13-26App_LuebckeChristopher_Redacted.pdf

Application Form

Profile

Christopher
First Name

D
Middle Initial

Luebcke
Last Name

Email Address

268 Christmas Tree Lane
Home Address

Stephenson
City

VA
State

22656
Postal Code

Magisterial District:

☑ Stonewall

Primary Phone

Alternate Phone

Leidos
Employer

Program Manager
Job Title

Which Boards would you like to apply for?

Parks & Recreation Commission: Submitted

Will You Be Able To Attend This Committee's Regularly Scheduled Meeting?

◉ Yes ○ No

Do You Foresee Any Possible Conflicts Of Interest Which Might Arise By Your Serving On This Committee?

○ Yes ◉ No

Civic/Community Activities:

*Former youth Recreational Basketball, Flag Football, and Soccer coach *Current Blue Ridge United Youth Travel Soccer Coach *WATTS volunteer *Cheers to Charity Sponsor via my wife's boutique (Scarpa Alta) *Kiwanis Club Pancake Day volunteer

Interests & Experiences

Why are you interested in serving on a board or commission?

I am a firm believer that recreation and the parks that support recreation play a vital role in the development of our youth and to our community as a whole. I believe that supporting the decisions that will support the people and processes that enable fields to get built, trails to be improved, and events to get better will help our community thrive.

Board of Supervisors
Agenda Item Detail
Meeting Date: May 13, 2026
Agenda Section: Appointments to Boards, Committees, and Commissions

Title:

Community Policy and Management Team (CPMT)

2-year term of Robert Johnson as Private Provider Rep. expires 6/30/26

See attached letter requesting Mr. Johnson's reappointment.

Attachments:
BOS05-13-26CPMT_ PPR_Johnson_Redacted.pdf

Frederick County, Virginia
Comprehensive Services Act
107 North Kent Street, 3rd Floor
Winchester, VA 22601
Office: (540) 665-5688
FAX: (540) 535-2146

April 27, 2026
Mr. Michael Bollhoefer
Frederick County Administrator
107 N. Kent Street
Winchester, Virginia 22601

Dear Mr. Bollhoefer,

As CSA Coordinator of Frederick County, I am pleased to inform you that at the meeting on April 27, 2026, the CPMT re-nominated Mr. Robert Johnson, Grafton Integrated Health Network, Business Development Administrator, by unanimous vote, to continue in the position of Private Provider Representative.

The Private Provider Representative is a mandated position on the CPMT. The State Code provides for both the private provider representative and the parent representative to be appointed by the Board of Supervisors. Appointments are for a two year term with members being eligible for reappointment. Traditionally, the Board of Supervisors has considered input on new appointments to the CPMT from the seated members.

Mr. Johnson has been a Private Provider Representative since November 2024. His position with Grafton affords him opportunities to engage stakeholders from both the public and private sectors around the Commonwealth, providing a diverse and robust perspective from which he draws. He comes to us with high regards from those individuals who have worked with him. His participation in the CPMT has been collaborative, child and family focused, valuable and influential.

The CPMT appreciates your consideration to reappoint Mr. Robert Johnson to continue as the Private Provider Representative on the Frederick County CPMT.

Sincerely,

[redacted]

Jacquelynn Jury, MS, LPC
CSA Coordinator
Frederick County

Board of Supervisors
Agenda Item Detail
Meeting Date: May 13, 2026
Agenda Section: Appointments to Boards, Committees, and Commissions

Title:

Extension Leadership Council - Stonewall District Rep.

4-year term of John D. Cline expires 7-13-26.

Mr. Cline has chosen not to be reappointed. See the attached application of Lauren Morrison.

Attachments:
BOS05-13-26App_MorrisonLauren_Redacted.pdf

Application Form

Profile

Lauren
First Name

Morrison
Last Name

Email Address

260 Timberlakes Lane
Home Address

Clear Brook
City

VA
State

22624
Postal Code

Magisterial District:

☑ Stonewall

Primary Phone

Alternate Phone

County of Frederick
Employer

Deputy Treasurer
Job Title

Which Boards would you like to apply for?

Extension Leadership Council: Submitted

Will You Be Able To Attend This Committee's Regularly Scheduled Meeting?

◉ Yes ○ No

Do You Foresee Any Possible Conflicts Of Interest Which Might Arise By Your Serving On This Committee?

○ Yes ◉ No

Civic/Community Activities:

4-H — longtime participant, volunteer and children currently involved Women’s Republican Party — member/volunteer (party activities, outreach) Apple Blossom Festival — ticketing volunteer (crowd service, event support)

Interests & Experiences

Why are you interested in serving on a board or commission?

I want to serve on the Extension Leadership Council to strengthen local youth outreach and support agricultural programs. I've been involved with FFA and 4-H since middle school, showed livestock, and my children are currently active in 4-H and livestock in Frederick County.

Board of Supervisors
Agenda Item Detail
Meeting Date: May 13, 2026
Agenda Section: Public Hearings (Non Planning Issues)

Title:

Proposed Boundary Line Adjustment - Notice is Hereby Given that the Frederick County Board of Supervisors Will Consider Approval of an Agreed Boundary Line Adjustment Between the County and the Town of Stephens City, Virginia Concerning a Single Parcel Located at 5145 Passage Lane, Stephens City, Virginia, Tax Map # 74-A-44, Owned by Margaret J. Wolfrays, Trustee; Helen Pyne; and Louis C. Carbaugh; Wherein the Portion of the Property Comprising 3.3. Acres Now Lying in Frederick County Would be Located Within the Boundary of Stephens City by Virtue of Said Adjustment.

Attachments:
BOS05-13-26StephensCityBoundaryLineAdjustment.pdf

COUNTY OF FREDERICK
Office of County Attorney

Phone: 540-722-8383
Fax: 540-667-0370

MEMORANDUM

TO: Board of Supervisors

FROM: Andrew R. Fox, County Attorney

DATE: May 12, 2026

RE: Boundary Adjustment – Passage Lane, Stephens City

This Resolution authorizes an Agreement between the County and Stephens City for a minor boundary adjustment concerning an approximately ten-acre property located at 5145 Passage Lane, Tax Map 74-A-44, whereby approximately three acres currently situated in Frederick County would fall within the adjusted boundary of Stephens City. Maps and drawings showing the boundary line adjustment are attached to the Resolution.

The Stephens City Town Council authorized the Agreement at its April 7, 2026, business meeting after advertising and conducting a public hearing. Upon approval and execution, the Agreement will be presented to the Frederick County Circuit Court for approval and recordation.

Attachments:
-Draft Resolution, including Exhibits A and B, for consideration by the Board
-Town of Stephens City - Adopted Resolution

Action:
BOARD OF SUPERVISORS: May 13, 2026 Pending

RESOLUTION

TO APPROVE AN AGREEMENT BETWEEN THE COUNTY OF FREDERICK AND THE TOWN OF STEPHENS CITY, A BOUNDARY LINE ADJUSTMENT

WHEREAS, a certain parcel of land is located straddling the existing corporate limits of the Town of Stephens City, Virginia, totaling 10.0319 acres, of which 6.7289 acres lie within the Town and 3.3030 acres lie outside the Town within Frederick County, further described on the Exhibit Plat prepared by Greenway Engineering on March 19, 2026, a copy of which is attached hereto as Exhibit A and made a part hereof; and

WHEREAS, the Town desires to provide services to the parcels and the affected property owners have agreed to be brought into the Town; and

WHEREAS, the Town of Stephens City, pursuant to authority granted to it under Code of Virginia §15.2-3106, as amended, desires to enter into an agreement to change the boundary line at the location of the subject parcel to place the parcel wholly within the Town; and

WHEREAS, the Town held a public hearing in accordance with Code of Virginia §15.2-3107, as amended, on April 7, 2026, and at that meeting resolved to approve an agreement between the County of Frederick and the Town of Stephens City to conduct a Boundary Line Adjustment for the parcel in question; and

WHEREAS, Frederick County held a public hearing on May 13, 2026, on the Agreement to Change the Boundary Line, a copy of which is attached hereto as Exhibit B and made a part hereof; and

NOW, THEREFORE, BE IT RESOLVED that the Frederick County Board of Supervisors approves the Agreement to Change the Boundary Line between the County and the Town.

Passed this 13th day of May by the following recorded vote:

John F. Jewell, Chairman	Michael D. Guevremont
Albert L. Orndorff	Robert T. Liero
Jason C. Aikens	Gary R. Oates
Robert W. Wells	

A COPY ATTEST

_____
Michael L. Bollhoefer
Frederick County Administrator

Res No.

GREENWAY ENGINEERING
FND 1971
Greenway Engineering, Inc.
151 Windy Hill Lane
Winchester, VA 22602
T: 540.662.4185
F: 540.722.4185
www.GreenwayEng.com

Exhibit A

March 23, 2026

Dear Board of Supervisors of Frederick County, Virginia, and
the Town Council of the Town of Stephens City, Virginia,

We the undersigned property owners, own a piece of property within the County know as Tax Map # 74-A-44 (5145 Passage Ln, Stephens City). The parcel is currently split between the two localities. A recent survey of the property has indicated that the total area of the parcel is 10.0319 acres, with ±6.7289 acres being within the Town of Stephens City, and ±3.3030 acres being within Frederick County.

We would like to jointly request that the Frederick County / Town of Stephens City locality boundary be adjusted so that the entirety of the parcel is located with the Town of Stephens City rather than divided by the two localities.

Thank you for your attention to this matter,

[redacted]
Margaret J. Wolfrays, Trustee
5145 Passage Lane
Stephens City, Virginia 22655
Property owner and Petitioner

[redacted]
Helen Pyne
5145 Passage Lane
Stephens City, Virginia 22655
Property owner and Petitioner

[redacted]
Louis C. Carbaugh
5145 Passage Lane
Stephens City, Virginia 22655
Property owner and Petitioner

COMMONWEALTH OF VIRGINIA, County of Frederick, to-wit:

The foregoing instrument was executed and acknowledged before me by Mike Diaz, Mayor of the Town of Stephens City, this _____ day of , _____, 2026.

My commission expires:_____

_____
NOTARY PUBLIC

Margaret J. Wolfrays, Trustee of the Wolfrays Trust

By [redacted] Margaret J. Wolfrays, Trustee

COMMONWEALTH OF VIRGINIA, County of Frederick, to-wit:

The foregoing instrument was executed and acknowledged before me by Margaret J. Wolfrays, Trustee this 24th day of March 2026.

My commission expires: Dec. 31 2029

[redacted]
NOTARY PUBLIC

PHYLLIS J FLETCHER NOTARY PUBLIC REG. # 7972004 MY COMMISSION EXPIRES 12/31/2029 COMMONWEALTH OF VIRGINIA

[redacted] Helen Pyne

COMMONWEALTH OF VIRGINIA, County of Frederick, to-wit:

The foregoing instrument was executed and acknowledged before me by Helen Pyne, this 24th day of March 2026.

My commission expires: 12/31/29

[redacted]
NOTARY PUBLIC

PHYLLIS J FLETCHER NOTARY PUBLIC REG. # 7972004 MY COMMISSION EXPIRES 12/31/2029 COMMONWEALTH OF VIRGINIA

[redacted] Louis C. Carbaugh

COMMONWEALTH OF VIRGINIA, County of Frederick, to-wit:

The foregoing instrument was executed and acknowledged before me by Louis C. Carbaugh , this 24th day of March 2026.

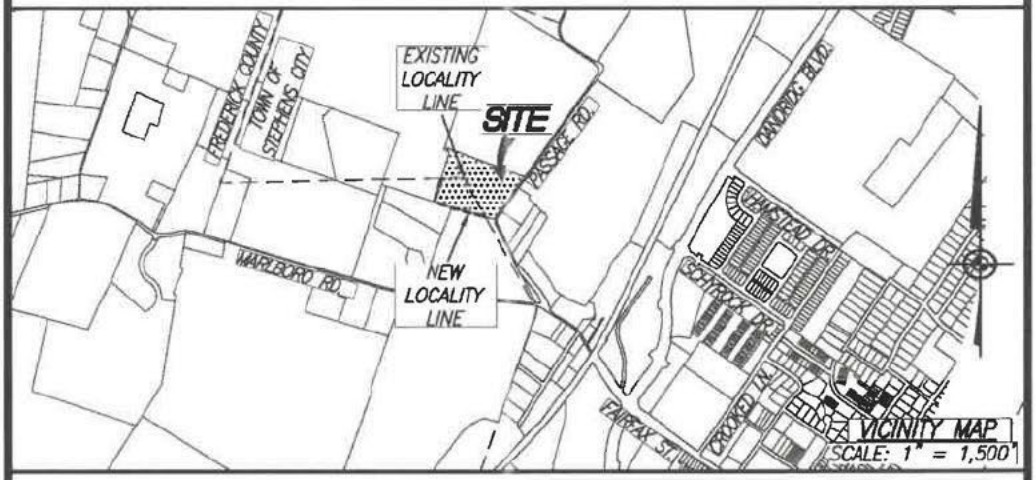
My commission expires: 12/31/29

[redacted]

PHYLLIS J FLETCHER NOTARY PUBLIC REG. # 7972004 MY COMMISSION EXPIRES 12/31/2029 COMMONWEALTH OF VIRGINIA

BOUNDARY LINE ADJUSTMENT EXHIBIT
OF
THE TOWN OF STEPHENS CITY AND FREDERICK COUNTY, VIRGINIA

AFFECTED TAX PARCEL 74-A-44, TOWN OF STEPHENS CITY,
OPEQUON & BACK CREEK MAGISTERIAL DISTRICT, FREDERICK COUNTY, VIRGINIA



SURVEYOR'S CERTIFICATE:

I HEREBY CERTIFY THAT THE LAND CONTAINED IN THIS BOUNDARY LINE ADJUSTMENT EXHIBIT IS THE LAND CONVEYED TO LOUIS C. CARBAUGH, HELEN PYNE, AND MARGARET WOLFRAYS BY WILL INSTRUMENT NUMBER 230000399, AMONG THE RECORDS OF THE FREDERICK COUNTY, VIRGINIA. MARGARET WOLFRAYS GRANTED HER ONE THIRD INTEREST IN THE PROPERTY TO THE WOLFRAYS REVOCABLE TRUST AS RECORDED AT INSTRUMENT NUMBER 250001164, AMONG THE LAND RECORDS OF FREDERICK COUNTY, VIRGINIA.

Daniel J. Charmo

DANIEL J. CHARMO LS #3618

APPROVALS:

[redacted]
TOWN OF STEPHENS CITY – TOWN MANAGER — DATE 3/25/26

[redacted]
~~FREDERICK COUNTY~~ SUBDIVISION ADMINISTRATOR — DATE 3/25/26

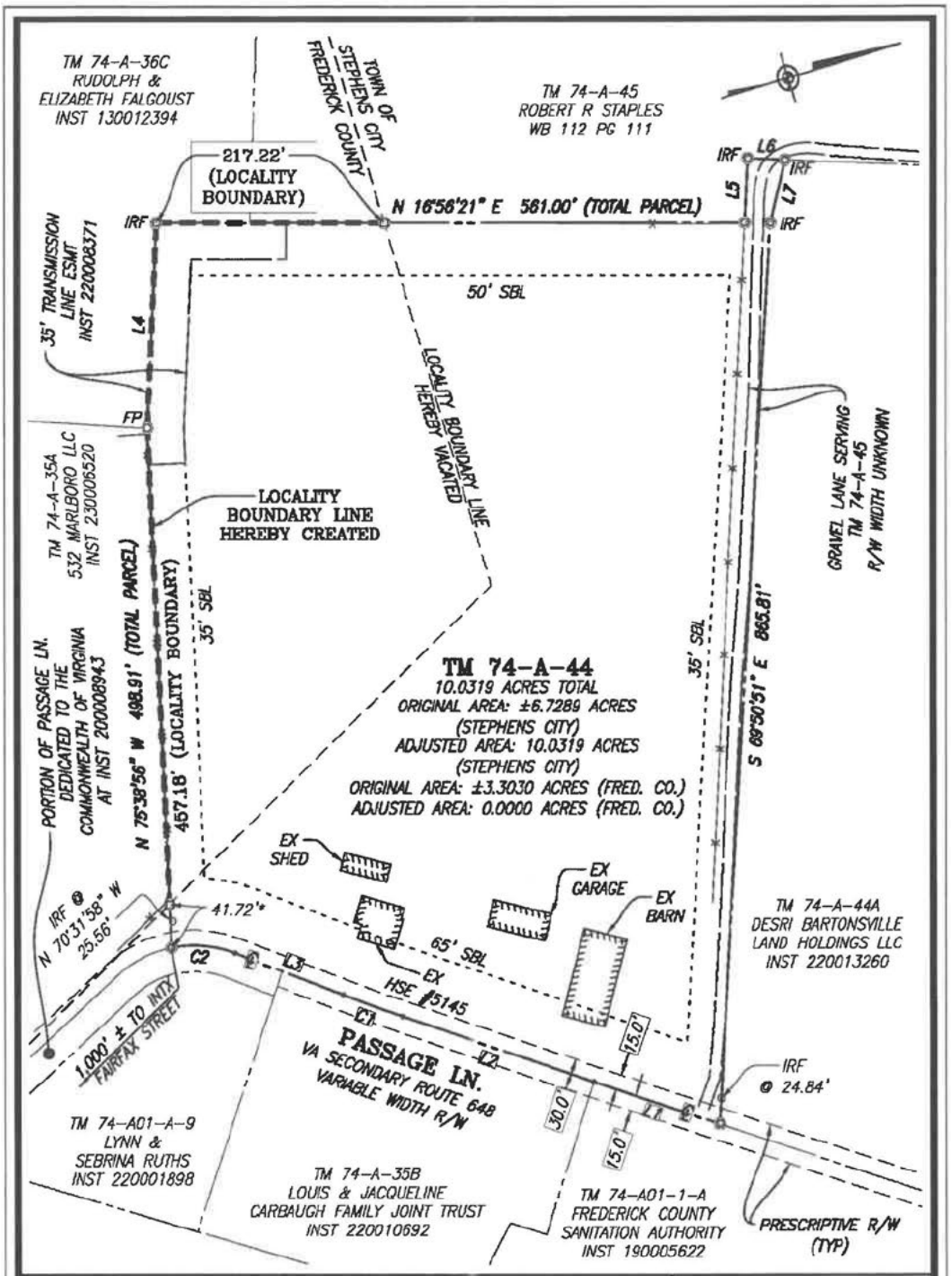
SCALE: ~~N/A~~ STEPHENS CITY | DATE: MARCH 19, 2026

COMMONWEALTH OF VIRGINIA
Daniel J. Charmo
DANIEL J. CHARMO
Lic. No. 3618
LAND SURVEYOR

FND 1971
GREENWAY ENGINEERING

GREENWAY ENGINEERING, INC.
151 Windy Hill Lane
Winchester, Virginia 22602
Telephone: (540) 662-4185
FAX: (540) 722-9528
www.greenwayeng.com

0137C SHEET 1 OF 3



BOUNDARY LINE ADJUSTMENT EXHIBIT
OF
THE TOWN OF STEPHENS CITY AND
FREDERICK COUNTY, VIRGINIA

AFFECTED TAX PARCEL 74-A-44, TOWN OF STEPHENS CITY,
OPEQUON & BACK CREEK MAGISTERIAL DISTRICT, FREDERICK COUNTY, VIRGINIA

SCALE: 1" = 120' | DATE: MARCH 19, 2026

COMMONWEALTH OF VIRGINIA
Daniel J. Charmo
DANIEL J. CHARMO
Lic. No. 3618
LAND SURVEYOR

GREENWAY ENGINEERING
FND 1971
GREENWAY ENGINEERING, INC.
151 Windy Hill Lane
Winchester, Virginia 22602
Telephone: (540) 662-4185
FAX: (540) 722-9528
www.greenwayeng.com

0137C SHEET 3 OF 3

LINE TABLE

LINE	BEARING	DISTANCE
L1	S 35°33'55" W	126.45'
L2	S 35°54'53" W	193.56'
L3	S 38°11'53" W	110.69'
L4	N 70°34'34" W	196.95'
L5	N 70°33'39" W	61.88'
L6	N 19°23'42" E	36.00'
L7	S 59°47'41" E	61.93'

CURVE TABLE

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	1510.84'	60.20'	60.20'	S 37°03'23" W	2°16'59"
C2	107.25'	61.44'	60.60'	S 21°47'15" W	32°49'16"

AREA TABLE

PORTION OF TM 74-A-44 WITHIN STEPHENS CITY

ORIGINAL AREA IN STEPHENS CITY	=	±6.7289 ACRES
AREA FROM FREDERICK COUNTY	= +	±3.3030 ACRES
ADJUSTED AREA OF TM 74-A-44 WITHIN STEPHENS CITY	=	10.0319 ACRES

PORTION OF TM 74-A-44 WITHIN FREDERICK COUNTY

ORIGINAL AREA IN FREDERICK COUNTY	=	±3.3030 ACRES
AREA TO STEPHENS CITY	= −	±3.3030 ACRES
ADJUSTED AREA OF TM 74-A-44 WITHIN FREDERICK COUNTY	=	0.0000 ACRES

LEGEND

- ⊛ = PROPERTY CORNER
- • = POINT IN CENTER OF ROAD
- ⊛ = APPROXIMATE NEW LOCALITY CORNER
- IRF = 1/2" IRON ROD FOUND
- FP = FENCE POST FOUND
- TM = TAX MAP (PARCEL)
- DB = DEED BOOK
- WB = WILL BOOK
- ℄ = CENTERLINE OF ROAD
- INST = INSTRUMENT
- ESMT = EASEMENT
- PG = PAGE
- EX = EXISTING
- HSE = HOUSE
- SBL = SETBACK LINE (PER TOWN OF STEPHENS CITY ZONING ORDINANCE)
- # = TIE DIMENSION
- —x— = FENCE LINE

NOTES:

1. TITLE TO THE PROPERTY SHOWN HEREON IS VESTED IN LOUIS C. CARBAUGH AND HELEN PYNE, BY WILL INSTRUMENT NUMBER 230000399, AND VESTED IN THE WOLFRAYS REVOCABLE TRUST BY INSTRUMENT NUMBER 250001164, BOTH AMONG THE LAND RECORDS OF FREDERICK COUNTY, VIRGINIA.
2. THE BOUNDARY INFORMATION SHOWN HEREON IS BASED ON THE DESCRIPTIONS OF RECORD AND A FIELD RUN SURVEY BY THIS FIRM.
3. THE PROPERTY SHOWN HEREON LIES WITHIN ZONE X – AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN PER N.F.I.P. FLOOD INSURANCE RATE MAP No. 51069C0330E DATED JANUARY 29, 2021.
4. NO TITLE REPORT HAS BEEN FURNISHED, EASEMENTS OTHER THAN THOSE SHOWN HEREON MAY EXIST.
5. NORTH ARROWS REPRESENT NAD83 STATE PLANE COORDINATE SYSTEM, VIRGINIA, NORTH ZONE.
6. THE PROPERTY SHOWN HEREON IS CURRENTLY ZONED: R1 (STEPHENS CITY) AND RA (FREDERICK CO.)
7. EXISTING LOCALITY LINES AS SHOWN ARE APPROXIMATE. THE PURPOSE OF THIS EXHIBIT IS TO ADJUST THE LOCALITY LINES SO THAT THE ENTIRETY OF TM 74-A-44 IS WITHIN THE TOWN OF STEPHENS CITY.

BOUNDARY LINE ADJUSTMENT EXHIBIT
OF
THE TOWN OF STEPHENS CITY AND
FREDERICK COUNTY, VIRGINIA
AFFECTED TAX PARCEL 74-A-44, TOWN OF STEPHENS CITY,
OPEQUON & BACK CREEK MAGISTERIAL DISTRICT, FREDERICK COUNTY, VIRGINIA

SCALE: N/A | DATE: MARCH 19, 2026

COMMONWEALTH OF VIRGINIA
Daniel J. Charmo
DANIEL J. CHARMO
Lic. No. 3618
LAND SURVEYOR

GREENWAY ENGINEERING
FND 1971

GREENWAY ENGINEERING, INC.
151 Windy Hill Lane
Winchester, Virginia 22602
Telephone: (540) 662-4185
FAX: (540) 722-9528
www.greenwayeng.com

0137C SHEET 2 OF 3

VIRGINIA: IN THE CIRCUIT COURT FOR THE COUNTY OF FREDERICK

IN RE: Boundary Line Adjustment Agreement between the Town of Stephens City, Virginia and the County of Frederick, Virginia.

Case No.: _____

Petition for a Jurisdictional Boundary Adjustment

Petitioners, Margaret J. Wolfrays, Trustee, Helen Pyne, and Louis C. Carbaugh own this parcel. The Town of Stephens City, Virginia, a Virginia municipal corporation, and the County of Frederick, Virginia, a Virginia political subdivision, by counsel, join the Petitioners to request that the Court relocate and change the boundary line between the two jurisdictions regarding one property. In support of this Petition the parties state as follows:

1. This parcel of land, along with several others adjoining, have made up a family farm held for well over 120 years. Most of the family farm is now a solar farm. The parcel in question, tax map 74/ A/ 44//, is made up of 10.0319 acres. Approximately 67% of the parcel is in the Town limits and approximately 33% is only in Frederick County. Improvements on the property are within the existing Town limits. A copy of the plat of this property is attached as Exhibit A.
2. With the passing of senior members of the Carbaugh family, the heirs desire to bring the parcel completely into the Town as they work through their divided ownership. This Petition was initiated by and is at the request of the property owner, and the County and Town are working together to satisfy the request.
3. The property owners, and the two localities, have entered into a Boundary Line Adjustment Agreement ("Agreement") in accordance with Virginia Code § 15.2-3106. A copy of this agreement is attached as Exhibit B.

4. The Town of Stephens City and Frederick County each advertised their intention to approve the Agreement by running a notice of public hearing once a week for two successive weeks in a newspaper having general circulation in the Town of Stephens City and Frederick County as required under Virginia Code Section 15.2-3107. The Town of Stephens City advertised for two successive weeks in the Northern Virginia Daily. Frederick County advertised for two successive weeks in the Winchester Star. The notices included a descriptive summary of the proposed agreement, the new boundary, and a statement that a copy of the proposed agreement was on file in the Town and County offices. The property owners have agreed to reimburse the localities for this advertising expense.
5. Following publication and service of the notice, the Town of Stephens City and Frederick County each held a public hearing on the proposed agreement in accordance with Virginia Code § 15.2-3107(A). The Town of Stephens City held its public hearing on _____, while Frederick County's hearing was held on _____.
6. The parties represent to this Court that the procedures required by Virginia Code §15.2-3106 and 15.2-3107 have been complied with and this Petition is in proper order.
7. The parties respectfully move this Honorable Court to enter the attached Consent Order revising the boundary of the Town so that all of the land contained within tax map 74/ A/ 44// as shown on Exhibit A is within the corporate limits of the Town of Stephens City as an agreed voluntary boundary adjustment.

WE ASK FOR THIS:

J. David Griffin, Esquire
1033 Locust Street
P.O. Box 250
Stephens City, VA 22655
Telephone: (540) 869-3087/Facsimile: (540) 869-6166
Email: dgriffin@stephenscityva.us
Counsel for the Town of Stephens City, VA

Andrew Fox, Esquire
Frederick County Attorney's Office
107 North Kent Street 3rd Floor
Winchester, VA 22601
Telephone: (540) 722-8383/Facsimile: (540) 667-0370
Email: andrew.fox@fcva.us
Counsel for the County of Frederick, VA

[redacted]

Margaret J. Wolfrays, Trustee
5145 Passage Lane
Stephens City, Virginia 22655
Property owner and Petitioner

[redacted]

Helen Pyne
5145 Passage Lane
Stephens City, Virginia 22655
Property owner and Petitioner

[redacted]

Louis C. Carbaugh
5145 Passage Lane
Stephens City, Virginia 22655
Property owner and Petitioner

VIRGINIA: IN THE CIRCUIT COURT FOR THE COUNTY OF FREDERICK

IN RE: Boundary Line Adjustment Agreement between the Town of Stephens City, Virginia and the County of Frederick, Virginia.

Case No.: _____

CONSENT ORDER

Petitioners, the Town of Stephens City, Virginia, a Virginia municipal corporation, and the County of Frederick, Virginia, a Virginia political subdivision, by counsel, have requested that the Court relocate and change the boundary line between them regarding one property. Upon a review of the Petition, the Court makes the following findings:

1. The Boundary Line Adjustment Agreement (the "Agreement") entered into between the property owners, the Town of Stephens City and Frederick County is properly before the Court in accordance with Virginia Code § 15.2-3106, *et seq*.

2. The Town of Stephens City and Frederick County each advertised their intention to approve the Boundary Agreement once a week for two successive weeks in a newspaper having general circulation in the Town of Stephens City and Frederick County. The Town of Stephens City advertised for two successive weeks in the Northern Virginia Daily. Frederick County advertised for two successive weeks in the Winchester Star. The notices included a descriptive summary of the proposed agreement, the new boundary, and a statement that a copy of the proposed agreement was on file in the Town and County offices.

3. The affected property owners initiated this boundary adjustment request. The property in question is approximately 67% in the Town limits and 33% in Frederick County only. The improvements on the property are all located within the Town. The property owners, the Town and the Board of Supervisors signed a consent agreement acknowledging that they understood the implications of being incorporated into the Town and were interested in such.

4. Following publication and service of the notice, the Town of Stephens City and Frederick County each held a public hearing on the proposed agreement in accordance with Virginia Code § 15.2-3107(A). The Town of Stephens City held its public hearing on _____, while Frederick County's hearing was held on _____.

5. The procedures required by Virginia Code § 15.2-3106 and 15.2-3107 have been complied with and the Petition is in proper order.

THEREFORE, the Court hereby **ORDERS** that the relief requested is GRANTED and that the boundary line between the Town of Stephens City and Frederick County be changed effective 12:00 a.m. on _____, to include within the Town of Stephens City's boundaries all of the property described by the plat attached as Exhibit A, also known as tax map 74-A-44.

The Court further **ORDERS** that this Order shall be recorded in the Common Law Order Book of this Court and in the current Deed Book of this Court and indexed in the names of the Town of Stephens City and Frederick County (each as a grantor and grantee), and by this Order the new boundary line is designated and established in accordance with the Agreement. The Clerk is directed to certify a copy of this Order to the Secretary of the Commonwealth, to the property owner, and to all counsel of record.

THIS IS A FINAL ORDER.

ENTERED: _____

_____
Judge, Frederick County Circuit Court

WE CONSENT:

J. David Griffin, Esquire
1033 Locust Street
P.O. Box 250
Stephens City, VA 22655
Telephone: (540) 869-3087/Facsimile: (540) 869-6166
Email: dgriffin@stephenscityva.us
Counsel for the Town of Stephens City, VA

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Counsel for the County of Frederick

[redacted]
Margaret J. Wolfrays, Trustee
5145 Passage Lane
Stephens City, Virginia 22655
Property owner and Petitioner

[redacted]
Helen Pyne
5145 Passage Lane
Stephens City, Virginia 22655
Property owner and Petitioner

[redacted]
Louis C. Carbaugh
5145 Passage Lane
Stephens City, Virginia 22655
Property owner and Petitioner

Exhibit B

BOUNDARY LINE ADJUSTMENT AGREEMENT
For a single parcel
Between the property owners, Frederick County Virginia,
and Stephens City Virginia

THIS AGREEMENT made and entered into this ____day of_____,2026, by and between Frederick County, Virginia (County), through its governing body the Board of Supervisors of Frederick County, Virginia, the party of the first part; the Town of Stephens City, Virginia (Town) through its governing body the Town Council of the Town of Stephens City, Virginia, party of the second part, and Margaret J. Wolfrays, Trustee, Helen Pyne, and Louis C. Carbaugh, parties of the third part.

WITNESSETH:

WHEREAS, the Carbaugh family has owned a family farm property known as tax map 74-A-44 in the Frederick County area for well over 120 years. The parcel is located slightly more than 67% within the Town of Stephens City boundaries and just under 33% within Frederick County.

WHEREAS, with the passing of one of the senior Carbaughs, the family desires to consolidate this parcel into one jurisdiction. They approached both jurisdictions requesting a boundary adjustment. As the primary structures on the parcel are all within the Town limits, the family asks that the County and the Town grant its request to place all 10.0319 acres of this single parcel within the Town limits by way of a agreed boundary adjustment. The property owners understand that all lands within the Town of Stephens City are also a part of Frederick County for purposes of certain taxes, and for receipt of certain services such as schools and they understand the implications of coming into the Town limits entirely.

WHEREAS, Section 15.2-3106 of the Code of Virginia of 1950, as amended, authorizes Virginia Counties and Towns to change the boundary lines existing between them by agreement in accord with the specified statutory procedures contained therein; and

WHEREAS, the Town and the County consider the property owner's request for the parcel to be incorporated into the Town to be in accord with the policies and guide-lines of the comprehensive plans of both the Town of Stephens City, Virginia, and the County of Frederick, Virginia, and furthering the best interests of the citizens of the Town, the County and the Commonwealth of Virginia;

NOW, THEREFORE, the parties hereto hereby agree as follows:

1. The Town and the County will conduct the requisite public hearing on this boundary adjustment after proper notice to the public. Following the public hearings the Board and Council of the respective jurisdictions will vote for their approval or denial of the request. If approved by both jurisdictions, the new boundary line for this parcel is to be established is as more particularly described in its tax map number metes and bounds description and the exact boundaries of the parcel are as outlined on the attached survey from Greenway Engineering.

2. If approved by both localities the Frederick County Attorney and the Stephens City Town Attorney are hereby authorized to act on behalf of the County and the Town, respectively, to prepare, file, and sign any documents, pleadings, and Orders necessary to ensure that a Court Order designating and establishing the new boundary line in accordance with this agreement be entered by the Court in accordance with Section 15.2-3106 of the Code of Virginia of 1950 as amended.

COUNTY OF FREDERICK, VIRGINIA

By _____ John Jewell,
Chairman, Frederick County Board of Supervisors

COMMONWEALTH OF VIRGINIA, County of Frederick, to-wit:
The foregoing instrument was executed and acknowledged before me by John Jewell, Chairman of the Frederick County Board of Supervisors this ____ day of _____,2026.

My commission expires:

_____
NOTARY PUBLIC

ATTEST:

_____ Mike Bollhoefer, County Administrator and Clerk to the Board of Supervisors

TOWN OF STEPHENS CITY, VIRGINIA

By_____ Mike Diaz,
Mayor, Town of Stephens City

RESOLUTION OF THE TOWN OF STEPHENS CITY

WHEREAS, the Carbaugh family has owned a family farm property known as tax map 74-A-44 in the Frederick County area for well over 120 years. The parcel is located slightly more than 67% within the Town of Stephens City boundaries and just under 33% within Frederick County.

WHEREAS, with the passing of one of the senior Carbaughs, the family desires to consolidate this parcel into one jurisdiction. They approached both the Town of Stephens City and Frederick County Virginia requesting a boundary adjustment. As the primary structures on the parcel are all within the Town limits, the family asks that the County and the Town grant its request to place all 10.0319 acres of this single parcel within the Town limits by way of an agreed boundary adjustment. The property owners understand that all lands within the Town of Stephens City are also a part of Frederick County for purposes of certain taxes, and for receipt of certain services such as schools and they understand the implications of coming into the Town limits entirely.

WHEREAS, Section 15.2-3106 of the Code of Virginia of 1950, as amended, authorizes Virginia Counties and Towns to change the boundary lines existing between them by agreement in accord with the specified statutory procedures contained therein; and

WHEREAS, the Town conducted a public hearing on the boundary adjustment, following proper advertisement and notice on April 7, 2026 and favorably considers the property owner's request for the parcel to be incorporated into the Town to be in accord with the policies and guidelines of the comprehensive plans of both the Town of Stephens City, Virginia, and the County of Frederick, Virginia, and furthering the best interests of the citizens of the Town, the County and the Commonwealth of Virginia. The Town will sign an agreement with the County, which tracks this language, to proceed with the Boundary Adjustment.

The Town Council voted unanimously to adopt the proposed boundary line adjustment agreement with the County as reflected in this resolution at its April 7, 2026 meeting.

Mike Diaz, Mayor

Attested: _____
Cailee Anderson, Clerk

Board of Supervisors
Agenda Item Detail
Meeting Date: May 13, 2026
Agenda Section: Planning Commission Business - Public Hearings

Title:

Ordinance Amendment to the Frederick County Code – Modifications to Chapter 165 – Zoning Ordinance to Reorganize the Chapter, to Remove any Redundant and Conflicting Language, and to Convert Narrative Standards into Tables and Graphics, Where Appropriate. The Amendment Also Adds or Modifies Provisions and References from Chapter 22 of Title 15.2 of the Code of Virginia that are Not Codified in the Current Zoning Ordinance.

Attachments:
BOS05-13-26ZoningOrdinance_Update.pdf

PLANNING & COMMUNITY DEVELOPMENT
BERKLEY GROUP

MEMORANDUM

To: Frederick County Board of Supervisors
From: Caroline Vanterve, AICP, Principal Planner
Berkley Group
Date: April 29, 2026
Subject: Phase I Zoning and Subdivision Ordinance Update – Public Hearings

Frederick County has enlisted the support of Berkley Group to restructure the County's Zoning and Subdivision Ordinances and update the provisions for compliance with the Code of Virginia. The updated Ordinances will achieve the following:

- Provide a streamlined and user-friendly Ordinance format;
- Incorporate current Code of Virginia requirements; and
- Prepare the County to efficiently address policy items, as guided by the Comprehensive Plan, in a future phase.

This process was initiated by County staff and serves as a technical update focused on clarity and usability. It is considered Phase I and **does not consist of policy changes** (e.g., addition of zoning districts; edits to use standards or design standards). **Any and all changes made as part of Phase I were introduced solely for compliance with the mandatory items of state code, reorganizational purposes, or to remove redundant or conflicting provisions.** Additionally, any zoning text amendments adopted between July 2025 and February 2026 have been directly integrated as adopted. A Phase II update to address policy is anticipated following completion of the County's ongoing Comprehensive Plan update.

During the May 13, 2026 regular meeting, the Board of Supervisors will hold two public hearings to consider the updated Zoning and Subdivision Ordinances. Consistent with Virginia law, the Board of Supervisors will vote after each public hearing to approve, approve with amendments, or deny the proposed Zoning and Subdivision Ordinances.

The Planning Commission recommended approval of the updated Zoning Ordinance and approval of the updated Subdivision Ordinance following public hearings held to consider each respective Ordinance during their regular meeting on Wednesday, April 15, 2026.

Should the Ordinances be adopted, they will be immediately effective and will repeal and replace the existing Zoning and Subdivision Ordinances in their entirety.

CV

No policy changes were made during the Phase 1 update. Revisions were to limited to Code of Virginia compliance, improved readability, and reorganization.

1. ***Draft* Article I – General Provisions**

   This Article is purely an updated and reorganized Article I for state code compliance, as highlighted in the Frederick County Zoning Ordinance Diagnostic (November 2024). Notable revisions to bring this Article into full compliance with the Code of Virginia include the following:

   - Inclusion of the state code provision authorizing Frederick County to adopt a zoning ordinance and have zoning for properties under its jurisdiction accordingly (§ 15.2-2280);
   - Establishing applicability of the County's zoning regulations (§ 15.2-2281; § 15.2-2284);
   - Explicitly stating the purpose of zoning for protection of public health, safety, and welfare;
   - Effect of conditions imposed or accepted as part of a zoning application (§ 15.2-2261.1); and
   - Establishment of vested rights, including how the County will make determinations of such rights (§ 15.2-2307). Note that this does NOT replace the County's existing vested rights policy but rather includes complementary and required provisions from state code.
   - New language necessary for Ordinance enforcement has been added to Sections 165-102.02, 165-104.01, 165-104.02.

2. ***Draft* Article II – Administration**

   This Article updates and replaces various portions of current *Article I (General Provisions)* and *Article X (Board of Zoning Appeals)*. As a best practice for ease of use, Berkley Group recommends including all administrative provisions in a singular Article. These include powers and duties of certain staff, the Planning Commission, and the BZA; enforcement and penalties; and fees. Notable revisions for state code compliance and usability include the following:

   - Addition of a new Part (Part 202) has been added to address the powers, duties, and responsibilities of the Planning Commission. State code compliance has been achieved by simply including references to the pertinent regulations rather than restating lengthy text;
   - Updated language related to the BZA through including the state code references related to public noticing and board responsibilities (§§ 15.2-2203 and 15.2-2308);
   - Addition of language to establish meeting and procedural requirements for the BZA – including those related to ex parte communications – in accordance with state code;
   - Inclusion of state code provisions authorizing Frederick County to enforce the Zoning Ordinance and penalize violations accordingly (§ 15.2-2208); and
   - Inclusion of optional state code provision allowing the County to inspect land without landowner consent in limited circumstances (§ 15-2.2286(A)16).

3. ***Draft* Article III – Permits and Applications**

   This Article updates and consolidates portions of the current *Article I (General Provisions)* and *Article VIII (Development Plans and Approvals)*. All permits and applications administered by the Department of Planning and Development are now included in one Article for transparency and enhanced usability. Due to the length of the Article and the extent of revisions made for state code alignment, not all revisions are mentioned here. Notable revisions include the following:

- Codifies pre-application requirement and/or option for all application types to mirror what the County is doing in practice;
- Addition of language to codify minimum submission standards, based on what the County is doing in practice;
- Addition of language to provide the general basis for zoning text and map amendments, conditional zonings, variances, and certificates of appropriateness in accordance with state code (§ 15.2-2286(A)(7); §§ 15.2-2296 through 15.2-2303; § 15.2-2309; § 15.2-2306);
- Simplification of impact analysis requirements to avoid repetition with the Department of Planning and Development's impact analysis requirements/rezoning application requirements;
- Addition of language to clarify the state-mandated Planning Commission review timeframe for rezoning applications (§ 15.2-2285);
- Addition of flowcharts to visually depict the rezoning, conditional use permit, variance, appeal(s), site plan, and MDP processes;
- Removal of the list of specific types of proffers for state code compliance (§ 15.2-2302);
- Addition of language outlining the County's cash proffer policies, in accordance with state code (§ 15.2-2303.3; § 15.2-2303.1:1.; § 15.2-2303.02);
- Revising the timeframe for an approved CUP to be deemed void based on failure to establish the proposed use from two years to three years, based on state code;
- Updated revocation procedures for CUPs based on state code requirements for public notices and hearings (§ 15.2-2204);
- Numerous revisions to variance requirements for state code alignment (§ 15.2-2309; § 15.2-2310);
- Reorganization of MDP and site plan standards for clarity and readability;
- Removal of Planning Commission and Board of Supervisors from site plan review procedures based on July 1, 2025 update to state code (§ 15.2-2259);
- New Part added (Part 310) to codify how the County makes zoning determinations in practice. This text is necessary for enforcement and defensibility and references the pertinent sections of state code;
- Update of text addressing appeals to include pertinent state code references (§§ 15.2-2314 and 15.2-2285; § 15.2-2313);
- Simplification of public notice requirements to simply reference state code, avoiding the need for regular zoning text amendments when state requirements for advertising and notices are amended (§ 15.2-2204); and
- Addition of language addressing waiver of notice (§ 15.2-2204), which waives the right for a party to challenge hearing proceedings if they were properly notified and/or participated in the public hearing.

4. Draft Article IV – Primary Zoning Districts

This Article updates and consolidates the current *Article IV – Agricultural & Residential Districts*; *Article V – Planned Development Districts*; and *Article VI – Business & Industrial Zoning Districts*. The article establishes the County's zoning districts and their dimensional standards. Key updates are as follows:

- A new three-piece structure has been introduced:
  - The first piece (Part 401) addresses purpose and intent of zoning districts in Frederick County;
  - The second piece (Parts 402 and 403) includes general requirements for all zoning districts (e.g., determination of height, setbacks, and lots); and
  - The third piece (Parts 404 through 408) establishes dimensional standards by district type.

- Dimensional standards have been reorganized into tables for ease of use and administration.
- New, non-policy language introduced (§ 165-401.01) to establish the purpose of developing and regulating zoning districts; this assists the County with enforcement and defensibility.
- The current graphics used in the "Pattern Book" have been reformatted and included in the RP standards (§ 165-405.01); staff intends to do away with a separate, standalone pattern book to allow the Zoning Ordinance to govern.
- The setback reduction language established in R5 district has been removed as it conflicts with the variance procedures established in the Code of Virginia and the draft Article III of the updated Zoning Ordinance. Variances may be granted in any district for any dimensional standard if the hardship criteria provided in the Code of Virginia is met. Additionally, the BZA (not the Zoning Administrator) is given the authority to review and grant variances.
- Consolidation of development standards that apply to both the R4 and R5 zoning districts (§ 165-408.03).

5. *Draft* Article V – Overlay Districts

This Article reorganizes, updates, and replaces *Article VII, Overlay Districts*, of the current Ordinance. No significant revisions or material changes are proposed for the language; however, large paragraphs of text throughout have been broken into more digestible lists where possible to improve the readability of the Ordinance. Other updates of note include:

- The text in Part 501 is proposed as new and recommended for administration purposes. It is materially the same as language provided in § 165-705.03.B. of the current Zoning Ordinance but has been expanded to apply to all overlay districts within this Article.
- The County's floodplain district (Part 503) closely mirrors the Virginia model floodplain ordinance for localities. However, as a fundamental improvement for usability, Berkley Group has reorganized the Part for clarity and to be more intuitive in use. References to flood zones that are not within Frederick County (i.e., coastal flooding areas) have been removed, and the reference to the Flood Insurance Rate Map (FIRM) has been updated to reflect the current FIRM for the County.

6. *Draft* Article VI – Use Matrix

This Article is proposed as new and consolidates the lists of use permissions currently contained in district-by-district articles of the Zoning Ordinance. As a best practice for administration and usability, Berkley Group has developed a composite use matrix that shows all districts, uses, and how those uses are regulated. The use matrix also identifies if uses have additional required performance standards and, if applicable, the appropriate Section reference.

In addition to compiling existing uses and permissions into a single matrix, Berkley Group has made several revisions to eliminate redundant uses; remove text that was outdated and inadvertently retained during past amendments to align uses with the North American Industry Classification System (NAICS); and incorporate Code of Virginia requirements for specific uses, where applicable. Notable revisions include the following:

- Updated use permissions/names for alignment with Code of Virginia requirements (e.g., *Administrative Review Eligible Project*, *Amateur Radio Antenna*, *Community Correctional Facility*, *Family Day Home (1-4 Children*);
- With staff concurrence, removed duplicative uses (e.g., public utility uses, indoor/outdoor commercial recreation uses); and

- With staff concurrence, removed "non-uses" regulated elsewhere (e.g., various sign types, *Required Off-Street Parking*).

7. *Draft* Article VII – Additional Regulations for Specific Uses

This Article reorganizes, updates, and replaces the current *Article II, Part 204*. While most use performance standards are included in this Part, some use performance standards are scattered in use definitions or in dimensional standards for primary zoning districts. Therefore, all use performance standards have been consolidated into a singular article, and further organized by use category (e.g., agricultural, residential, commercial) to directly align with the use matrix.

Numerous revisions have been made for readability. In some circumstances, edits have been made to address required Code of Virginia provisions for specific uses. Notable edits include the following:

- Reorganized use standards in alphabetical order by use type.
- Removed language throughout the Article that was redundant with the design standards in the draft Article VIII, Community Development Standards, replaced with cross-references.
- Reviewed and adjusted the use names used in this Article to match the list of uses included in the use matrix.
- Updated standards for farm breweries, farm distilleries, and farm wineries (§ 165-701.03) to replace an outdated Code of Virginia reference.
- Updated standards for administrative review eligible projects (§ 165-703.01) and telecommunications towers and facilities (§ 165-703.08) to align with Code of Virginia requirements.
- Updated standards for utility-scale solar facilities (§ 165-703.09) to introduce required provisions of the Code of Virginia related to period of validity (§ 15.2-2209.1:2.A) and siting agreements (§ 15.2-2316).

8. *Draft* Article VIII – Community Development Standards

This Article reorganizes, updates, and replaces current *Article II, Parts 201, 202, and 203*. It includes generally applicable standards for nuisances; buffers and landscaping; environmental protection; off-street parking and loading; open space; recreational facilities; outdoor lighting; storage; signs; walls and fences; various commercial parks; and temporary trailers. Revisions of note include the following:

- Reorganized standards into tables where feasible to streamline content, improve readability, and eliminate redundancy.
- As a best practice, Berkley Group recommends removing the existing planting lists from the Zoning Ordinance and keeping them as a department policy document. Many Virginia localities have started to use this approach to prevent text amendments every time a planting needs to change or be added. Therefore, the planting list has been removed and retained as a separate document for Planning and Development staff to review and edit as needed and utilize as department policy.
- Introduced graphics to demonstrate a selection of the road efficiency and zoning district buffers (§ 165-802.08)
- Relocated current provisions regarding Motor Vehicle Access and Interparcel Connectors to the Subdivision Ordinance, as these relate to subdivision standards.
- Integrated the parking requirements currently established into the RP district into the table of minimum parking requirements (Part 804, Table VIII-11) to avoid redundancy.
- Consolidated redundant parking requirements (Part 804, Table VIII-11).

- Introduced a graphic (§ 165-804.06) to demonstrate example parking lot spaces and landscaping.
- Added a new Section (§ 165-805.01) to succinctly state which districts open space standards apply to; no policy changes have been made to indicate that open space be required in additional districts beyond those currently provided for in the current Ordinance.
- Added a new Part (Part 810) for wall and fence requirements. This will allow the County to more efficiently update existing provisions for walls and fences and introduce new design standards for walls and fences, if desired as part of the future Phase II.

9. *Draft* Article IX – Nonconformities

This Article reorganizes, updates, and replaces current Article IX (Nonconforming Uses, Structures, and Signs). Several revisions have been made for both readability and state code compliance (§ 15.2-2307), including the following:

- Prohibiting the moving or expansion of a nonconforming use, structure, or building on the same lot or another lot if such lot is not zoned to permit such use;
- Stating that the illegal use of land or buildings is not an adequate reason for nonconforming status of a use;
- Replacing the existing language in §165-901.03 to state that if a use does not conform to the underlying zoning district, a rezoning or CUP may be applied for free of charge if certain criteria can be met;
- Identifying specific circumstances that may lend nonconforming status to a building, structure, or improvement;
- Replacing the existing language in § 165-901.06. due to conflict with state code. The new language introduces guidelines/circumstances under which a nonconforming building or structure can be repaired, rebuilt, or replaced;
- Stating that property owners may not commit arson and obtain vested rights under this Section of the Ordinance; and
- Providing language related to nonconforming manufactured homes.

10. *Draft* Article X – Transfer of Development Rights Program

This Article updates the current *Article III - Transfer of Development Rights (TDR) Program*. The adopted Zoning Text Amendment from fall 2025 has been incorporated. Apart from minor reformatting to the existing list structure and the removal of one line of redundant language regarding sending parcels, there are no further changes to the Article.

11. *Draft* Article XI – Definitions

Draft Article XI, Definitions, is a reorganized and updated version of Section 165-101.02 of the current Ordinance. As a best practice for usability and administration, Berkley Group recommends including a standalone article for terms and definitions.

Revisions of note include the following:

- 165-1101.01.B. is new administrative (non-policy) language. While strongly recommended to assist County staff with enforcement and administration of the Ordinance, it can be removed at this time if desired.
- All definitions have been categorized into one of the following groups: General Terms, Overlay District

Terms, Transfer of Development Rights (TDR) Terms, and Use Terms. This is a fundamental improvement so both staff and the public can quickly locate a term or terms as needed. This also aligns with the updated structure of the Zoning Ordinance, which includes Uses, Overlay Districts, and TDR as separate articles.

- Several definitions have been added or amended for compliance with state code regulations. Examples include, but are not limited to, "cemetery", "Designated Agent", "variance", "vested rights", and "severance of development rights".
- Several definitions have been recommended for removal, as they are not actually used in the Zoning Ordinance. Examples include, but are not limited to, "congregate care facility", "retail nursery", and "trip ends".



Frederick County, Virginia
ZONING ORDINANCE

DRAFT

Adopted DATE, 2026

Effective DATE, 2026

Amended DATE

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Article I. General Provisions.

Part 101. Enactment and Authority.

Section 165-101.01. Title.

This Chapter, the full title of which is "The Zoning Ordinance of Frederick County, Virginia," may be referred to or cited as the "Zoning Ordinance," “Ordinance,” or “Chapter.”

Section 165-101.02. Authority.

Chapter 22, Title 15.2 of the Code of Virginia of 1950, as amended, gives Frederick County, Virginia the authority to classify and regulate land development within its jurisdiction.

Section 165-101.03. Purpose.

A. This Ordinance is intended to promote the health, safety and general welfare of the public and the orderly development of the County, and to accomplish the purposes set forth in Code of Virginia § 15.2-2200.

B. To these ends, this Ordinance shall give reasonable consideration to each of the purposes listed in Code of Virginia § 15.2-2283.

C. In addition, this Ordinance is intended to provide the means to achieve the goals set forth in the Frederick County Comprehensive Plan.

Section 165-101.04. Applicability.

A. Pursuant to Code of Virginia § 15.2-2281, the provisions of this Ordinance apply to all property within the unincorporated territory of Frederick County, Virginia.

B. The zoning regulations and districts as set forth in this Ordinance have been drawn and will be applied with reasonable consideration for the matters set forth in Code of Virginia § 15.2-2284.

Section 165-101.05. Conformity with Ordinance Required.

A. No building or structure may be used, occupied, developed, located, relocated, constructed, reconstructed, enlarged or structurally altered except in compliance with the terms and provisions of this Ordinance and any other applicable ordinances and regulations.

B. No land shall be used, occupied or developed or lots created or altered except in compliance with the terms and provisions of this Ordinance and any other applicable ordinances and regulations.

Section 165-101.06. Severability.

The provisions of this Ordinance are to be presumed severable. If any section, subsection, paragraph, sentence, clause or phrase of this Chapter is declared invalid by any court, administrative or legislative agency or other tribunal, such decision shall not affect the remaining portions of this Ordinance. The remaining portions shall remain in full force and effect.

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Part 102. Ordinance Conflicts and Interpretation.

Section 165-102.01. Interpretation.

A. The Zoning Administrator is responsible for definitive interpretation of this Ordinance, in accordance with the following requirements:

(1) Unless otherwise specified, the provisions of this Ordinance are the minimum required to promote public health, safety, convenience, and general welfare;

(2) The provisions of this Ordinance are not intended to interfere with, abrogate, or annul other rules, regulations, or ordinances; however, pursuant to Code of Virginia § 15.2-2315, where this Ordinance imposes greater restrictions than are imposed by such other rules, regulations or ordinance, the provisions of this Ordinance control.

(3) Conditions imposed or accepted as part of a zoning application in accordance with Code of Virginia § 15.2-2261.1 prior to May 14, 2026 shall remain in effect to the extent required by that section.

Section 165-102.02. Figures and References in Ordinance.

A. Where figures are contained in this Ordinance, they are provided for demonstrative purposes only and are not a substantive part of this Ordinance.

B. In the event of a conflict between the text or tables of this Ordinance and any figures, the text and tables will control.

C. If any section of this Ordinance incorporates by reference any state statute or regulation, then the Ordinance incorporates future amendments of the state statute or regulation. Where this Ordinance incorporates by reference a statute, it also incorporates regulations promulgated pursuant to such statute.

Part 103. Zoning Districts and Zoning Map.

Section 165-103.01. Establishment, Maintenance, and Amendment.

A. All portions of the land area of Frederick County are included in particular zoning districts as described by this Ordinance.

B. The districts are delineated on an official set of Zoning Maps maintained by the Frederick County Zoning Administrator and located in the office of the Zoning Administrator.

C. The Frederick County Zoning Administrator is responsible for maintaining the Zoning Maps and is authorized to interpret the Zoning Maps in order to determine the zoning status of land in the County.

Section 165-103.02. Incorporated by Reference.

The official Zoning Maps are incorporated into this Ordinance by reference.

Section 165-103.03. Interpretation of Zoning District Boundaries.

A. Unless district boundary lines are clearly established on the Zoning Maps by lot lines, surveyed boundaries or other fixed boundaries, the following rules apply when determining the boundaries of zoning districts:

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(1) Where district boundaries appear to follow or be at right angles to streets, alleys, or railroad rights-of-way, the boundary shall be construed to follow the center line of such streets, alleys, or rights-of-way.

(2) Boundaries that appear to approximately follow platted lot lines shall be construed to follow said lot lines.

(3) Boundaries that appear to approximately follow corporate limits or other boundaries of Frederick County shall be construed to follow said boundaries.

(4) Boundaries that appear to approximately follow rivers, streams, creeks, runs, lakes or other bodies of water shall be construed to follow the center line of smaller flowing water or shall follow the actual shoreline of larger bodies or flowing water, and if such shoreline changes, the boundary shall be construed to follow the changed shoreline.

(5) Boundaries as appearing to be parallel to or extensions of zoning boundaries otherwise described shall be construed to be parallel or extensive. Distances not specifically indicated shall be determined by the scale of the map.

Section 165-103.04. Unauthorized Changes.

No changes shall be made to the Zoning Maps except in conformance with the requirements and procedures set forth in this Ordinance.

Part 104. Transition of Regulations After Adoption.

Section 165-104.01. Effective Date of Ordinance.

This Ordinance was adopted on May 13, 2026, and became effective at 12:01 a.m. on May 14, 2026. It amends and reenacts any prior Zoning Ordinance adopted in Frederick County. Its provisions shall be in force until repealed or amended.

Section 165-104.02. Violations Continue.

Any development or activity in violation of the previous Zoning Ordinance will continue to be a violation under this Ordinance unless the development or activity is brought into compliance with this Ordinance.

Section 165-104.03. Nonconformities.

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, Nonconformities, of this Ordinance.

Section 165-104.04. Vested Rights.

A. The provisions of this Ordinance shall not be construed impair the vested rights of any property owner. The Zoning Administrator is authorized to make determinations on whether a property owner's rights are deemed vested under this Ordinance.

B. Vested rights determinations shall be made in accordance with Code of Virginia § 15.2-2307.

Section 165-104.05. Reserved.

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Article II. Administration.

Part 201. Director of Planning and Development; Zoning Administrator.

Section 165-201.01. Appointment, Powers, and Duties.

A. The Board of Supervisors of the County shall appoint a Director of Planning and Development who has the following powers and duties:

(1) Administrative powers and duties as set forth in this Ordinance; and

(2) The power to delegate such administrative responsibilities and duties to other members of County staff who report to him or her.

B. The Board of Supervisors shall also appoint a Zoning Administrator who shall serve under the direction of the Director of Planning and Development. The Zoning Administrator has the powers and duties conferred on him or her by this Ordinance and Code of Virginia § 15.2-2286 (A)(4).

C. Interpretations by the Zoning Administrator and/or the Director of Planning and Development in the administration of this Ordinance may be appealed to the Board of Zoning Appeals (BZA) following procedures set forth in Article III, Permits and Applications, of this Ordinance.

Part 202. Planning Commission.

Section 165-202.01. Appointment; Terms; Membership; Compensation; Removal.

The Board of Supervisors shall create and organize a Planning Commission as provided in Code of Virginia §§ 15.2-2203 and 15.2-2210, et seq., and Chapter 21, Planning Commission, of the Frederick County Code.

Section 165-202.02. Powers and Duties.

The Planning Commission has the functions, powers, and duties provided in Code of Virginia §§ 15.2-2221 and 15.2-2230, et seq., § 15.2-2285, and § 15.2-2223 et seq.

Section 165-202.03. Meetings and Procedures.

A. The Planning Commission shall conduct meetings and public hearings pursuant to Code of Virginia §§ 15.2-2214 through 2217.

B. After the conclusion of the public hearing provided for in Code of Virginia § 15.2-2204 and Article III, Permits and Applications, of this Ordinance, unless proceedings are terminated as provided herein, the Planning Commission shall report to the Board of Supervisors its recommendation.

Section 165-202.04. Expenditures, Gifts, and Donations.

The Planning Commission may expend sums appropriated to it for its purposes and activities as provided in Code of Virginia § 15.2-2222, et seq.

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Part 203. Board of Zoning Appeals.

Section 165-203.01. Appointment; Terms; Membership; Compensation.

A. A BZA is hereby created and organized pursuant to Code of Virginia §§ 15.2-2203 and 15.2-2308, et seq.

B. The BZA shall consist of five (5) members appointed for five-year (5-year) terms by the circuit court of the County.

Section 165-203.02. Powers and Duties.

A. Pursuant to Code of Virginia § 15.2-2309, the BZA has the following powers and duties:

(1) **Appeals**. To 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 this Ordinance, as outlined in Article III, Part 311.

(2) **Variances**. To hear and decide applications for variances, as defined in Code of Virginia § 15.2-2201, from specific terms or requirements of this Ordinance in specific cases. Standards and procedures for determining variances are outlined in Article III, Part 305, of this Ordinance.

(3) **Map Interpretations**. To hear and decide applications for the interpretation of the Zoning District Map where there is any uncertainty as to the location of a district boundary.

i. The BZA shall interpret the map under the principles set forth in Section 165-103.03 and in such a way as to carry out the intent and purpose of this Ordinance for the particular district in question.

ii. The BZA shall not have the power to substantially change the locations of district boundaries as established by this Ordinance.

iii. The BZA shall not have power to rezone property.

Section 165-203.03. Meetings and Procedures.

A. The BZA may make, alter, or rescind rules and forms for its procedures consistent with the Code of Virginia and this Ordinance.

B. Meetings of the BZA shall be held in accordance with the annual meeting calendar adopted during the first meeting of each calendar year.

C. A regular meeting of the BZA shall be held at the call of its chair or at such time as a quorum of the board may determine.

D. The chair or, in their absence, the acting chair may administer oaths and compel the attendance of witnesses.

E. The BZA shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact. It shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the BZA and shall be a public record.

F. All meetings of the BZA shall be open to the public.

G. All ex parte communications shall comply with the requirements of Code of Virginia § 15.2-2308.1.

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Part 204. Enforcement.

Section 165-204.01. Authority.

A. As provided in Article I, General Provisions, of this Ordinance, conformity with the Ordinance is required. Failure to comply with the requirements of the Ordinance constitutes a violation thereof and is declared to be unlawful.

B. Any person who knowingly makes any false statements, representations, or certifications in any record, report, or other document, either filed or requested pursuant to this Ordinance, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required or used by the Administrator under this Ordinance in monitoring discharges, shall be guilty or liable for a violation of this Ordinance.

Section 165-204.02. Complaints.

A. Whenever a violation of this Ordinance occurs or is alleged to have occurred, any person may make 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 Ordinance.

B. The Zoning Administrator may enter upon or inspect any land or structure to ensure compliance with the provisions of this Ordinance, after requesting and receiving approval of the landowner to enter for these purposes. If consent is not given by the landowner, the Zoning Administrator may enter upon land in accordance with Code of Virginia § 15.2-2286(A)(16).

Section 165-204.03. Notice of Violation.

A. When the Zoning Administrator determines that a violation has occurred, a notice of the violation shall be sent to the person committing or permitting the violation.

B. The notice of violation shall specify:

(1) The nature of the violation;

(2) A reference to the pertinent Section or Sections of this Ordinance;

(3) The date or dates on which the violation was observed;

(4) The remedy or remedies necessary to correct the violation, if provided by this Ordinance;

(5) A reasonable time period for the correction of the violation, which shall be no more than 24 months nor less than 30 days, unless a shorter time is required for good cause;

(6) A statement informing the recipient that they may have a right to appeal the notice of zoning violation or written order within 30 days in accordance with the Code of Virginia § 15.2-2311; and

(7) That the decision is final and unappealable if not appealed within 30 days.

C. The interpretation of the Zoning Administrator that a violation has occurred may be appealed to the BZA following procedures set forth in Article III, Part 311, of this Ordinance. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the BZA that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property. If such a certificate is filed, proceedings shall not be stayed otherwise than by a restraining order entered by the BZA or by a court of record, on application and notice to the Zoning Administrator and for good cause shown.

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Section 165-204.04. Remedies and Penalties of Violation.

A. If the violation continues after the time period specified in the notice of violation to come into compliance expires, the Zoning Administrator may initiate injunction, mandamus or any other appropriate action to ensure compliance with this Ordinance, pursuant to Code of Virginia § 15.2-2208.

B. The remedies provided in the penalties sections below are cumulative, not exclusive, and shall be in addition to any other remedies provided by law.

(1) **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 Ordinance according to the provisions of the Code of Virginia, as amended.

i. Such schedule of offenses shall not include any zoning violation resulting in injury to any person or persons.

ii. 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.

iii. Any person summoned for a violation subject to a civil penalty may provide a waiver of trial and admission of liability and pay the civil penalty to the County Treasurer. Notwithstanding such payment, the person summoned must abate or remedy the violation within the lesser of the period set forth in any notice of violation issued by the Zoning Administrator relating to the violation or 30 days after the date of admission of liability.

iv. Such person 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.

a. 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.

b. An admission of liability or finding of liability shall not be a criminal conviction.

(2) **Criminal Penalties.**

i. Any person who violates any provision of this Ordinance or who uses land or constructs or alters structures in a fashion that is not in conformance with the requirements and procedures in this Ordinance shall be guilty of a misdemeanor.

a. 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.

ii. 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.

iii. 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; any such failure during a succeeding ten-day period shall constitute a separate misdemeanor offense punishable by a fine of not less than $10 nor more than $1,500; and any such failure during any succeeding ten-day period shall constitute a separate misdemeanor offense for each ten-day period punishable by a fine of not less than $10 nor more than $2,000, in accordance with Code of Virginia § 15.2-2286(A)(5).

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iv. Criminal penalties for violations of provisions regulating unrelated persons in single-family residential dwellings shall be in accordance with Code of Virginia § 15.2-2286(A)(5).

Part 205. Fees.

Section 165-205.01. Fees and Charges.

A. The Board of Supervisors shall establish, by ordinance, a uniform schedule of fees, charges, expenses and collection procedures for rezonings, conditional use permits, variances, site plan reviews, zoning use permits, temporary use permits, certificates of occupancy, certificates of appropriateness, appeals, and all other matters pertaining to this Ordinance.

B. The schedule of fees will be available for inspection in the office of the Zoning Administrator and may be altered or amended by the Board of Supervisors by ordinance.

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Article III. Permits and Applications.

Part 301. In General.

Section 165-301.01. Preapplication Conference.

A. Prior to submission of an application for a Master Development Plan (MDP), rezoning, or Conditional Use Permit (CUP), the Department of Planning and Development staff may require, or an applicant may request, a preapplication conference. The purpose of the preapplication conference is to:

(1) Review and discuss the nature of the proposal in relation to the requirements of the County Code and to discuss the preparation of a MDP, rezoning, or CUP application;

(2) The proposed development and the necessary application materials;

(3) Which agency review will be needed; and

(4) Whether a review by the Historic Resources Advisory Board (HRAB) is needed.

B. If required, the applicant shall provide a land use plan at the preapplication conference which describes the following:

(1) The general location of the site;

(2) The general location of proposed roads;

(3) The general location and types of proposed uses, environmental features on the site, housing types or open space; and

(4) The uses on adjoining properties.

Section 165-301.02. Application Forms.

Applications for Site Plans, MDPs, Variances, CUPs, Certificates of Appropriateness (COA), Zoning Permits, or amendments to the Ordinance or Official Zoning Map and any other request requiring action shall be made on forms provided by the Zoning Administrator.

Section 165-301.03. Application Fees, Delinquent Taxes, and Charges.

A. Every application or reapplication shall be accompanied by a fee as established by a fee schedule separately adopted by the Board of Supervisors.

B. Pursuant to Code of Virginia § 15.2-2286, every application shall include proof that all property taxes due and payable to the County are paid and that no delinquent taxes are outstanding.

Section 165-301.04. Ownership Disclosure.

A. Pursuant to Code of Virginia § 15.2-2289, the Board of Supervisors, the Planning Commission, and the Board of Zoning Appeals (BZA) may require from an applicant for rezoning, a CUP, or variance a complete disclosure of the equitable ownership of the real estate for which the application has been made including, in the case of corporate ownership, the name of stockholders, officers, and directors and in any case the names and address of all real parties in interest.

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(1) However, listing of names of stockholders, officers and directors shall not apply to a corporation whose stock is traded on a national or local stock exchange and which has more than 500 shareholders. In the case of a condominium, this requirement only applies to the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium.

Section 165-301.05. Minimum Submission Standards.

A. The Director of Planning and Development and Zoning Administrator shall develop application forms and establish minimum standards for submission requirements of all applications associated with the Zoning Ordinance. Applications shall contain all information required to meet the minimum standards.

B. Upon written request by an applicant, the Director of Planning and Development or Zoning Administrator may waive or modify a submission requirement(s), except for processing and review fees, upon a determination that the information is not necessary to evaluate the merits of the application. Such waivers or modifications are for application requirements only and do not include variances or modifications from district or use standards.

C. Additional information may be required as deemed reasonably necessary by the Zoning Administrator or Director of Planning and Development in order to fully evaluate an application.

Section 165-301.06. Reconsiderations.

A. The following shall apply for all zoning text and map amendments, conditional zonings, CUPs, and variance applications:

(1) If denied by the Board of Supervisors, Planning Commission, or BZA, then such application, or one (1) substantially similar, shall not be reconsidered sooner than 12 months from the date of the previous denial.

(2) If denied by the BZA, then such application, or one (1) substantially similar, shall not be reconsidered sooner than 12 months after the previous denial.

B. The limits on reconsideration shall not impair the right of either the Planning Commission or the Board of Supervisors to propose any amendment to this Ordinance on their motion at any time.

Part 302. Zoning Text and Map Amendments.

Section 165-302.01. In General.

Pursuant to Code of Virginia § 15.2-2286 (A)(7), whenever the public necessity, convenience, general welfare, or good zoning practice requires, the Board of Supervisors may, from time to time, amend, supplement or change, by ordinance, the boundaries of the Zoning Districts or the provisions of this Ordinance.

Section 165-302.02. Standards and Procedures.

A. **Initiation of Change**. Pursuant to Code of Virginia § 15.2-2286 (A)(7), any zoning text or map amendment (rezoning) may be initiated by one (1) of the following methods:

(1) By resolution of the Board of Supervisors;

(2) By motion of the Planning Commission; or

(3) 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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B. **Impact Analysis.**

(1) A report analyzing the impacts of any rezoning shall be required to be submitted by the applicant with any rezoning application. The Director of Planning and Development may exempt rezoning applications from this requirement if the application is for less than five (5) acres and if no significant impacts are anticipated.

(2) The impact analysis must include all information required in the application form, in addition to any other information the Director of Planning and Development deems reasonably necessary to evaluate the potential impacts of the proposed rezoning.

(3) The impact analysis shall be in the form of a report meeting standards set forth in the Comprehensive Plan and standards established by the Director of Planning and Development.

(4) In general, the impact analysis shall assume the maximum density or intensity of development allowed under the rezoning classification. Lesser densities or intensities may be assumed if such lesser densities or intensities are proffered as conditions on the rezoning.

(5) The impact analysis may be based on a Master Development Plan or Site Plan only if the Plan is proffered as a condition of the rezoning.

(6) If cash proffers are proposed, the impact analysis should address the factors set forth in Code of Virginia §§ 15.2-2298 and 15.2-2303.4.

C. **Standards for Review**.

(1) As soon as a complete application and fees have been received, the Director of Planning and Development shall advertise the application for a public hearing at the next available Planning Commission meeting in accordance with the requirements of the Code of Virginia and of this Ordinance.

(2) The Planning Commission shall hold at least one (1) public hearing on any proposed amendment after notice as required by Code of Virginia § 15.2-2204 and this Ordinance and may recommend appropriate changes in the proposed amendment as a result of such hearing.

(3) Upon completion of its work, the Planning Commission shall present the proposed amendment to the Board of Supervisors, together with its recommendations and the appropriate explanatory materials, within 100 days after the first Planning Commission meeting following the referral of the amendment to the Planning Commission, unless a shorter period is directed by the Board of Supervisors. Failure of the Planning Commission to make a report and recommendation within this time period shall be construed as a recommendation of approval of the proposed amendment.

(4) Before approving and adopting any amendment, the Board of Supervisors shall hold at least one (1) public hearing, pursuant to Code of Virginia § 15.2-2285, after which the Board of Supervisors may make appropriate changes or corrections in the proposed amendment, subject to the following:

i. The Board shall act on rezoning petitions within 12 months after the time when the petition was received by the Zoning Administrator.

D. **Standards for Review for R4 and R5 Districts**. In addition to A. through C., above, the following apply to rezonings to the R4, Residential Planned Community and R5, Residential Recreational Community Districts.

(1) The rezoning shall be reviewed and approved following the rezoning procedures described by this Article, including procedures for impact analysis and conditional zoning.

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(2) In order to have land rezoned to an R4 or R5 District, a MDP meeting all requirements of Part 306 of this Article shall be submitted with the rezoning application.

i. In adopting the rezoning, the MDP submitted may be accepted as a condition proffered for the rezoning.

ii. The MDP review procedures described by Part 306 of this Article shall also be completed concurrently with or following consideration of the rezoning.

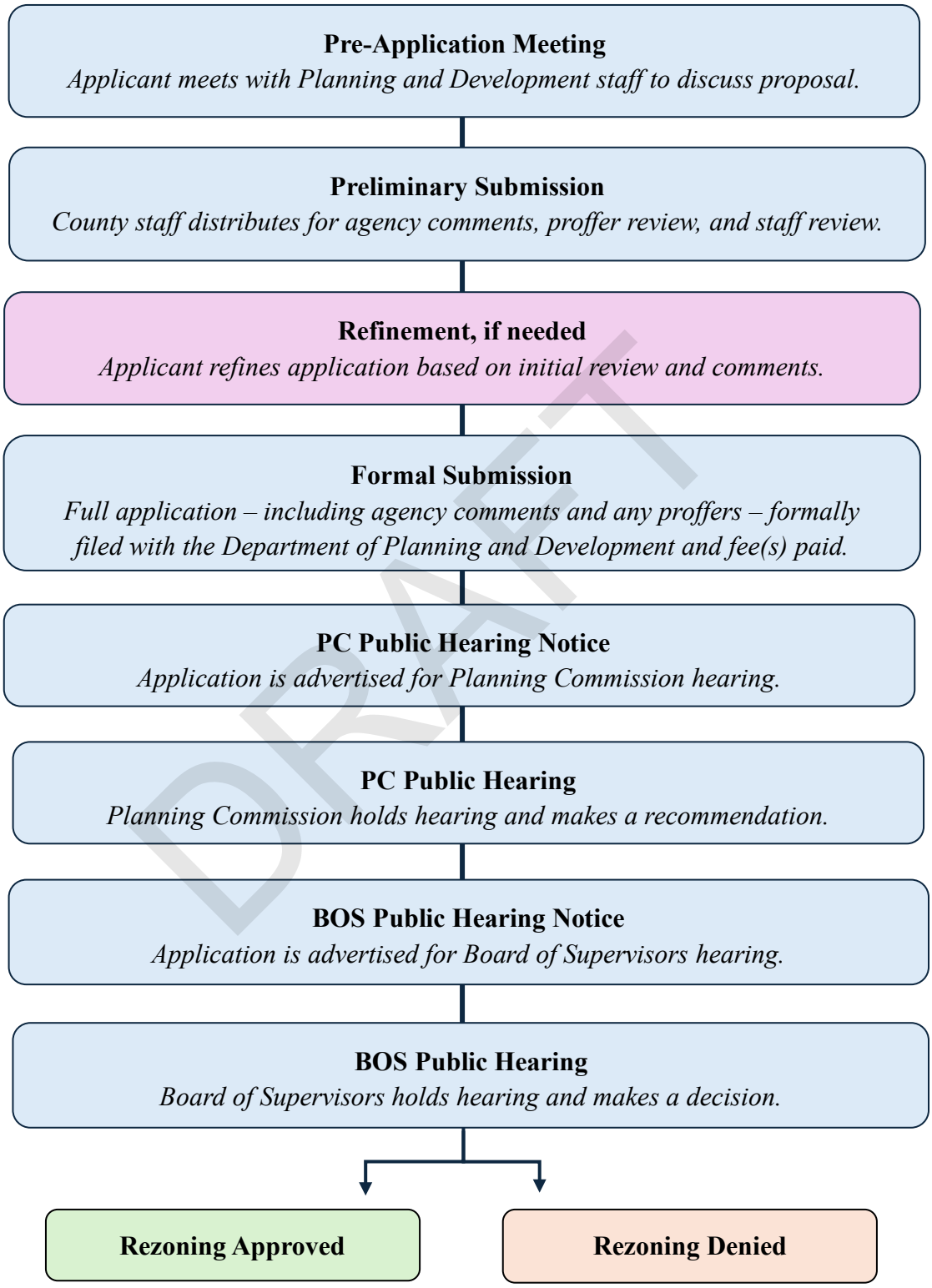
(3) An impact analysis, as required by this Article, shall be used to evaluate all potential impacts, including impacts on surrounding lands, the environment and on public facilities and services.

(4) The MDP shall provide for land and easements to be dedicated in residential recreational community developments for public roads and public facilities necessary to serve the development.

(5) The Board of Supervisors may approve the addition of land to an approved recreational residential community through the procedures set forth in this Article for the original approval of a residential recreational community development.

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Figure III-1 – Rezoning Process.



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Part 303. Conditional Zoning.

Section 165-303.01. Purpose and Intent.

Conditional zoning provides a method for permitting the reasonable and orderly development of land through zoning map amendments with reasonable conditions governing the use and development of such property. As authorized under Code of Virginia §§ 15.2-2296 through 15.2-2303.4, reasonable conditions may be voluntarily proffered for the protection of the community when combined with existing Zoning Ordinance provisions. The exercise of authority will not be construed to limit or restrict powers otherwise granted nor to affect the validity of any Ordinance adopted by the Board of Supervisors which would be valid without regard to this division. In addition, the provisions of this Part may not be used for the purpose of discrimination in housing.

Section 165-303.02. Standards and Procedures.

A. **Standards**.

(1) 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.

(2) Proffers shall be submitted in writing and signed by the owner and applicant at least five (5) days prior to the advertised hearing of the Board of Supervisors.

(3) The conditions proffered shall meet the following standards:

i. The rezoning itself shall give rise to the need for the conditions;

ii. Such conditions shall have a reasonable relation to the rezoning; and

iii. All conditions shall be in conformity with the Comprehensive Plan.

(4) All proffers shall be in a written form suitable for recordation in the land records of Frederick County.

B. **Procedures.** Proffers should be presented to and considered by the Planning Commission at the advertised public hearing for the rezoning. The Planning Commission shall make a recommendation on the acceptance of any proffers and the rezoning to the Board of Supervisors following the procedures described in Part 302 of this Article.

C. **Cash Proffers.** As provided in Code of Virginia § 15.2-2298, reasonable conditions proffered in connection with a rezoning may include the payment of cash for any off-site road improvement or any off-site transportation improvement that is adopted as an amendment to the Comprehensive Plan and incorporated into the County capital improvements program (CIP), provided that such proffers may be accepted for matters not normally included in a CIP.

Section 165-303.03. Amendments and Variations Prior to Final.

A. **Prior to Final Decision.** The Board of Supervisors may accept amended proffers prior to final decision if they:

(1) 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.

(2) Do not materially affect the overall proposal and are made voluntarily, and in writing, prior to the end of the public hearing by the Board of Supervisors on the rezoning request.

B. **Amendments after Approval.** Once the Board of Supervisors has approved proffered conditions, no material amendment or variation of such adopted conditions will be made until public hearings,

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in accordance with Part 312 of this Article have been held before the Board of Supervisors and the Planning Commission.

C. **Waiver of Public Hearings for Minor Changes.** In accordance with Code of Virginia § 15.2-2302, when an amendment to a previously approved proffered condition is requested by the applicant, and where such amendment does not affect conditions of use or density, the Board of Supervisors may, in its discretion, waive the requirements for Planning Commission referral and a public hearing before either the Planning Commission or itself.

Section 165-303.04. Effect of Condition; Period of Validity.

A. Once accepted and adopted by the Board of Supervisors, proffered conditions may only be changed through the procedures required for amendments as described by this Article.

B. Pursuant to Code of Virginia § 15.2-2297, once proffered and accepted as part of an amendment to the Zoning Ordinance, proffered 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.

C. In the event proffered conditions include a requirement for dedication of real property of substantial value, or substantial cash payments for or construction of substantial public improvements, the need for which is not generated solely by the rezoning itself, then no amendment to the zoning map for the property such to such conditions, nor the conditions themselves, nor any amendments to the text of this Ordinance with respect to the applicable zoning district that are initiated by the Board of Supervisors or the Planning Commission, which eliminate or materially restrict, reduce, or modify the uses, floor area ratio, or the density of use permitted in the applicable zoning district shall be effective with respect to the property unless there has been mistake, fraud, or a change in circumstances substantially affecting the public health, safety, or welfare.

D. Proffered conditions relating to new residential development shall comply with Code of Virginia § 15.2-2303.4.

Section 165-303.05. Record of Conditional Zoning.

A. If the Board of Supervisors approves proffered conditions as part of a rezoning, the Zoning Administrator shall record such conditional zoning as part of the maintained Conditional Zoning Index, in accordance with Code of Virginia § 15.2-2300.

B. Frederick County shall expend, track, and monitor all cash proffers in accordance with Code of Virginia § 15.2-2303.02.

Section 165-303.06. Enforcement of Conditions.

A. Pursuant to Code of Virginia § 15.2-2299, the Zoning Administrator shall enforce the conditions proffered in connection with a rezoning, in accordance with Article II, Administration, Part 204, Enforcement, of this Ordinance.

(1) The Board of Supervisors may require a guaranty, satisfactory to the Board, in an amount sufficient for the construction of any improvements required by the conditions, or may accept a contract for the construction of such improvements. The applicants' guaranty shall be reduced or released by the Zoning Administrator upon the completion, in whole or in part, of such improvements.

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(2) 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.

B. In lieu of any appeal procedure for determinations of the Zoning Administrator to the BZA as otherwise set forth, appeals of decisions of the Zoning Administrator concerning enforcement under this section shall proceed as follows:

(1) Any applicant or any other person aggrieved by a decision of the Zoning Administrator under this section may petition the Board of Supervisors for review of such decision by filing a petition for review with the Zoning Administrator and the Clerk of the Board of Supervisors within 30 days after the date of the decision for which review is sought. A decision of the Board of Supervisors on an appeal under this subsection shall be binding upon the owner of the property only if the owner has been provided written notice of the zoning violation, written determination, or other appealable decision.

(2) Any party aggrieved a decision of the Board of Supervisors under this subsection may petition the Circuit Court of the County to review the decision of the Board of Supervisors within 30 days after such decision.

Part 304. Conditional Use Permits.

Section 165-304.01. Intent and Applicability.

A. In accordance with Code of Virginia § 15.2-2286, certain uses in each zoning district are listed as being allowed with a Conditional Use Permit (CUP), in accordance with Article VI, Use Matrix, of this Ordinance.

B. Conditional uses are uses which have or may have a greater impact on neighboring properties or the public than those uses permitted in the district as a matter of right. Such uses may be permitted only if its impacts can be adequately mitigated through the imposition of conditions upon the use. Pursuant to Code of Virginia § 15.2-2286(A)(3), the Board of Supervisors hereby reserves unto itself the power to act upon applications for CUPs.

Section 165-304.02. Standards and Procedures.

A. **Standards.** In considering whether to approve a CUP, the Board of Supervisors shall consider the following standards:

(1) The conditional use shall not tend to change the character and established pattern of development of the area of the proposed use.

(2) The conditional use shall be in harmony with and shall not adversely affect the use and enjoyment of surrounding properties.

(3) The conditional use shall be in accord with the policies expressed in the Comprehensive Plan of the County and with the intent of this Ordinance.

(4) The conditional use shall not adversely affect the natural character and environment of the County.

(5) The CUP shall be approved only if adequate facilities, roads, safe access, drainage, and other infrastructure exist or are provided.

(6) The conditional use shall conform with all applicable regulations of the district in which it is located.

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B. **Application.** Procedures for applying for and approving a CUP shall be the same as those described in Section 165-302.02, above.

(1) The Zoning Administrator may require that the application for a CUP be accompanied by a Site Plan in order to provide sufficient information to allow full consideration by the Planning Commission and Board of Supervisors.

(2) Site Plan requirements may be waived by the Zoning Administrator in accordance with Section 165-301.05.B.

C. **Types of Conditions**. In granting a CUP, the Board of Supervisors may place appropriate conditions on the permit, subject to the following requirements:

(1) Conditions shall be reasonably related to the proposed use and reasonably necessary to address the impacts of that specific application.

(2) Conditions shall not be arbitrary or unrelated to the proposed development or use and must be warranted by the circumstances of the particular case, in accordance with Code of Virginia § 15.2-2286.

(3) Such conditions shall be considered to be a part of the requirements of this Ordinance; violations of the established conditions shall constitute violations of this Ordinance.

(4) Where the applicant proposed affordable housing, conditions must be consistent with the objective of providing affordable housing. When imposing conditions on residential projects specifying the materials and methods of construction or specific design features, the Board shall consider the impact of such conditions upon the affordability of housing.

(5) A period of validity of the CUP, provided however that in the case of residential projects, the period of validity shall be not less than three (3) years.

Section 165-304.03. Effect of Decision; Period of Validity.

A. After approval of a CUP by the Board of Supervisors, any change in the use for which the CUP was granted shall require a new CUP following the procedures set forth in this Article.

B. The conditions established as a part of the approval of a CUP may be modified only through the full application procedures described in this Article.

C. Following recommendation by the Planning Commission, the Board may deem an approved CUP void for failure to establish the approved conditional use if such use has not been established within three (3) years of approval.

Section 165-304.04. Revocations.

A. The Board of Supervisors may, by resolution, initiate the revocation of any active CUP, in accordance with the procedure for a new CUP, in accordance with Section 165-304.03, above.

B. Following recommendation by the Planning Commission, after notice and hearing as provided in Part 312 of this Article and in accordance with Code of Virginia § 15.2-2204, the Board may revoke an active CUP for the following reasons:

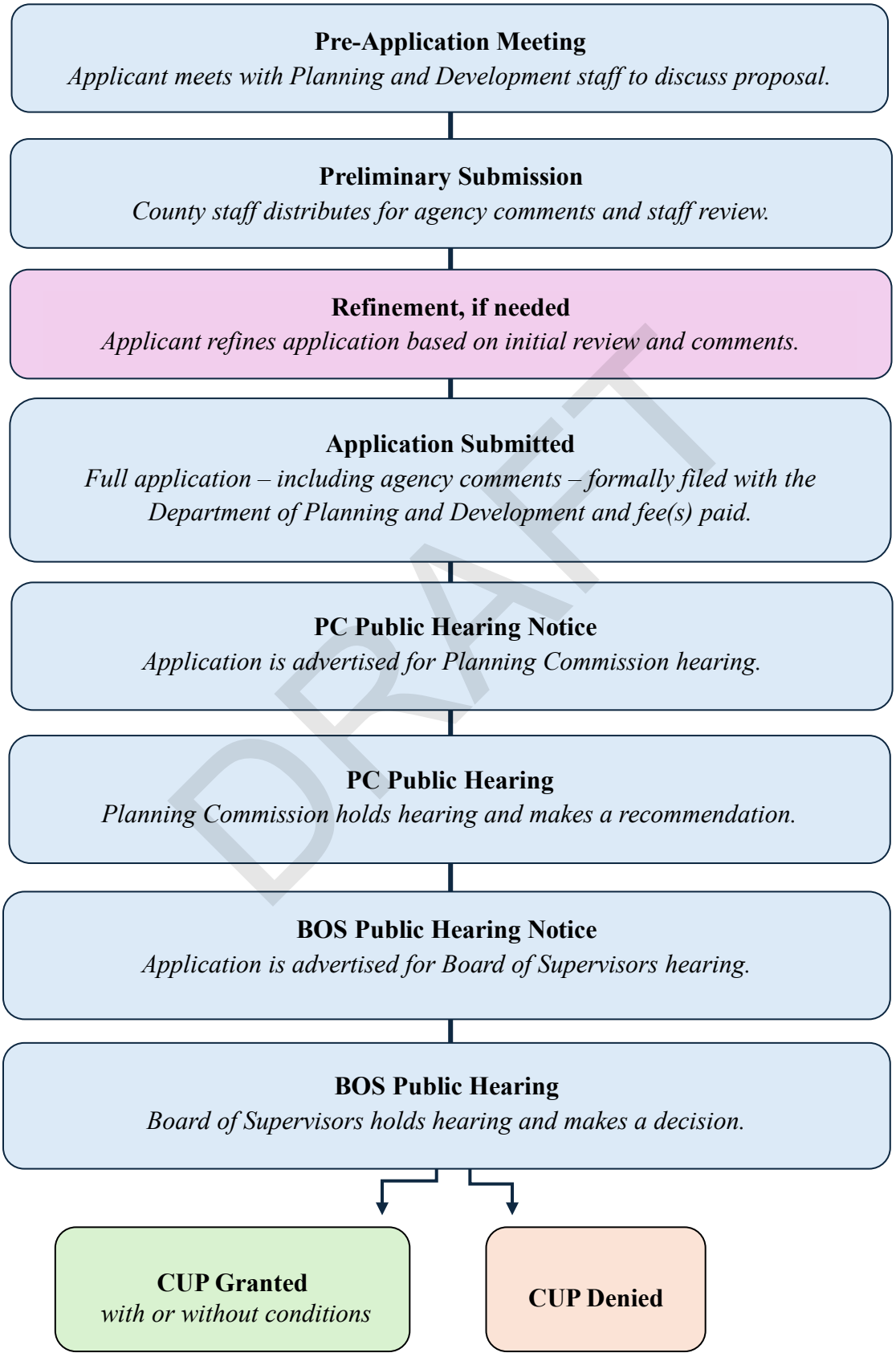
(1) Repeated or continuing violations of this Ordinance, including violations of the conditions placed on the CUP;

(2) Fraudulent, false, or misleading information supplied by the applicant in applying for the CUP; or

(3) If the conditional use has been discontinued for two (2) years.

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Figure III-2 – Conditional Use Permit Process.



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Part 305. Variances.

Section 165-305.01. Purpose and Intent.

Pursuant to Code of Virginia § 15.2-2309, the purpose of a variance is to allow for a reasonable deviation from the provisions of this Ordinance regulating the shape, size, or area of a lot or parcel of land or the size, height, area, bulk, or location of a building or structure when the strict application of the Ordinance would unreasonably restrict the utilization of the property, other relief or remedy is not available, such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the purpose of the Ordinance.

Section 165-305.02. Standards and Procedures.

A. **Authority.** Pursuant to Code or Virginia § 15.2-2309, the BZA is authorized to review applications for variances, if the applicant meets its burden and provides evidence that the application meets the standard for a variance and the criteria set out in this Ordinance.

B. **Conditions.** In granting a variance, the BZA 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.

C. **Standards for Application and Review**.

(1) Applications for variances shall be made to the Zoning Administrator in accordance with rules adopted by the BZA.

i. Pursuant to the Code of Virginia § 15.2-2310, applications for variances may be made by any property owner, tenant, government official, department, board, or bureau.

ii. Plans, maps and other application materials shall be provided by the applicant as required.

(2) Pursuant to Code of Virginia § 15.2-2310, variances shall be promptly transmitted to the BZA for public hearing.

i. The Zoning Administrator shall also transmit a copy of the application to the Planning Commission, which may send a recommendation to the BZA or appear as a party at the hearing.

(3) No variance shall be granted until after notice and a public hearing is held according to the requirements of Code of Virginia § 15.2-2304 and Part 312 of this Article.

(4) The BZA shall only grant a variance if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the Ordinance, and:

a. The property interest for which the variance is being requested was acquired in good faith;

b. Any hardship was not created by the applicant for the variance;

c. The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;

d. The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;

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e. The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and

f. The relief or remedy sought by the variance application is not available through a CUP process or the process for modification of a Zoning Ordinance, as provided in Parts 302 and 304 of this Article.

(5) Any variance granted to provide a reasonable modification to a property or its improvements requested by, or on behalf of, a person with a disability may expire when the person benefited by it is no longer in need of the modification to such property or improvements provided by the variance, subject to the provisions of State and Federal fair housing laws, or the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131 et seq.), as applicable. If a request for a reasonable modification is made to a locality and is appropriate under the provisions of State and Federal fair housing laws, or the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131 et seq.), as applicable, such modification request shall be granted by the locality unless a variance from the BZA under this Section is required in order for such request to be granted.

Section 165-305.03. Variances from Floodway District Regulations.

A. **General**.

(1) No variance shall be granted for any proposed use, development or activity within any Floodway District that will cause any increase in the 1% annual chance flood elevation.

i. The BZA shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the 1% annual chance flood elevation:

a. Increases the risks to life and property; and

b. Will result in increased premium rates for flood insurance.

(2) No variance shall be granted for an accessory structure exceeding 600 sq. ft.

(3) The BZA may refer any application and accompanying documentation pertaining to any request for a variance to the Floodplain Administrator or other qualified person or agency 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.

(4) A record shall be maintained of the above notification, pursuant to A.(1)i., above, as well as all variance actions, including justification for the issuance of the variances.

(5) Any variances that are issued will be noted in any report submitted to FEMA.

B. **Determinations**. Variances shall be issued only after the BZA has determined:

(1) That the variance will be the minimum required to provide relief;

(2) A showing of good and sufficient cause;

(3) That failure to grant the variance would result in exceptional hardship to the applicant; and

(4) That the granting of such variance will not result in:

i. Unacceptable or prohibited increases in flood heights;

ii. Additional threats to public safety;

iii. Extraordinary public expense; and will not

iv. Create nuisances;

v. Cause fraud or victimization of the public; or

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vi. Conflict with local laws or ordinances.

C. **Factors**. In addition to satisfying all relevant factors and procedures specified in Section 165-305.02 B. above, as well as A. and B. of this Section, the BZA shall consider the following additional factors:

(1) The danger to life and property due to increased flood heights or velocities caused by encroachments;

(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 County;

(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 historic nature of a structure; and

i. Variances for repair or rehabilitation of historic structures may be granted 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.

D. **Limitations**.

(1) While the granting of variances generally is limited to a lot size less than 1/2 acre, deviations from that limitation may occur.

i. However, as the lot size increases beyond 1/2 acre, the technical justification required for issuing a variance increases.

ii. Variances may be issued by the BZA for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the provisions of this Article V, Part 503.

(2) Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that the criteria of this Article V, Part 503 are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

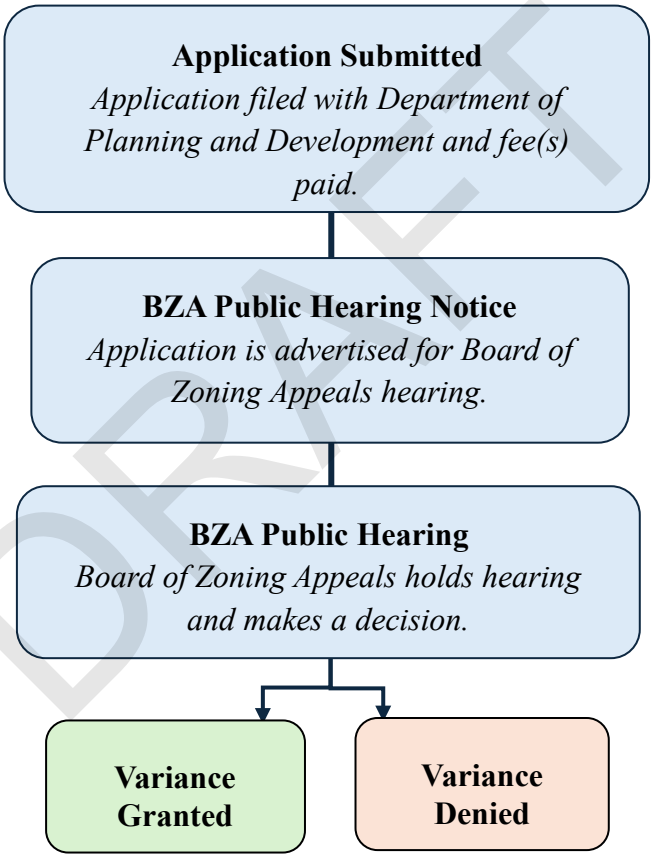
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Section 165-305.04. Effect of Decision; Period of Validity.

A. Issuance of a variance shall authorize only the particular variance that is approved. A variance, including any conditions, shall run with the land, and not be affected by a change in ownership unless otherwise provided in the conditions.

B. Use or development authorized by the variance shall not be carried out until the applicant has secured all other permits required by this Ordinance or any other applicable Ordinances and regulations of the County. A variance, in itself, does not ensure that the development approved through said permit will receive subsequent approval for any other necessary applications for permit or development approval.

Figure III-3 – Variance Process.



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Part 306. Master Development Plans.

Section 165-306.01. Intent.

A. The purpose of a Master Development Plan (MDP) is to promote orderly and planned subdivision and 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.

B. The MDP shall be used to illustrate the characteristics of the property proposed for subdivision and/or development and of surrounding properties and ensure that the requirements of the County Code have been satisfied.

Section 165-306.02. When Required.

A. As provided in Section 165-306.06, below, an MDP must be administratively approved by the Director of Planning and Development and the County Administrator prior to any subdivision or development of property in all zoning districts except for the RA, Rural Areas District.

B. The MDP shall include the subject property proposed for subdivision or development as well as all contiguous land under common ownership in all zoning districts except for the RA, Rural Areas District.

Section 165-306.03. Waivers.

A. **General.**

(1) The Director of Planning and Development may waive the requirement for submission and approval of a MDP in the identified zoning districts, if the proposed property for subdivision or development:

i. Is not an integral portion of a larger property or group of adjacent properties under common ownership proposed or planned for future development or subdivision;

ii. Is planned to be developed in a manner that is harmonious with surrounding properties and land uses; and

iii. Does not substantially affect the purpose and intent of its zoning district and the intent of this Ordinance.

iv. An MDP may also be waived if the applicant chooses to process a Site Plan in lieu of an MDP. The Site Plan shall contain all information generally required on an MDP and a Site Plan.

B. **RP, R4, R5, and MH1 Districts**. In addition to A, above, a waiver of the requirement for an MDP in the RP, R4, R5, and MH1 District may also be granted if the proposed property for subdivision or development contains 10 or fewer single-family detached rural traditional, single-family detached traditional or single-family detached urban dwelling units (all other permitted housing types shall require an MDP).

C. **M1, M2, EM, and TM Districts**. In addition to A, above, a waiver of the requirement for an MDP in the M1, M2, EM, and TM District may be granted if the proposed property for 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; and

(2) Does not propose any stormwater management system designed to serve more than one (1) lot and does not necessitate significant changes to existing stormwater management systems designed to serve more than one (1) lot.

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D. **B1, B2, B3, MS and HE Districts**. In addition to A, above, a waiver of the requirement for an MDP in the B1, B2, B3, MS, and HE Districts may be granted if the proposed property for subdivision or development:

(1) Contains less than five (5) acres if in the B1 District, and less than 10 acres if in the B2, B3, MS 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; and

(3) Does not propose any stormwater management system designed to serve more than one (1) lot and does not necessitate significant changes to existing stormwater management systems designed to serve more than one (1) lot.

Section 165-306.04. Contents of Master Development Plans.

A. **All Districts**. The following items shall be required for MDPs in all zoning districts. All required items shall be shown clearly on the MDP.

(1) The scale shall be one (1) inch equals 100 feet or larger (the ratio of feet to inches shall be no more than 100 feet to one (1) inch) or at a scale acceptable to the Director of Planning and Development. The scale shall be sufficient so that all features required to be shown 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 (1) sheet, match lines shall clearly indicate where the sheets join.

(3) All MDPs 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.

(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 of Planning and Development.

(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 will developed.

(9) All existing, approved or planned public roads, streets or rights-of-way on the project or within 2,000 feet of the boundaries of the project.

(10) Any approved proffers associated with the property.

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(11) The location and treatment proposed for all historical structures and sites recognized as significant by the Board of Supervisors or as identified on the Virginia Historical Landmarks Commission Survey for Frederick County.

(12) A history of all land divisions that have occurred in relation to the tract since the adoption of the requirement for an MDP.

(13) The approximate location of sewer and water mains with statements concerning the connection with and availability of existing facilities.

(14) The ownership and use of all adjoining parcels, including parcels across rights-of-way.

(15) Description of any changes in use or structure made since approval of any prior MDP for the property.

(16) An approval block and signature lines for the Director of Planning and Development.

B. **RP, R4, R5, and MH1 Districts**. All MDPs for development in the RP, R5, and MH1 Districts 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 accordance 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 Article VIII, Part 804;

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(12) The location and arrangement of street entrances, driveways and parking areas;

(13) A conceptual plan for stormwater management with the location of stormwater facilities designed to serve more than one (1) lot;

(14) Calculations describing all proposed bonus factors with the location of and specifications for bonus improvements, when proposed; and

(15) An approval block and signature lines for the Director of Planning and Development.

C. **HE, MS, B1, B2, B3, TM, EM, M1, and M2 Districts**. All MDPs for development in the HE, MS, B1, B2, B3, TM, EM, M1, and M2 Districts 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 location and approximate boundaries of existing environmental features, including floodplains, lakes and ponds, wetlands, natural stormwater detention areas, steep slopes and woodlands, as defined, and the approximate acreage of each type of environmental feature, including the amount and percentage of each type that is to be disturbed and the amount and percentage of each type to be placed in open or landscaped areas;

(3) The proposed location and arrangement of all proposed and existing utility systems;

(4) The location and arrangement of existing and proposed public or private roads, existing or proposed entrances, and driveways from existing and proposed public or private streets;

(5) A Conceptual Plan for stormwater management and description and the location of all stormwater facilities designed to serve more than one (1) parcel;

(6) The location and extent of proposed buffers required by this Ordinance, with statements, profiles, cross sections or examples clearly specifying the screening to be provided; and

(7) An approval block and signature lines for the Director of Planning and Development.

Section 165-306.05. Preliminary Master Development Plan Submission.

A. A preliminary MDP shall be submitted to the Director of Planning and Development.

B. An MDP may be submitted with an application for a rezoning but shall not be considered binding until approval of a final MDP.

C. Applicants shall submit the number of copies of the preliminary MDP to the Department of Planning and Development specified by the MDP application, together with completed application materials required by the Department of Planning and Development.

(1) Applicants shall address approval comments on the proposed development from various review agencies or departments as required by the Department of Planning and Development.

(2) The submission shall be complete when the plans, application materials, and review agency approval comments have been received by the Director of Planning and Development.

Section 165-306.06. Final Master Development Plan Submission.

A. The final MDP shall conform to all requirements of the County Code.

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B. Applicants shall submit copies of the Final MDP to the Department of Planning and Development.

(1) The Director of Planning and Development shall specify the number of copies required for purposes of application and subsequent review.

(2) Final approval of the final MDP shall be given by the Director of Planning and Development and the County Administrator.

C. The Director of Planning and Development shall approve the final MDP if all requirements of the County Code and all review agencies have been met.

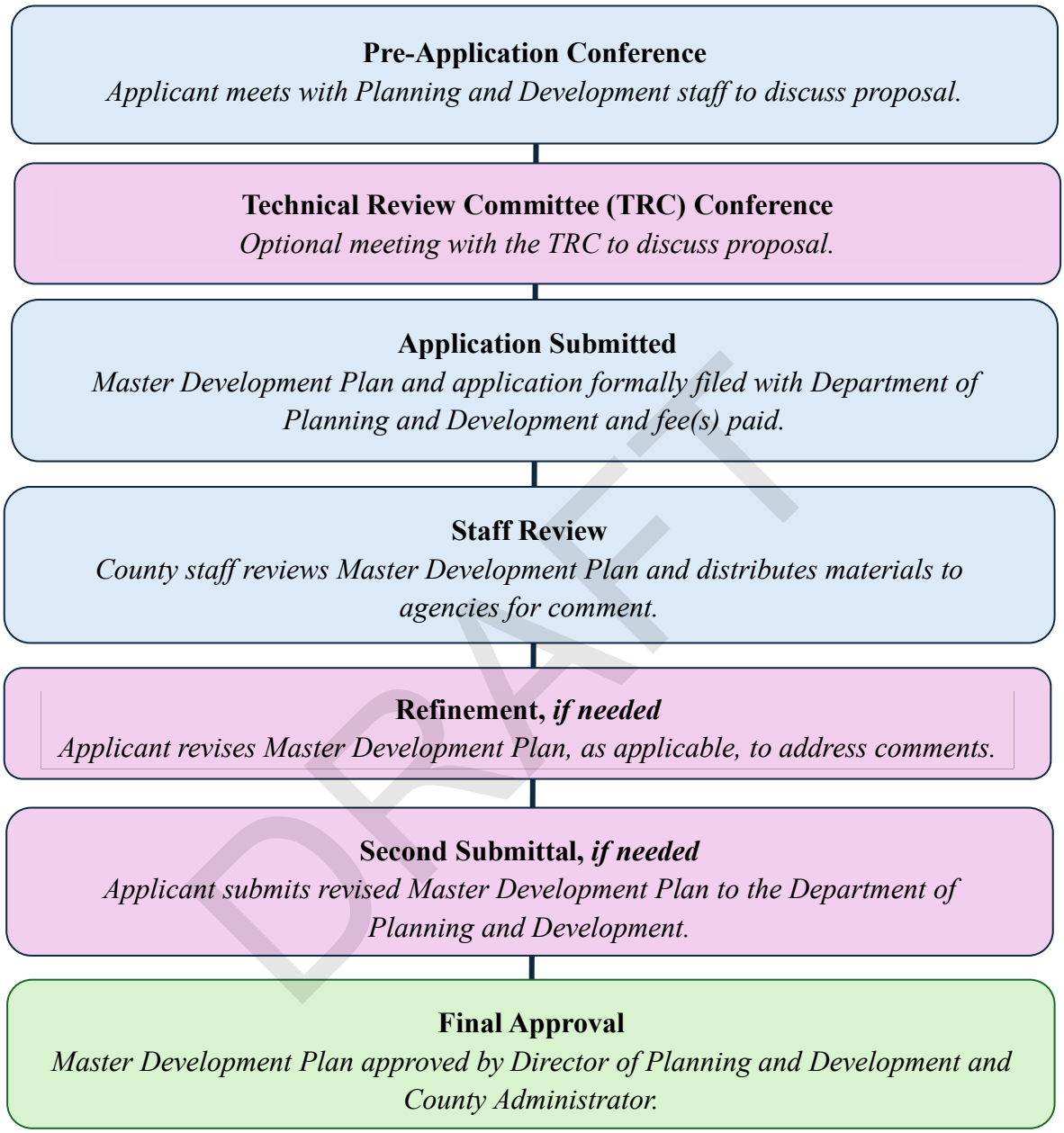
D. An MDP shall not be considered final and approved until it is signed by the Director of Planning and Development and the County Administrator.

Section 165-306.07. Changes to Approved Master Development Plan.

Changes to an approved MDP shall occur only after review by the Department of Planning and Development using the procedures required for the approval of a new MDP.

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Figure III-4 – Master Development Plan Review Process.



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Part 307. Site Plans.

Section 165-307.01. Purpose and Intent.

The purpose of this part is to promote the orderly development of certain activities in the County and to ensure that such activities are developed in compliance with this Ordinance and other applicable regulations and in a manner harmonious with surrounding properties and in the interest of the general health, safety, and welfare of the County.

Section 165-307.02. Applicability.

A. **General**.

(1) In order to ensure that the requirements of this Ordinance have been met, a Site Plan is required for the following uses:

i. Any use in the business or industrial zoning districts, and the EM, MS, or HE District(s).

ii. Any nonresidential uses with automobile parking spaces.

iii. Any of the following residential uses not required to submit a Subdivision Design Plan for approval:

a. Multiplexes.

b. Townhouses; back-to-back townhouses.

c. Garden apartments.

d. Multifamily residential buildings.

e. Age-restricted multifamily housing.

f. Other allowed multifamily residential uses.

g. Manufactured home parks.

iv. Convalescent and nursing homes.

v. Public and semipublic uses and buildings.

vi. Required landscaped buffers and landscaped screens.

vii. Required recreational facilities.

viii. Any parcel of land proposed to contain more than one (1) dwelling unit, except those residential units allowed as agricultural accessory uses.

ix. Nonresidential uses permitted in the RP, R4, and R5 Districts.

x. The use, change of use, or construction of any improvement or facility that must be reviewed by the Planning Commission to determine conformance with the Comprehensive Plan under Code of Virginia § 15.2-2232.

(2) The Zoning Administrator may require a Site Plan or Illustrative Sketch Plan to be submitted with an application for a CUP, or any use specified under Article VII, Additional Regulations for Specific Uses, of this Ordinance.

(3) 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 or Illustrative Sketch Plan is approved.

B. **Exemptions**. 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.

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C. **Type of Site Plan**. Site Plans are either a Site Plan, a Minor Site Plan, or an Illustrative Sketch Plan, as specified below.

(1) **Site Plans**. Site Plans are required as provided in A, above.

(2) **Minor Site Plans**. Minor Site Plans may be submitted in lieu of a full Site Plan for additions to existing sites. A Minor Site Plan shall constitute a revision that increases an existing structure area by 20% or less and does not exceed 10,000 sq. ft. of disturbed area.

(3) **Illustrative Sketch Plans**. An Illustrative Sketch Plan may be submitted in lieu of a Site Plan for farm wineries, farm breweries, and farm distilleries, or if required as part of a CUP.

Section 165-307.03. Site Plan Contents, Generally.

A. **Site Plans and Illustrative Sketch Plans**.

(1) All Site Plans and Illustrative Sketch Plans shall:

i. Be clearly legible and drawn at a scale acceptable to the Zoning Administrator; and

ii. Include three (3) general sections:

a. The project information section, described in B, below;

b. The calculations section described in C, below; and

c. The site plan and details section, described in D, below.

B. **General.** The following applies to all Minor Site Plans, Site Plans, and Illustrative Sketch Plans.

(1) 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.

(2) All Site Plans shall conform with MDPs that have been approved for the land in question, if an MDP is required.

(3) When required, deed restrictions, deeds of dedication, agreements, contracts, guaranties or other materials shall be submitted with the Site Plan.

C. **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 total land area and total developed land area of all lots included on the Site Plan.

(5) The name of the Magisterial District within which property is located.

(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 MDP approved by the County for the site.

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(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) An inset map showing the location of the site, along with the location of streets, roads and land uses within 500 ft. of the property.

(11) A statement listing all requirements and conditions placed on the land included in the Site Plan resulting from approval of conditional zoning or a CUP.

(12) A description of setbacks or conditions placed on the site as a result of an approved variance.

(13) The number and type of dwelling units included on the Site Plan for residential uses.

(14) A list of all proposed utility providers, with their address, name and phone number.

D. **Calculations Section**.

(1) Calculations showing the floor area ratio (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.

E. **Site plan and Details Section.**

(1) The location of all adjoining lots with the owner's name, current 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 ft. 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.

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(7) A legend describing all symbols and other features.

(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.

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(28) Mine operators shall also submit to the Zoning Administrator a copy of the operations plan required by state agencies.

(29) A signed seal of the certified Virginia land surveyor, architect, or engineer who prepared the plan.

(30) 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 (5) years from approval date."

Section 165-307.04. Minor Site Plan Contents.

A. Minor Site Plans, at a minimum, shall include the following information:

(1) All matters required by Section 165-307.03.C.(1) through (12), above;

(2) Calculations showing the total number of required and proposed parking and loading spaces, including the total number of existing and proposed spaces;

(3) Calculations showing the total number of required perimeter and interior trees required, including the number of provided trees;

i. The Zoning Administrator shall determine the number of landscaping plants required, proportional to the additions shown on the Minor Site Plan.

(4) A signed seal of the certified Virginia land surveyor, architect, or engineer who prepared the plan; and

(5) Any other information determined by the Zoning Administrator necessary for the review of the Minor Site Plan.

B. The Zoning Administrator may waive any of the requirements on a Minor Site Plan, if he or she determines it is not to be warranted by the scale or intensity of the use or structures proposed.

Section 165-307.05. Illustrative Sketch Plan Contents.

A. Illustrative sketch plans, at a minimum, shall include the following information:

(1) All matters required by Section 165-307.03.C.(1) through (5), above;

(2) A drawing of all aspects of the business operations on the site;

(3) Size and dimensions of parking areas and signs, if any, location of any floodplains or other environmental features;

(4) For cottage occupations, the Illustrative Sketch Plan shall show the residence and all improvements associated with the cottage occupation;

(5) Distances between on-site structures and adjacent residential structures and other buildings, the location and width of adjacent right-of-way, adjoining properties, and easements; and

(6) A statement listing all requirements and conditions placed on the land included in the Illustrative Sketch Plan resulting from approval of a CUP.

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(7) The Illustrative Sketch Plan need not be drawn to scale, nor does it have to be prepared by a licensed professional. However, distances from structure to adjacent lot lines must be accurately depicted.

Section 165-307.06. Review.

A. **Submission**.

(1) Applicants shall submit copies of the Site Plan to the Zoning Administrator for review, along with applicable fees and completed application materials required by the Zoning Administrator. The Zoning Administrator shall specify the number of copies required for purposes of application and subsequent review.

(2) Applicants shall prepare and submit a Traffic Impact Analysis with all Site Plan applications, in accordance with the adopted Traffic Impact Analysis Standards.

(3) The Zoning Administrator may require the applicant to present the Site Plan to the Technical Review Committee for review.

i. The Committee shall make recommendations to the Zoning Administrator concerning whether the plan meets the requirements of the Frederick County Code.

(4) A Site Plan submission shall be considered to be complete when the fees, plans, application materials and comments have been received.

(5) Applicants shall address comments on the Site Plan from various agencies as required by the Department of Planning and Development.

B. **Final Review Process**.

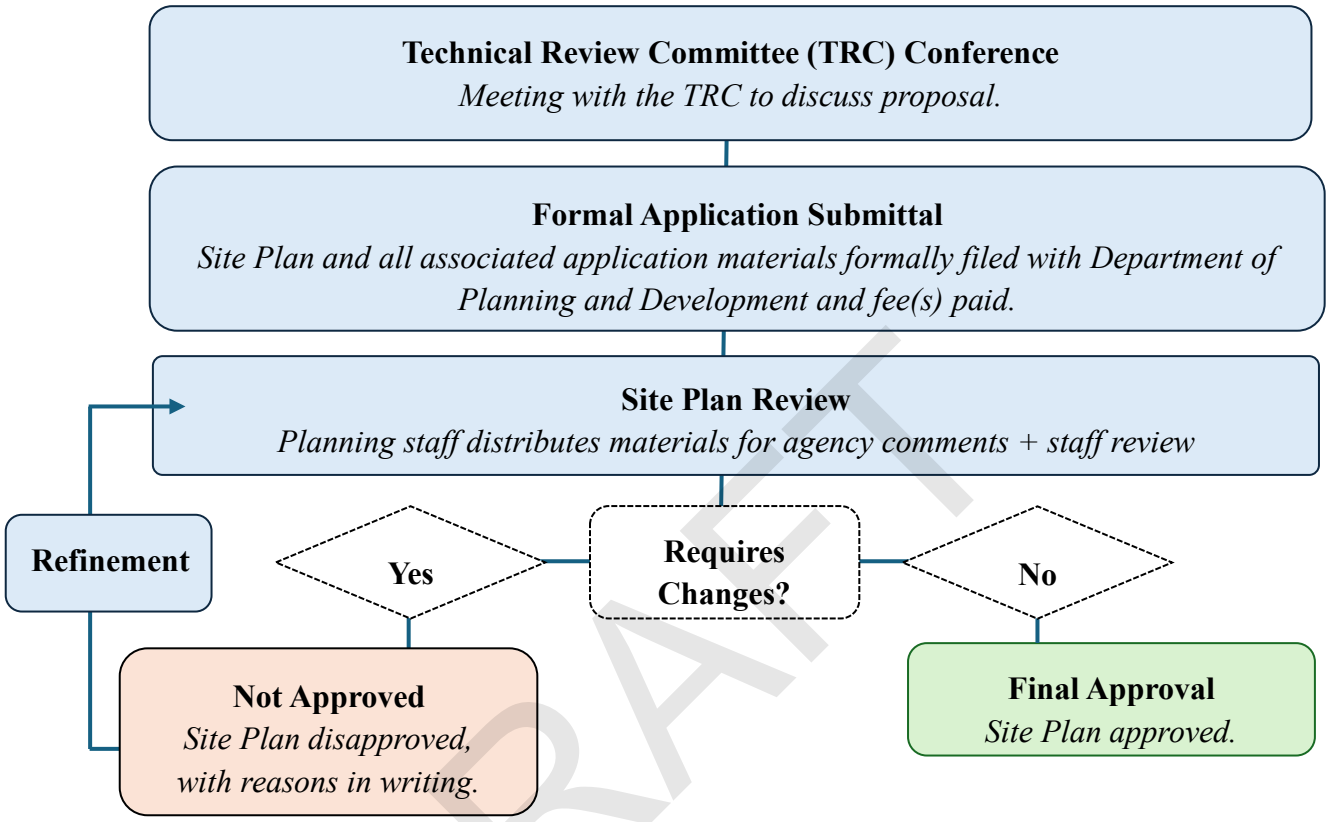
(1) Site Plans shall be submitted to the Zoning Administrator for final approval. The Zoning Administrator shall specify the number of copies required for purposes of application and subsequent review.

(2) The Zoning Administrator shall notify the applicant of the action taken with respect to the Site Plan, which may include approval or disapproval. If disapproved, written comments shall be provided detailing the deficiencies of the plat by reference to specific duly adopted ordinances, regulations or policies and any corrections or modifications required for approval.

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C. **Time Period for Approval.** Site Plans shall be approved or disapproved under the process set forth in Code of Virginia § 15.2-2259.

Figure III-5 – Site Plan Review Process.



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Section 165-307.07. Standards and Improvements.

A. All improvements and construction on the site shall conform with the approved Site Plan, Minor Site Plan, or Illustrative Sketch Plan and the requirements of the Frederick County Code, as well as the Virginia Department of Transportation, Frederick Water, or other ultimate owner of public improvements.

B. The Director of Planning and Development may require a monetary guaranty and performance agreement in accordance with the monetary guaranty policy adopted by the Board, to ensure the completion of required improvements.

Section 165-307.08. Site Plan Amendments.

A. **Approved Site Plans**.

(1) If it becomes necessary for an approved Site Plan to be changed, the Director of Planning and Development may, at the applicant's request, approve minor amendment(s) to the Site Plan if the change or amendment complies with this Ordinance, and the change or amendment does not:

i. Alter a recorded plat;

ii. Conflict with specific requirements of this Ordinance or proffered conditions;

iii. Change the general character or content of an approved Site Plan or use;

iv. Have an appreciable effect on adjoining or surrounding property;

v. Result in any substantial change of external access points;

vi. Decrease the minimum specified yard and open spaces; and

vii. Substantially change architectural or site design features.

(2) If an approved Site Plan proposes any of the proposed amendments listed in A.(1), above, it shall be resubmitted as a new application to the Director of Planning and Development and reviewed in accordance with the standards of this Part.

B. **Time Period for Approval**. Site Plan Amendments shall be approved or disapproved pursuant to Code of Virginia § 15.2-2259.

Section 165-307.09. Compliance with Approved Site Plan Required.

A. The Zoning Administrator shall periodically inspect the site during construction to ensure that the Site Plan requirements are met.

B. 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 have been provided.

C. 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.

Section 165-307.010. Period of Validity.

In accordance with Code of Virginia § 15.2-2261, approval of a Site Plan shall be valid for five (5) years after the approval date, or for such longer period as the Director of Planning and Development may, at the time of approval, determine to be reasonable, taking into consideration the size and phasing of the proposed development.

Part 308. Certificate of Appropriateness.

Section 165-308.01. Purpose and Intent.

The purpose of a Certificate of Appropriateness is to protect designated historic properties and historic districts from alterations, deterioration, and demolition, and to ensure that new buildings are compatible with the existing character of the district, in accordance with Code of Virginia § 15.2-2306.

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Section 165-308.02. Applicability.

A. **General**. A Certificate of Appropriateness (COA), granted by the Historic Resources Advisory Board (HRAB), shall be required in any Historic Area Overlay District, as regulated in Article V, Overlay Districts, of this Ordinance and designated on the official Zoning Map, for:

(1) The erection, construction, reconstruction, or substantial alteration of exterior appearance;

(2) The removal or relocation of any landmark, building, or structure if the move would be detrimental to the public interest or the historic integrity of the structure; and

(3) The demolition or razing of any building or structure.

(4) All requests for construction, reconstruction and significant exterior alterations presented to the HRAB shall be in conformance with Article V, Overlay Districts, of this Ordinance.

B. **Other Approvals Required**. In any case in which an applicant's proposal also requires the approval of the BZA, BZA approval shall be obtained prior to action by the HRAB.

Section 165-308.03. Standards and Procedures.

A. **Standards for Review.**

(1) Upon receipt of an application for a COA, the Zoning Administrator shall follow the procedures below:

i. 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.

ii. A file of all such applications and related materials shall be maintained.

(2) Twelve (12) 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:

i. Architectural plans;

ii. Site plans;

iii. Landscaping plans,

iv. Design for proposed signs with appropriate detail as to character;

v. Proposed exterior lighting arrangements;

vi. 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

vii. Such other exhibits and reports as are necessary for these determinations.

(3) 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.

(4) The HRAB shall consider the *Secretary of the Interior's Standards for Rehabilitation* and the following in evaluating the appropriateness of architectural features:

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i. The extent to which the proposed action will affect the overall character and continuity of the area.

ii. Whether elements of the general design, such as scale, height, and proportion of the proposed work, are visually compatible with the surrounding area.

iii. Whether the texture and materials proposed are compatible with existing structures in the area.

iv. Risk of substantial alteration of the exterior features of a historic resource.

v. Compatibility in character and nature with the historic, architectural, or cultural features of the historic overlay district.

vi. Exterior architectural features, including all signs.

vii. General design, scale, and arrangement.

viii. Texture and material.

ix. The relationship of the size, design, and siting of any new or reconstructed structure to the landscape of the district.

(5) The HRAB shall return, within 60 days after submission of the completed application, its decision concerning granting a COA for the erection, reconstruction, significant exterior alteration, restoration, razing or demolition, or relocation of all or part of any building within the HA Zone.

(6) If the HRAB grants a COA, it shall authorize the Zoning Administrator to issue a permit for the work specified in the application.

(7) 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.

i. 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.

ii. If the applicant determines that they will make the suggested changes, they shall so advise the HRAB in writing, which shall act accordingly.

iii. The applicant may appeal the disapproval to the Board of Supervisors.

B. **Exceptions**. Where the strict application of the standards in this Part, pertaining solely to the Historic Area Overlay District, would result in a practical difficulty to the property owner, the HRAB may grant a reasonable modification of such standards, provided that:

(1) The practical difficulty arises from unique physical conditions or constraints of the subject property that are not self-imposed;

(2) The proposed relief remains consistent with the character of the historic district and the Secretary of the Interior's *Standards for the Treatment of Historic Properties*; and

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(3) The HRAB makes written findings supporting the exemption, including a determination that the relief is the minimum necessary and does not compromise the historic integrity of the district.

C. Any modification granted under this section shall be limited to requirements specific to the Historic Area Overlay District, including but not limited to architectural design, exterior materials, façade articulation, and other visual or stylistic elements.

D. Nothing in this Section shall be construed to permit the HRAB to grant variances from primary district, use, or other requirements applicable in the underlying zoning district, such as but limited to lot size, building height, or setback regulations. Variances as to certain matters may be granted by the BZA pursuant to Code of Virginia § 15.2-2309 and Part 305 of this Ordinance.

E. **Demolition and Razing**.

(1) **General.**

i. The demolition or removal of a noncontributing building or structure may be authorized by the Zoning Administrator.

ii. Hazardous buildings or structures may be demolished without consideration by the HRAB with written approval of the Zoning Administrator, stating the conditions which justify the demolition.

(2) **Consideration**. The HRAB shall consider any and all of the following criteria when considering whether to grant a COA for razing or demolition:

i. Is the historic resource of such architectural, cultural, or historical interest that its removal would be detrimental to the public interest?

ii. Could the building only be reproduced at great expense or difficulty due to its unique or unusual texture, material, or design?

iii. Would demolition of the structure result in the loss of a significant historic place or resource in Frederick County?

(3) **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:

i. The property owner has applied for a demolition permit.

ii. 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.

iii. 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 provided in Table III-1.

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Table III-1. Offer for Sale.	
Time Period (Months)	**Asking Price**
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

Part 309. Certificates of Occupancy.

Section 165-309.01. General.

No use or structure shall be occupied until a Certificate of Occupancy (CO) has been issued by the Building Official. No CO shall be issued unless all requirements of this Ordinance have been met.

Section 165-309.02. Standards and Procedures.

A. 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 Building Official. Such application shall include all information necessary to determine if the requirements of this Ordinance have been met.

B. The Building Official shall submit this application to the Zoning Administrator, who shall certify whether the proposed use is in compliance with this Ordinance.

C. If such proposed use is not in compliance with this Ordinance, the Building Official shall refuse to issue a permit for the use.

Part 310. Zoning Determinations.

Section 165-310.01. Purpose and Intent.

In administering, interpreting, and enforcing this Ordinance, the Zoning Administrator shall provide a written response to persons who have filed a specific request in writing for a decision or determination on zoning matters within the scope of the Zoning Administrator's authority.

Section 165-310.02. Standards and Procedures.

A. Pursuant to Code of Virginia § 15.2-2286, the Zoning Administrator's response shall be provided within 90 days after the date of the request unless the requestor agrees to a longer period of time.

B. When the requestor is not the owner or the owner's agent of the property subject to the request, the Zoning Administrator, in accordance with Code of Virginia § 15.2-2204 (H), shall provide written notice within 10 days after receipt of the request to the owner of the property at the owner's last known address as shown on the County's real estate tax records.

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C. The Zoning Administrator's written decision or determination shall include a statement informing the recipient of the right to appeal the decision as provided in Part 311 of this Article.

Part 311. Appeals.

Section 165-311.01. Appeals of Director of Planning and Development; Zoning Administrator Determinations and Decisions.

A. Pursuant to Code of Virginia § 15.2-2311, the BZA shall hear and decide appeals from any order, requirement, decision, or determination made by the Zoning Administrator or Director of Planning and Development, or other administrative officer with authority to administer or enforce the requirements of this Ordinance. Such appeal may be taken by any person, department, board, County, or municipality aggrieved or affected by any decision of the Zoning Administrator or Director of Planning and Development.

B. Such appeal shall be taken within 30 days after the decision appealed from by filing with the Zoning Administrator and with the BZA a notice of appeal specifying the grounds thereof. The Zoning Administrator shall transmit to the BZA all the papers constituting the record upon which the action appealed from was taken.

C. The determination of the Zoning Administrator shall be presumed to be correct.

D. Pursuant to Code of Virginia § 15.2-2312, procedures for submitting an appeal shall be as follows:

(1) **Hearing.**

i. The BZA shall fix a reasonable time for the hearing of an application or appeal, give public notice as outlined in Part 312 of this Article as well as due notice to the parties in interest.

ii. At a hearing, the Zoning Administrator shall explain the basis for their determination, after which the appellant has the burden of proof to rebut such presumption of correctness by a preponderance of the evidence.

(2) **Decisions.**

i. In exercising its powers, the BZA may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed according to the procedures described in the Code of Virginia.

ii. The BZA shall decide the appeal within 60 days.

Section 165-311.02. Appeals of BZA Decisions.

A. Pursuant to Code of Virginia § 15.2-2314, any person aggrieved by any decision of the BZA may appeal the decision to the circuit court of Frederick County.

B. An application specifying the grounds on which the applicant is aggrieved must be submitted within 30 days after the final decision of the BZA.

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Section 165-311.03. Construction in Violation of Ordinance without Appeals to BZA.

A. Pursuant to Code of Virginia § 15.2-2313, construction of a building with a valid building permit deemed in violation of this Ordinance may be prevented, restrained, corrected, or abated by suit filed within 15 days after the start of construction by a person who had no actual notice of the issuance of the permit.

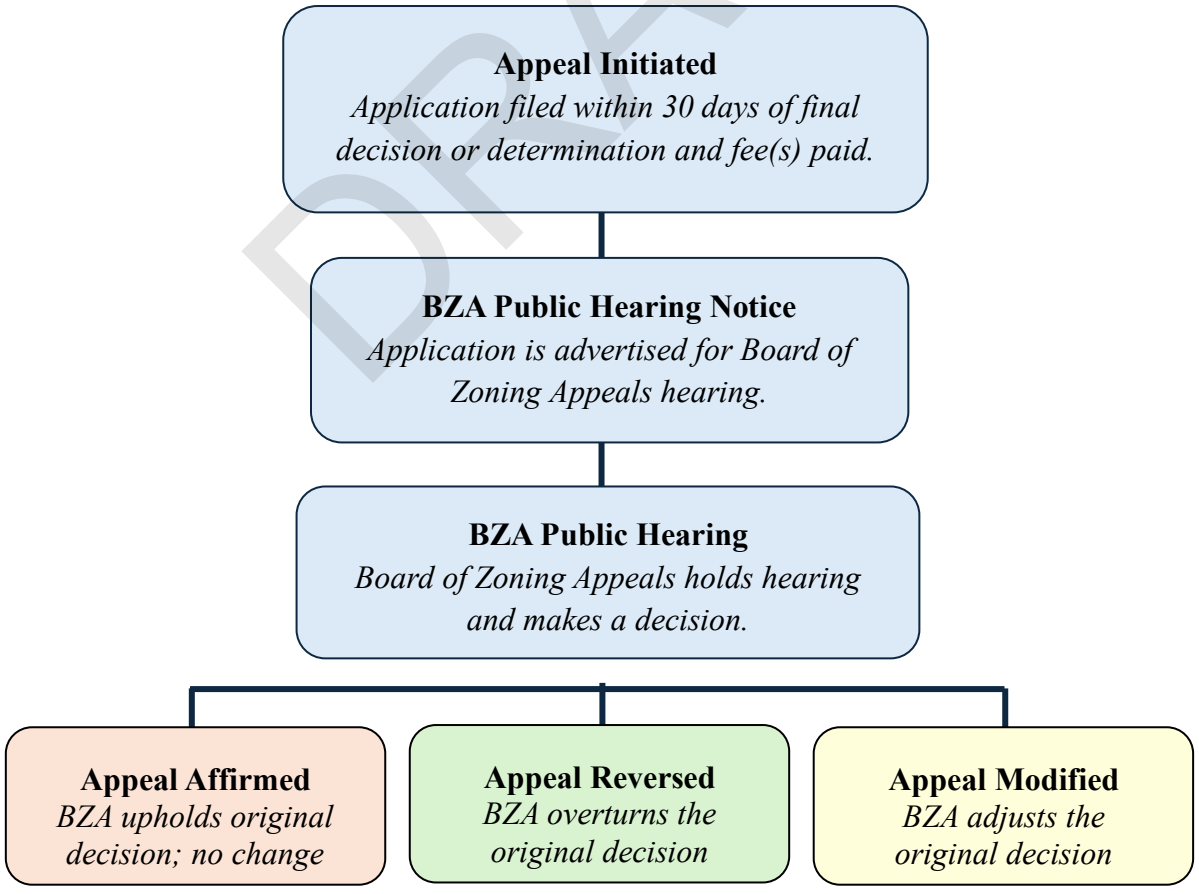
B. The court may hear and determine the issues raised in the litigation even though no appeal was taken from the decision of the Zoning Administrator to the BZA.

Section 165-311.04. Stay of Proceedings.

An appeal shall stay all proceedings in furtherance of the action appealed unless the Zoning Administrator certifies to the BZA 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 BZA or by a court of record, on application and on notice to the Zoning Administrator and for good cause shown.

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Figure III-6 - Process for Appeals of Director of Planning and Development; Zoning Administrator Determinations and Decisions.



Part 312. Public Hearings and Notifications.

Section 165-312.01. Public Hearings and Notice Required.

Advertising and notice for public hearings shall be conducted in accordance with Code of Virginia § 15.2-2204, and as outlined in this Part.

Section 165-312.02. Posting Notice on Property.

For all public hearings involving Zoning Map Amendments, CUPs, and Variances, the applicant shall post on the properties for which zoning action is pending:

(1) A sign with full information on the change sought; and

(2) 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.

Section 165-312.03. Waiver of Notice.

Pursuant to Code of Virginia § 15.2-2204, actual notice of, or active participation in, a public meeting for which written notice is required will waive the right of that party to challenge the validity of the proceedings based on failure of notice.

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Article IV. Primary Zoning Districts.

Part 401. Establishment and Purpose.

Section 165-401.01. General.

A. Land within Frederick County, as it exists at the time of this Ordinance being enacted, is hereby divided into classes of primary zoning districts to:

(1) Regulate and restrict the location and use of buildings and land for trade, industry, residence, and other purposes in accordance with the objectives of the Frederick County Comprehensive Plan;

(2) Regulate and restrict the location, height, and size of buildings hereafter erected or structurally altered; and

(3) Ensure adequate setbacks, open spaces, and public facilities to support the County's population.

B. To carry out the purpose stated in Article I, General Provisions, of this Ordinance and A., above, Frederick County is hereby divided into the following primary zoning districts as shown in Table IV-1, the boundaries of which shall be shown on the Zoning Map.

C. For reference purposes throughout this Ordinance, unless specifically provided to the contrary, the terms as shown in Table IV-1, below, shall be used to refer to primary zoning districts:

Table IV-1. Frederick County Primary Zoning Districts.

Agricultural Districts	
RA	Rural Areas
Residential Districts	
RP	Residential Performance
MH1	Mobile Home Community
Business or Commercial Districts	
B1	Neighborhood Business
B2	General Business
B3	Industrial Transition
HE	Higher Education
Industrial Districts	
TM	Technology-Manufacturing Park
M1	Light Industrial
M2	Industrial General
EM	Extractive Manufacturing
Planned Development Districts	
R4	Residential Planned Community
R5	Residential Recreational Community
MS	Medical Support

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D. Overlay Zoning Districts are established in Article V, Overlay Districts, of this Ordinance.

Section 165-401.02. Purpose and Intent of Primary Zoning Districts.

A. **Agricultural District.**

(1) **RA, Rural Areas District.**

i. 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, which 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.

ii. 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.

B. **Residential Districts.**

(1) **RP, Residential Performance District.**

i. The RP, Residential Performance District 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:

a. Efficient land use patterns that create high-quality neighborhoods that are attractive and pedestrian oriented.

b. Densities that promote a compact and efficient use of land.

c. Reduced housing and public facility costs.

d. Energy efficient housing and housing patterns.

e. Sustainable and environmentally sensitive land use.

ii. Within Section 165-405.01, a number of general performance requirements are identified. When a housing development has satisfied these requirements, this district is intended to provide a large degree of flexibility in development and housing design. This design process is accomplished through a Master Development Plan (MDP) which is designed in cooperation with the County staff.

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iii. It is the intent of this district to allow a mixture of housing types on the land within an approved MDP. Within Section 165-405.01, the permitted development percentages and densities for all housing types are identified. The MDP shall specify the amount and percentages of all proposed housing types.

iv. 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 district 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 district attempts to encourage the provision of some amenities through density bonuses, which are intended to enhance the development without increasing housing costs.

v. 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 (ROW) 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.

vi. In those sections of this Article where discretion is given to the Zoning Administrator, that discretion shall be exercised with this statement of intent as the primary guide for action.

(2) **MH1, Mobile Home Community District.** 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.

C. **Business Districts.**

(1) **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. The North American Industry Classification System (NAICS) may be used to assist the Zoning Administrator in classifying the permitted uses. Uses allowed primarily consist of limited retailing, convenience, and personal service uses. Business uses in this district should be small in footprint and should not produce substantial vehicle traffic in excess of what is usual in the residential neighborhoods.

(2) **B2, General Business 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

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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. The North American Industry Classification System (NAICS) may be used to assist the Zoning Administrator in classifying the permitted uses.

(3) **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. The North American Industry Classification System (NAICS) may be used to assist the Zoning Administrator in classifying the permitted uses.

(4) **HE, Higher Education District.** 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. The North American Industry Classification System (NAICS) shall be used to assist the Zoning Administrator in classifying the permitted uses.

D. **Industrial Districts.**

(1) **TM, Technology-Manufacturing Park District.** The TM, District is designed to provide areas for Economic Development Authority (EDA) targeted industries, data centers, offices, low-impact industrial, assembly, and manufacturing uses. Uses are allowed which do not create significant noise beyond the property line, smoke, dust or other hazards. This district shall be located in a business campus-like setting with direct access to major transportation networks and/or rail facilities and areas where there is availability and/or close proximity to overhead electrical transmission lines. Buildings should include attractive architectural features utilizing high quality building materials comparable to brick, stone, and glass. The North American Industry Classification System (NAICS) shall be used to assist the Zoning Administrator in classifying the permitted uses.

(2) **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. The North American Industry Classification System (NAICS) shall be used to assist the Zoning Administrator in classifying the permitted uses.

(3) **M2, General Industrial District.** The intent of this district is to provide for a wide variety of heavy manufacturing, office and heavy traffic uses, including those which may not be compatible with nearby residential and general business areas. Performance controls are used

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to control potential nuisances, especially in relation to zoning district boundaries. Such industrial areas shall be provided with safe and sufficient access. The North American Industry Classification System (NAICS) shall be used to assist the Zoning Administrator in classifying the permitted uses.

(4) **EM, Extractive Manufacturing District.** The intent of the EM, 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 district to avoid the encroachment of incompatible uses on the borders of the EM District. The North American Industry Classification System (NAICS) shall be used to assist the Zoning Administrator in classifying the permitted uses.

E. **Planned Development Districts.**

(1) **R4, Residential Planned Community District.**

i. The intention of the R4, 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 MDP. The layout, phasing, density and intensity of development is determined through the final approval of the MDP by the County.

ii. Special care is taken in the approval of the MDP 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.

iii. 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.

iv. Planned community developments shall only be approved in conformance with the policies in the Comprehensive Plan.

(2) **R5, Residential Recreational Community District.** The intention of the R5, 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.

(3) **MS, Medical Support District.** The MS, Medical Support District is intended to provide for areas to support hospitals, medical centers, medical offices, clinics, and schools of medicine.

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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 an MDP to ensure that land uses are compatibly mixed, designed in a harmonious fashion, and developed to minimize adverse impacts to adjoining properties. The North American Industry Classification System (NAICS) shall be used to assist the Zoning Administrator in classifying the permitted uses.

Part 402. General District Standards.

Section 165-402.01. General.

This Part and subsequent Parts establish various regulations controlling the area, bulk, height, location, spacing, density, and intensity of the various allowed uses, structures, and lots.

Section 165-402.02. Additional Standards.

A. In addition to the standards provided for each district, additional standards may apply, as listed below:

(1) **Use Performance Standards.** Article VII, Additional Regulations for Specific Uses, of this Ordinance establishes additional standards pertaining to specific uses.

(2) **Community Development Standards.** Article VIII, Community Development Standards, of this Ordinance establishes additional standards for:

i. Nuisances;

ii. Buffers and Landscaping;

iii. Environmental Protection;

iv. Off-Street Parking, Loading, and Access;

v. Open Space;

vi. Outdoor Lighting;

vii. Outdoor Storage;

viii. Recreational Facilities;

ix. Signs;

x. Walls and Fences;

xi. Shopping Centers, Office Parks, and Industrial Parks; and

xii. Temporary Trailers.

Section 165-402.03. Determination and Measurement of Lots and Setbacks.

A. **General.**

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(1) All lots created shall conform with the size and dimensional requirements established by this Article.

(2) Except where specifically allowed by this Ordinance, no more than one (1) dwelling shall be allowed on a lot.

i. 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.

(3) No principal structure shall be placed in the front, side, or rear yard setback areas specified by this Article.

(4) No accessory structure shall be placed within the front setback areas of the underlying zoning district as specified by this Article.

B. **Measurement Methods.**

(1) **All Setbacks.**

i. The setback for structures is measured from the lot lines of the lots containing the structure.

ii. When a lot is adjacent to a road, street, or easement ROW, the setback shall be measured from the boundary of the ROW.

(2) **Front Setbacks.**

i. Front yard setbacks shall be required wherever a lot abuts a road or street ROW.

ii. Where a lot abuts a public street or road with a ROW 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.

a. 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.

b. The additional front setback distances provided on any lot shall be equal to 1/2 of the additional ROW width needed to meet the normally required ROW width or planned ROW width.

iii. **Setback Averaging.**

a. 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.

b. 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.

(3) **All Setbacks on Corner Lots.**

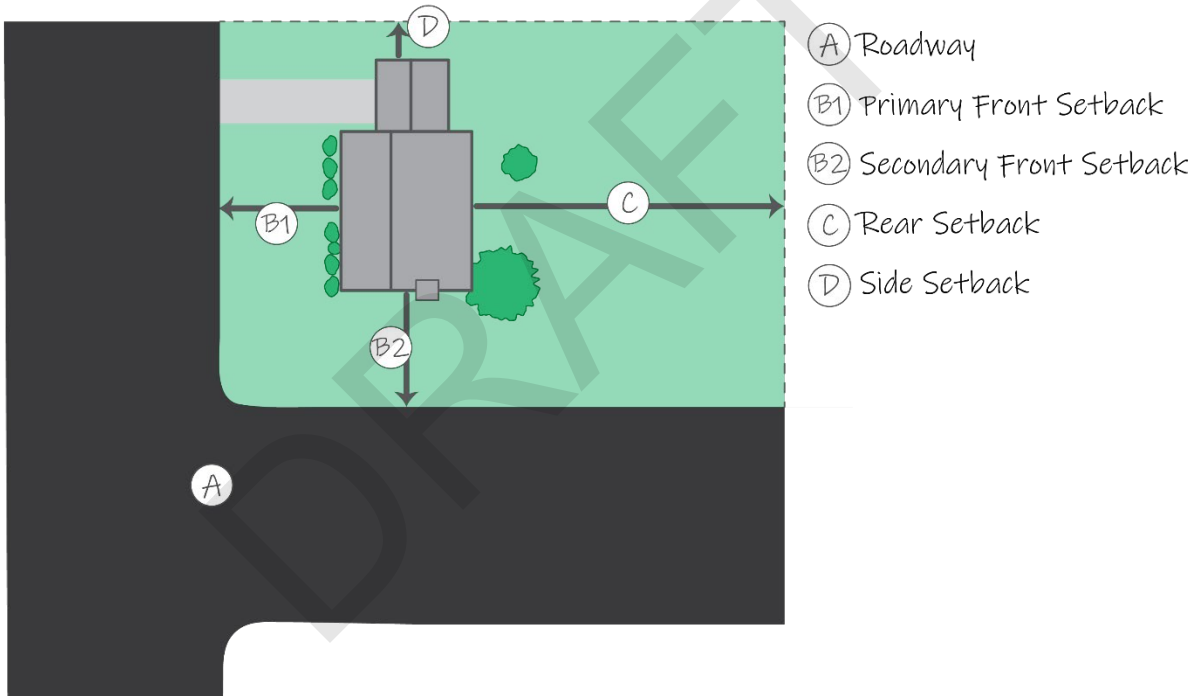
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i. On a lot with more than one (1) side abutting a street or road (corner lot), front setbacks shall be provided wherever the lot abuts a street.

ii. To determine the location of side and rear lot lines, the front shall be deemed to be the shortest side with frontage on the street or road. The rear boundary, with a required rear 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.

iii. 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.

Figure IV-1. Corner Lots.



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Part 403. Encroachments and Exemptions.

Section 165-403.01. Setback Encroachments.

A. 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 (3) feet into any side or rear yard area but shall not be closer than five (5) feet to any lot line.

(2) **Architectural and structural features.**

i. Cornices, canopies, awnings, eaves, gutters, or other similar overhanging features which are at least eight (8) feet above the grade may extend three (3) feet into any required yard setback area.

ii. Chimneys, sills, headers, belt courses, and similar structural features may extend three (3) feet into required yard setback areas.

(3) **Porches and related features.**

i. In the RA and MH1 Zoning Districts, balconies, porches, stoops, decks, bay windows, steps and stairways which comprise less than 1/3 of the length of the wall of the primary structure may extend three (3) feet into a required setback yard.

ii. In no case shall such features be closer than five (5) feet to a lot line.

(4) **Retail petroleum pumps.**

i. Retail petroleum pumps and canopy supports shall be located at least 20 feet from any road ROW boundary.

ii. The canopies covering the petroleum pumps shall be no closer than five (5) feet to any road ROW.

(5) **Storage sheds.** Storage sheds which are attached to townhouses that can only be accessed through an outer entrance and do not exceed 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.

(6) **Protective entrance canopies.**

i. Protective entrance canopies and support columns which are attached to the primary structure may extend into the front yard setback areas for funeral homes, schools, churches and places of worship, day-care facilities, and libraries.

ii. The purpose of such canopies is to provide protection to patrons from the elements of weather as the patron enters or exits the structure.

iii. In no case shall the canopy or its structure be located closer than 20 feet from a road ROW 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 Zoning Administrator.

Section 165-403.02. Setback Exemptions.

Fences, freestanding walls, and berms shall be exempt from the setback requirements.

Section 165-403.03. Height Exemptions and Waivers.

A. **General.** No structure shall exceed the height limitations described in this Article.

B. **Exemptions.**

(1) Height exceptions shall be allowed only if they:

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i. Accomplish the purpose for which they are intended;

ii. Are not intended for human occupancy; and

iii. Do not infringe on the solar access of surrounding properties.

(2) If any of the exceptions, below, 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 (1) foot for every foot over the maximum allowed height of that zoning district.

(3) The maximum height requirements shall not apply to the following:

i. Barns and silos;

ii. Belfries;

iii. Bulkheads;

iv. Chimneys;

v. Spires and towers associated with churches and places of worship;

vi. Flagpoles;

vii. Domes and skylights;

viii. Masts and aerials;

ix. Radio and television transmission towers and commercial telecommunication facilities;

x. Smokestacks and cooling towers;

xi. Utility poles and towers;

xii. Water tanks;

xiii. Windmills;

xiv. Parapet walls, provided that the maximum height of the underlying zoning district is not exceeded by more than four (4) feet;

xv. Solar collectors, air conditioners, and other mechanical equipment, provided they are screened from the public view of surrounding properties and ROWs;

xvi. Automated storage facilities in the TM, M1, and M2 Zoning Districts and automated manufacturing facilities in the M1 and M2 Zoning Districts;

a. Such exemptions shall be approved by the Frederick County Fire Marshal.

b. In no case shall the height of these facilities exceed 100 feet in height unless waived by the Board of Supervisors.

xvii. General office buildings in the B2 and B3 Zoning Districts and hotel and motel buildings in the B2 Zoning District, provided the maximum height of such buildings shall not exceed 60 feet; and

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xviii. Buildings used for schools without residential components, provided those portions of the buildings are accessory and inconsequential to the primary function of the building, and provided that the maximum height of any portion of the building shall not exceed 75 feet.

C. **Waivers.**

(1) **General.** Waiver requests for height increases not otherwise exempt in the B3, TM, EM, M1, and M2 Zoning Districts shall adhere to the following requirements:

i. Architectural renderings of the proposed structure shall be submitted for review by the Planning Commission and the Board of Supervisors.

ii. The Board of Supervisors may require buffer and screening elements and/or additional distance when deemed necessary to protect existing adjacent uses.

iii. The Board of Supervisors may require additional conditions as deemed necessary.

iv. This waiver shall not be permitted to increase the height of any signage regulated by Article VIII, Community Development Standards, of this Ordinance.

v. The Planning Commission and the Board of Supervisors shall hold a public hearing for any height waiver request, in accordance with Article III, Permits and Applications, of this Ordinance.

(2) **Height Waivers – Commercial Districts.**

i. The Board of Supervisors may waive the maximum height in the HE District, provided it will not negatively impact adjacent residential uses. In considering the height waiver, the Board of Supervisors may require architectural renderings that demonstrate potential impacts on adjacent residential uses. In no case shall any structure exceed 75 feet in height.

(3) **Height Waivers – Industrial Districts.**

i. The Board of Supervisors may waive the maximum height in the TM, M1, M2, and EM Zoning Districts in accordance with this Section, provided it will not negatively impact adjacent uses.

a. In no case shall any structure in the TM, M1, or M2 districts exceed 150 feet in height.

b. In no case shall any structure in the EM district exceed 200 feet in height.

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Part 404. Agricultural Districts.

Section 165-404.01. RA, Rural Areas District Standards.

Table IV-2. RA Rural Areas District Standards.		
Maximum Density		
All Lots	1 dwelling unit (DU)/5 acres	
Minimum Lot Size		
All Lots	5 acres**	
Minimum Required Setbacks		
Front		
Principal Structures	60 ft.	
Accessory Structures, *if ROW is public*	60 ft.	
Accessory Structures, *if ROW or easement is private*	45 ft.	
Side and Rear		
Principal Structures	**Adjoining Parcel Size**	
	6 acres or less	50 ft.
	More than 6 acres	100 ft.
	More than 6 acres in Agricultural and Forest Districts (AFD); Orchard	200 ft.
Accessory Structures	15 ft.	
Minimum Required Setbacks, Rural Preservation Lots		
Front		
All Structures, *if ROW is public*	60 ft.	
All Structures, *if ROW or easement is private*	45 ft.	
Side	*These side and rear setbacks for principal structures apply whenever a rural preservation lot borders another rural preservation lot. If a lot does not border another rural preservation lot, the side & rear setbacks for principal structures shall follow the 'Minimum Required Setbacks' listed above in this Table.*	
All Structures	15 ft.	
Rear		
Principal Structures	40 ft.	
Accessory Structures	15 ft.	
Minimum Lot Width		
Rural Preservation Lots	Lots fronting on roads or the turnaround of a cul-de-sac proposed for dedication	50 ft.
	Lots fronting on existing state roads	250 ft.
All Other Lots	250 ft.	
Maximum Depth/Width Ratio***		
All Lots	5:1	
Maximum Height		
All Structures	35 ft.	

* As determined by the size of the parent tract as it existed on December 11, 1991.
** Refer to Chapter 144, Subdivision of Land, for additional regulations for family divisions and rural preservation lots.
*** As measured at the front setback line.

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A. **General Requirements.**

(1) On lots containing between seven (7) and 10 acres which were lots of record prior to December 11, 1991, lots of two (2) or more acres may be created despite the density limit specified in Table IV-2 above, provided they meet the requirements Chapter 144, Subdivision of Land, of the Frederick County Code.

(2) One (1) uninhabitable accessory structure that meets the minimum setbacks for an accessory use may be located on a lot prior to the construction of a principal structure. This accessory structure shall not be permitted to contain any residential uses prior to the construction of the primary structure on the lot and shall be a maximum of 650 square feet in size.

Part 405. Residential Districts.

Section 165-405.01. RP, Residential Performance District Standards.

A. Dimensional standards in the RP District shall be based on the housing type, as identified in Table IV-3, below, and defined in Article XI, Definitions, of this Ordinance.

(1) For non-residential uses, dimensional standards shall be as identified in Table IV-6, below.

(2) Maximum density requirements for all uses are established in Tables IV-7 and IV-8, below.

i. Within developments utilizing transferable development rights, the maximum gross residential density for the development shall be as determined in Article X, Transfer of Development Rights, of this Ordinance.

Table IV-3. RP Residential Performance District Standards – Residential Uses
Single-Family Detached Development.

Single-family detached rural traditional	Single-family detached traditional	Single-family detached urban	Single-family detached cluster	Single-family detached zero lot line	Single-family small lot
Minimum Lot Size					
100,000 sq. ft.	15,000 sq. ft.	12,000 sq. ft.	8,000 sq. ft.	6,000 sq. ft.	3,750 sq. ft.
Minimum Lot Width					
	80 ft.	At Setback: 70 ft. At ROW: 40 ft.	At Setback: 60 ft. At ROW: 30 ft.		
Minimum Lot Depth to Width Ratio					
1:3					
Maximum Site Impervious Surface Ratio					
Minimum Setbacks – Principal Structures					
Front					
60 ft.	35 ft.	35 ft.	25 ft.	25 ft.	25 ft.*
Side					
15 ft.	10 ft.	10 ft.	8 ft.	25 ft.	Detached: 5 ft. Attached: 10 ft.
Rear					

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Table IV-3. RP Residential Performance District Standards – Residential Uses Single-Family Detached Development.					
Single-family detached rural traditional	**Single-family detached traditional**	**Single-family detached urban**	**Single-family detached cluster**	**Single-family detached zero lot line**	**Single-family small lot**
50 ft.	25 ft.	25 ft.	20 ft.	25 ft.	15 ft.
Minimum Setbacks – Accessory Structures, all sides					
5 ft.					
Minimum Setbacks – Unroofed Decks, Stoops, Landings, and Similar Features					
Front					
50 ft.	25 ft.	25 ft.	15 ft.	15 ft.	15 ft.**
Side					
10 ft.	5 ft.	5 ft.	5 ft.	20 ft.	5 ft.
Rear					
35 ft.	15 ft.	15 ft.	10 ft.	15 ft.	10 ft. 5 ft. *if from open space*
Maximum Height					
Principal Structure: 35 ft.					
Accessory Structures: 20 ft.					
Additional Dimensional Standards Included?					
				Yes (D.1., below)	Yes (D.2., below)
* The 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. ** The setback is reduced to 10 feet, provided that the residential unit utilizes a rear alley.					

Table IV-4. RP Residential Performance District Standards – Residential Uses Single-Family Attached Development.		
Multiplex	**Townhouse; back-to-back townhouse**	**Rear alley townhouse.**
Minimum Lot Size		
3,000 sq. ft. (per unit)	1,500 sq. ft.	
Minimum Lot Width		
	End Unit: 22 ft. Interior Unit: 18 ft.	
Minimum Lot Depth to Width Ratio		
Maximum Site Impervious Surface Ratio		
0.5		
Minimum Setbacks – Principal Structures		
Front		
35 ft.	With garage: 25 ft. W/O Garage: 15 ft.	15 ft.*
Side		
15 ft.	Townhouse: 10 ft.	5 ft.

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Table IV-4. RP Residential Performance District Standards – Residential Uses Single-Family Attached Development.		
Multiplex	**Townhouse; back-to-back townhouse**	**Rear alley townhouse.**
	Back-to-back: 5 ft.	
Rear		
25 ft.	20 ft. Back-to-Back: None	6 ft.**
Minimum Setbacks – Accessory Structures, all sides		
5 ft.		
Minimum Setbacks – Unroofed Decks, Stoops, Landings, and Similar Features		
Front		
25 ft.	15 ft. Back-to-back: 5 ft.	5 ft.
Side		
10 ft.	5 ft. Back-to-back, without garage: 10 ft.	10 ft.
Rear		
15 ft.	5 ft.	2 ft.**
Maximum Height		
Principal Structure: 35 ft.	Principal Structures: 40 ft.	
Accessory Structures: 20 ft.		
Additional Dimensional Standards Included?		
Yes (D.3., below)	Yes (D.4., below)	Yes (D.5., below)
*Provided the residential unit utilizes a rear alley access and there are no driveways on the private or public road fronting the residential unit. ** From shared rear alley access easement.		

Table IV-5. RP Residential Performance District Standards – Residential Uses, Multi-Family Development.		
Garden Apartment	**Multifamily residential buildings**	**Age-restricted multifamily housing**
Minimum Lot Size		
		3 acres
Minimum Lot Width		
		None
Minimum Lot Depth to Width Ratio		
Maximum Site Impervious Surface Ratio		
0.60	0.60	0.60
Minimum Setbacks – Principal Structures		
Front		
35 ft. *if public ROW* 20 ft. *if private ROW or drive area*	35 ft.	60 ft.

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Table IV-5. RP Residential Performance District Standards – Residential Uses, Multi-Family Development.		
Garden Apartment	**Multifamily residential buildings**	**Age-restricted multifamily housing**
Side		
20 ft.	50 ft.	100 ft.****
Rear		
25 ft.	50 ft.	100 ft.****
Minimum Setbacks – Accessory Structures, all sides		
5 ft.		
Minimum Setbacks – Unroofed Decks, Stoops, Landings, and Similar Features		
Front		
None	None	None
Side		
None	None	None
Rear		
20 ft.	20 ft.	May extend 10 ft. into a perimeter setback
Maximum Height		
Principal Structures: 55 ft.	Principal Structures: 60 ft.***	Principal Structures: 40 ft.*****
Accessory Structures: 20 ft.		
Additional Dimensional Standards Included?		
Yes (D.6., below)		
*** A multifamily residential building may be erected to a maximum of 80 feet if it is set back from road rights-of-way(s) and from lot lines in addition to each of the required minimum yard dimensions, a distance of not less than one (1) foot for each one (1) foot of height that it exceeds the 60 ft. limit. **** 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. ***** The Board of Supervisors may waive the 40 ft. height limitation, provided that it will not negatively impact adjacent residential uses. In no case shall any principal building exceed 60 feet in height.		

Table IV-6. RP Residential Performance District Standards – Non-Residential Uses.	
Minimum Setbacks – Principal Structures	
Front	
35 ft.	
Side	
15 ft.	
Rear	
50 ft.	
Minimum Setbacks – Accessory Structures, all sides	
5 ft.	
Maximum Height	
Principal Structures	45 ft.
Accessory Structures	20 ft.

Table IV-7. RP Residential Performance District Standards – Maximum Density by Land Use		
Land Use	Maximum Density (du/acre)	Maximum Percentage of Multifamily Housing
Multifamily residential buildings and age-restricted multifamily (excluding garden apartments)	20	100%
Garden apartments	10	100%
Townhouse (single-family attached)	10	N/A

Table IV-8. RP Residential Performance District Standards – Maximum Density by Parcel Size*		
Parcel Size (acres)	Maximum Density (du/acre)	Maximum Percentage of Multifamily Housing
0 to 10	10	100%
10.1 to 25	6	100%
25.1 to 50	6	75%
* For all housing types not listed in Table IV-5 and development with mixed housing types.		

B. **General Requirements.**

(1) All uses shall be developed in accordance with an approved MDP unless otherwise waived under Article III, Permits and Applications, of this Ordinance.

(2) More than one (1) principal structure or use and its customary accessory structures or uses are permitted in the RP District for multiplexes, garden apartments, multifamily residential buildings, and age-restricted multifamily housing.

(3) **Phased Development.**

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

a. All sections are indicated on the MDP and are of a size and at such a location that they constitute economically sound increments of development.

b. 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 50% occupancy and are required to be complete by the time that section reaches 60% occupancy.

c. Provisions shall be made to incorporate all phases or sections of the planned development under one (1) homeowners' association/corporation.

ii. In order to provide sufficient, safe access, the Planning Commission and the Board of Supervisors may require that the phases be arranged so that essential street entrances to the development are provided in the initial phases of the development.

C. **Development Standards.**

(1) **Gross Density and Multifamily Housing.** A gross density shall be established for each proposed development, including all land contained within a single MDP, according to the

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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 density requirements in Tables IV-7 and IV-8, above, shall apply to all parcels as they exist at the time of the adoption of this Section.

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

ii. In no case shall the gross density and maximum percentage of multifamily housing of any development within an approved MDP exceed the densities and percentages set forth in Tables IV-7 and IV-8, above.

(2) **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:

i. The total number of pipestem lots in a residential development may not exceed 5% of the total number of lots.

ii. Pipestem lots shall have a minimum road frontage of 20 feet.

iii. Pipestem lot driveways shall access only one (1) lot.

iv. 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.

v. Pipestem lot driveways shall not adjoin other pipestem driveways.

vi. Unless otherwise specified, pipestem lots shall comply with all other regulations of this Ordinance and Chapter 144, Subdivision of Land, of the Frederick County Code.

D. **Supplemental Regulations.**

(1) **Single-Family Detached Zero Lot Line.**

i. A maintenance easement of 10 feet in width must be obtained on the lot adjacent to the zero lot line side.

ii. The opposite side yard must be maintained clear of any obstructions other than a three (3) foot eaves encroachment, swimming pools, normal landscaping, removable patio covers extending no more than five (5) feet, or garden walls or fences. In no case shall any encroachment other than a fence be placed within the required maintenance easement.

iii. The zero lot line side must not be adjacent to a road ROW.

(2) **Single Family Small Lot.**

i. Landscaping plantings, in accordance with Section 165-802.03 of this Ordinance, shall be provided on each individual lot. The trees shall be a minimum of two (2) inches in caliper at time of planting, and the shrubs shall be a minimum of three (3).

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ii. Detached accessory structures may not exceed 150 square feet.

(3) **Multiplex.**

i. All multiplexes shall be setback at least 20 ft. from all parking areas and driveways.

ii. All unroofed decks, stoops, landings, and similar features shall be setback at least 15 ft. from parking areas or driveways.

(4) **Townhouse; back-to-back townhouse.**

i. All townhouses shall be setback at least 15 ft. from all off-street parking lots.

ii. All unroofed decks, stoops, landings, and similar features shall be setback at least 10 ft. from all off-street parking lots.

(5) **Rear alley townhouse.**

i. The side setback may be reduced to 10 feet when adjacent to a private roadway or parking lot.

(6) **Garden Apartments, Multifamily Residential Buildings, and Age-Restricted Multifamily Housing.**

i. Buildings placed side to side shall have a minimum distance of 20 ft. between buildings.

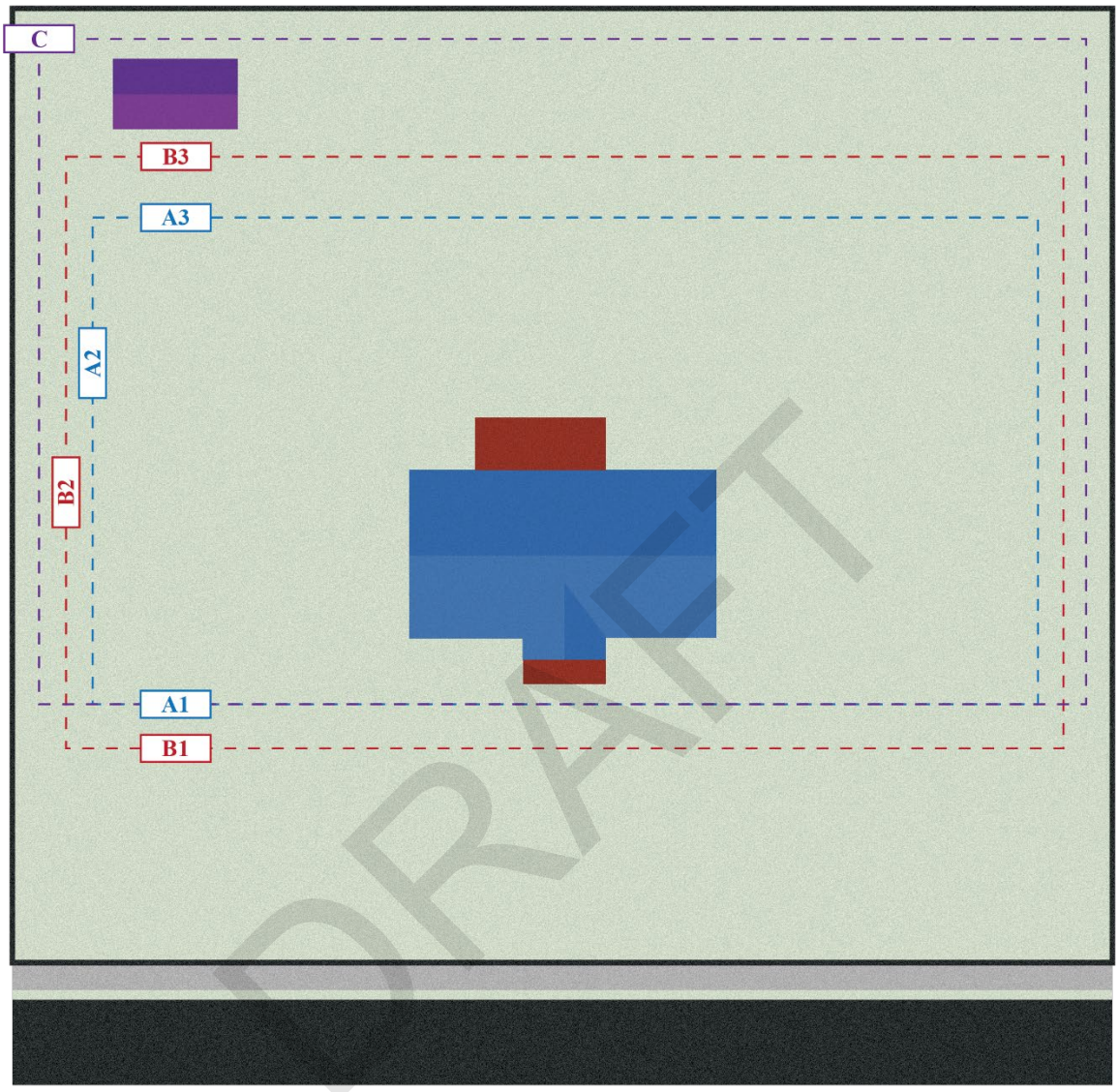
ii. Buildings placed side to back shall have a minimum distance of 35 ft. between buildings.

iii. Buildings back to back shall have a minimum distance of 50 ft. between buildings.

E. **Residential Uses.** The following figures generally depict the layout of permitted residential uses in the RP district.

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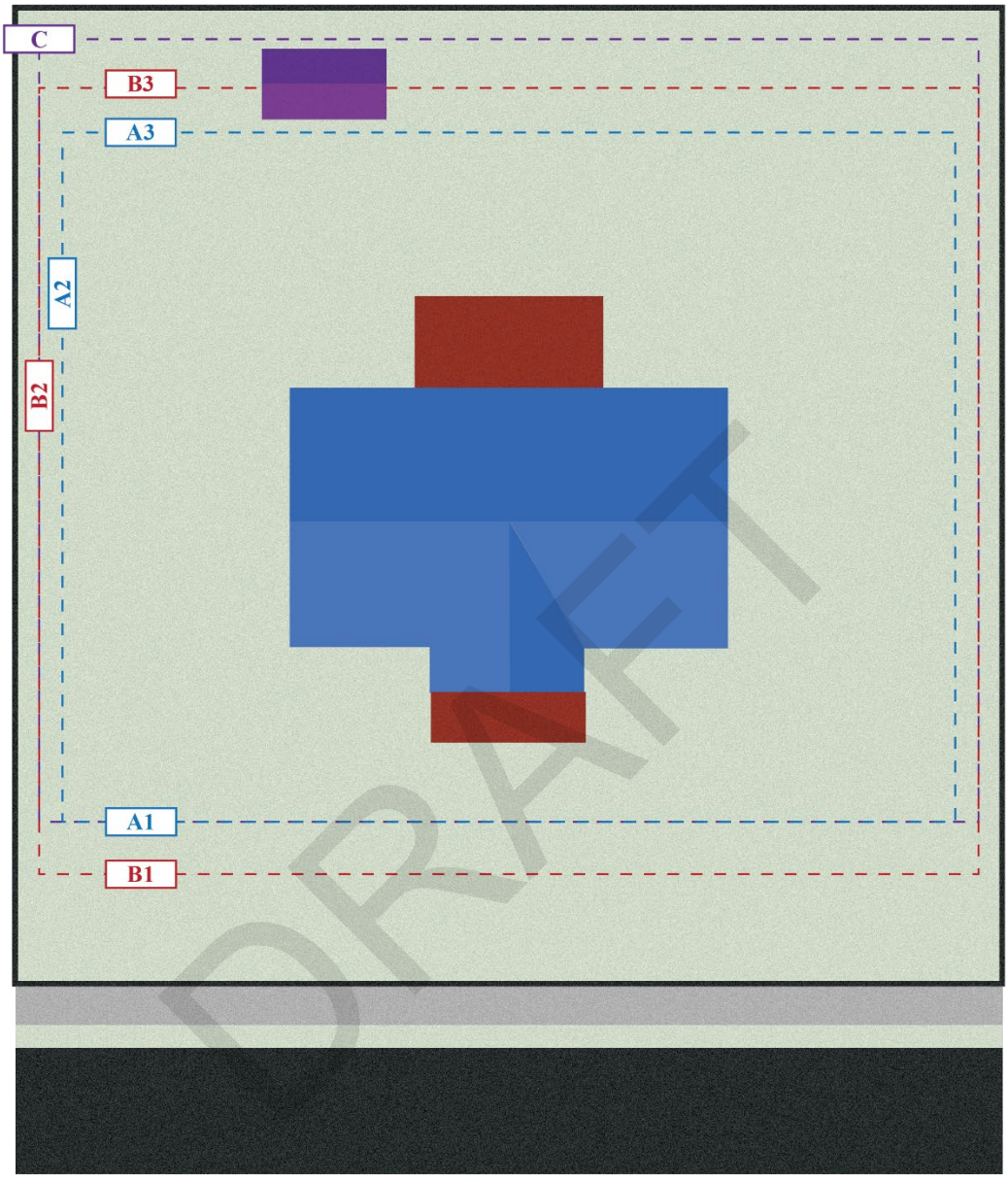
Figure IV-2. Single-Family Detached Rural Traditional.



KEY:

Principal Structure	A Minimum Setbacks - A1: Front | A2: Side | A3: Rear
Deck / Landing	B Minimum Setbacks - B1: Front | B2: Side | B3: Rear
Accessory Structure	C Minimum Setbacks - C: All
Sidewalk	
Right-of-Way	
Property Lines	

Figure IV-3. Single-Family Detached Traditional.



KEY:

Principal Structure — A Minimum Setbacks - A1: Front | A2: Side | A3: Rear

Deck / Landing — B Minimum Setbacks - B1: Front | B2: Side | B3: Rear

Accessory Structure — C Minimum Setbacks - C: All

Sidewalk

Right-of-Way

Property Lines

Figure IV-4. Single-Family Detached Urban and Single-Family Detached Cluster.

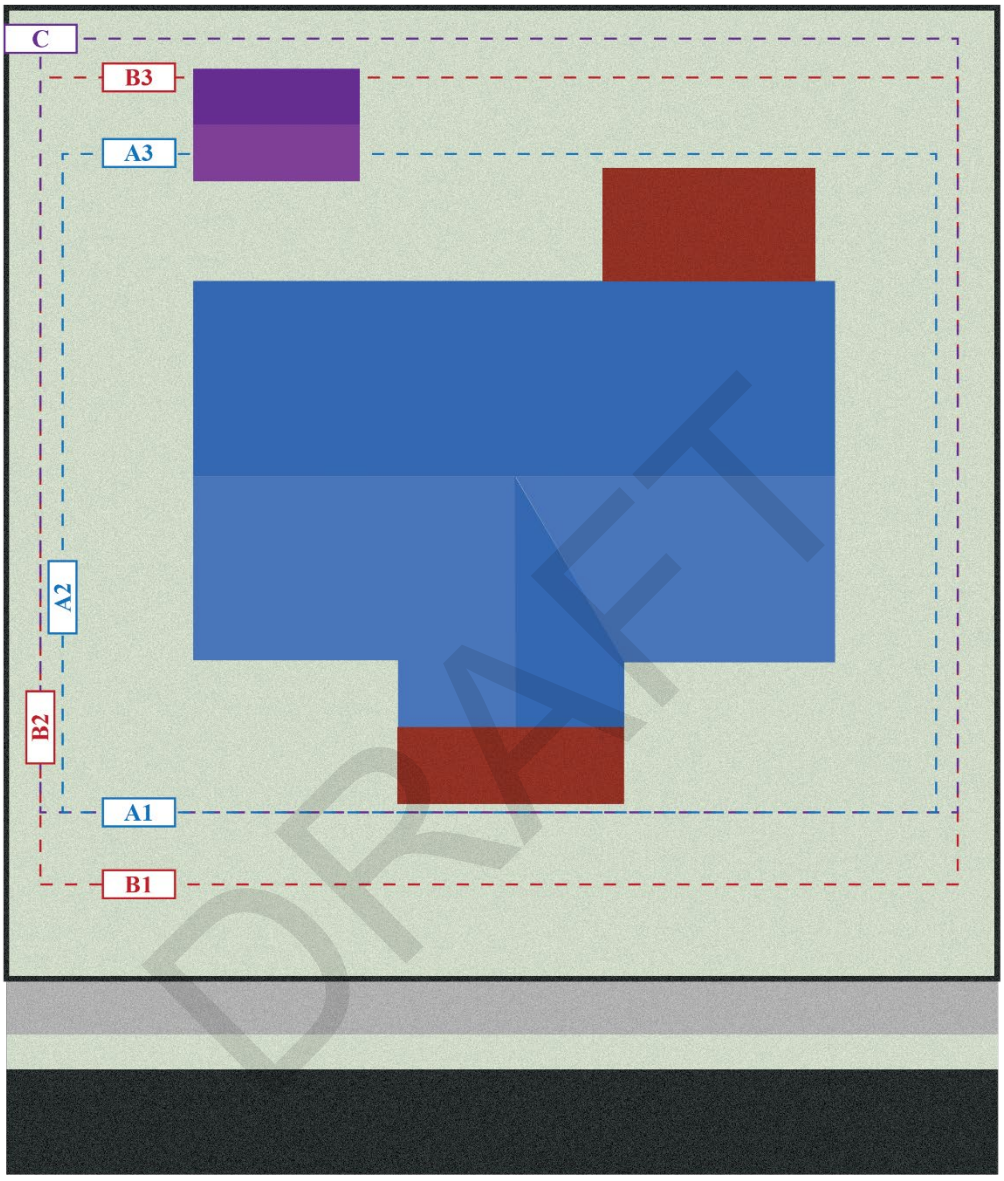
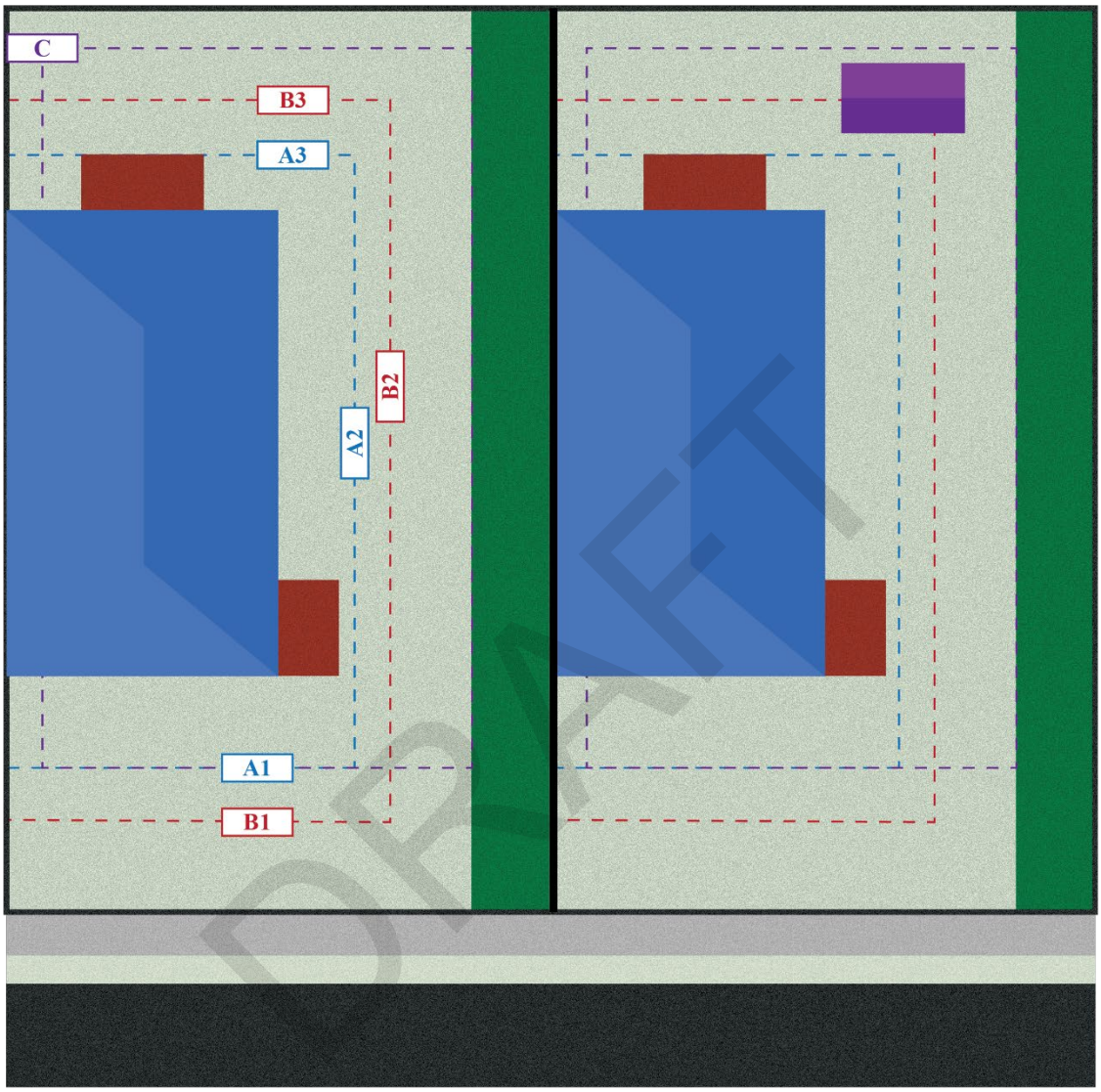


Figure IV-5. Single-Family Detached Zero Lot Line.



KEY:

Principal Structure

Deck / Landing

Accessory Structure

Maintenance Easement

Sidewalk

Right-of-Way

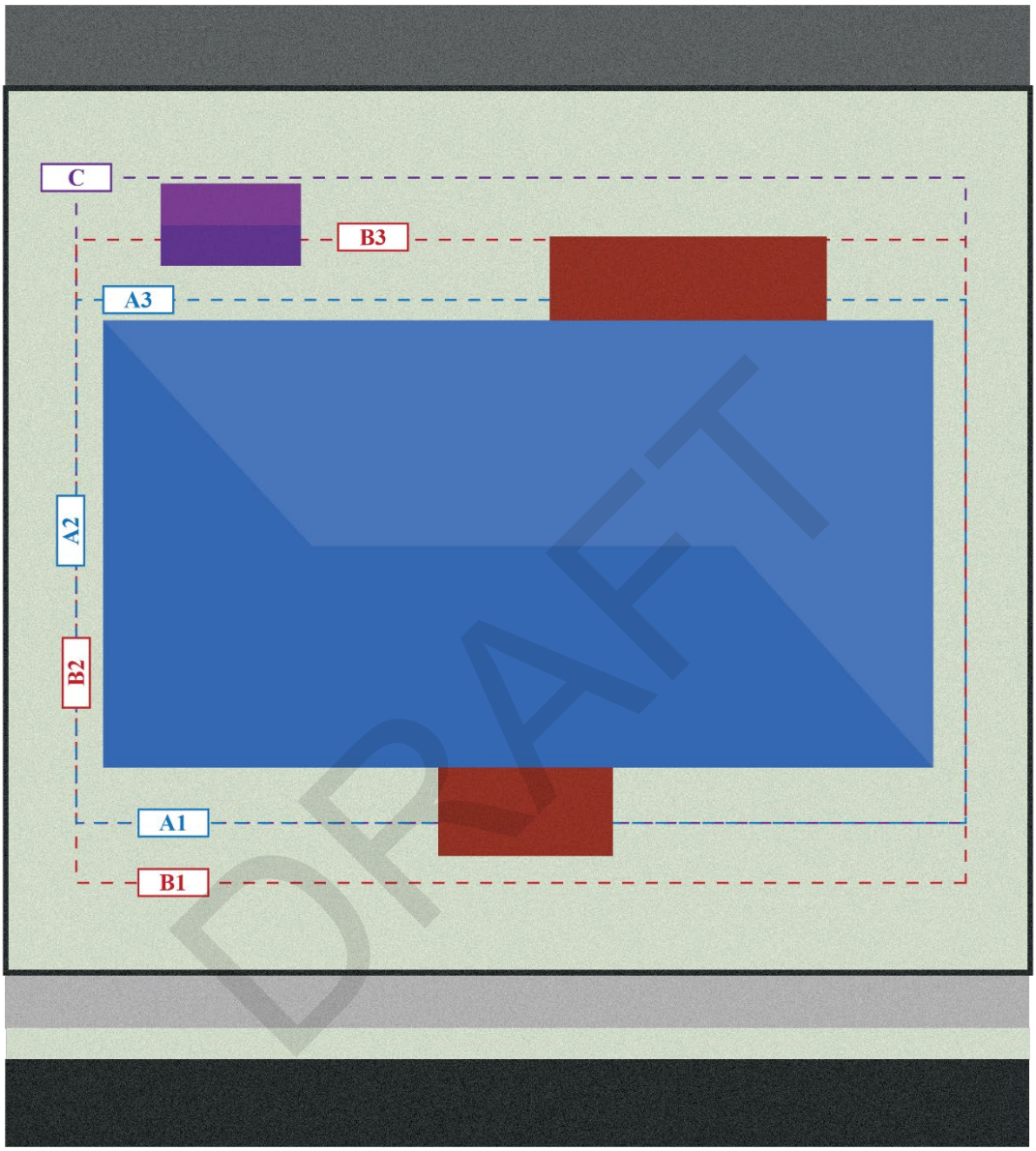
Property Lines

A Minimum Setbacks - A1: Front | A2: Side | A3: Rear

B Minimum Setbacks - B1: Front | B2: Side | B3: Rear

C Minimum Setbacks - C: All

Figure IV-6. Single-Family Small Lot, Detached with Rear Alley.



KEY:

Principal Structure

Deck / Landing

Accessory Structure

Alley

Sidewalk

Right-of-Way

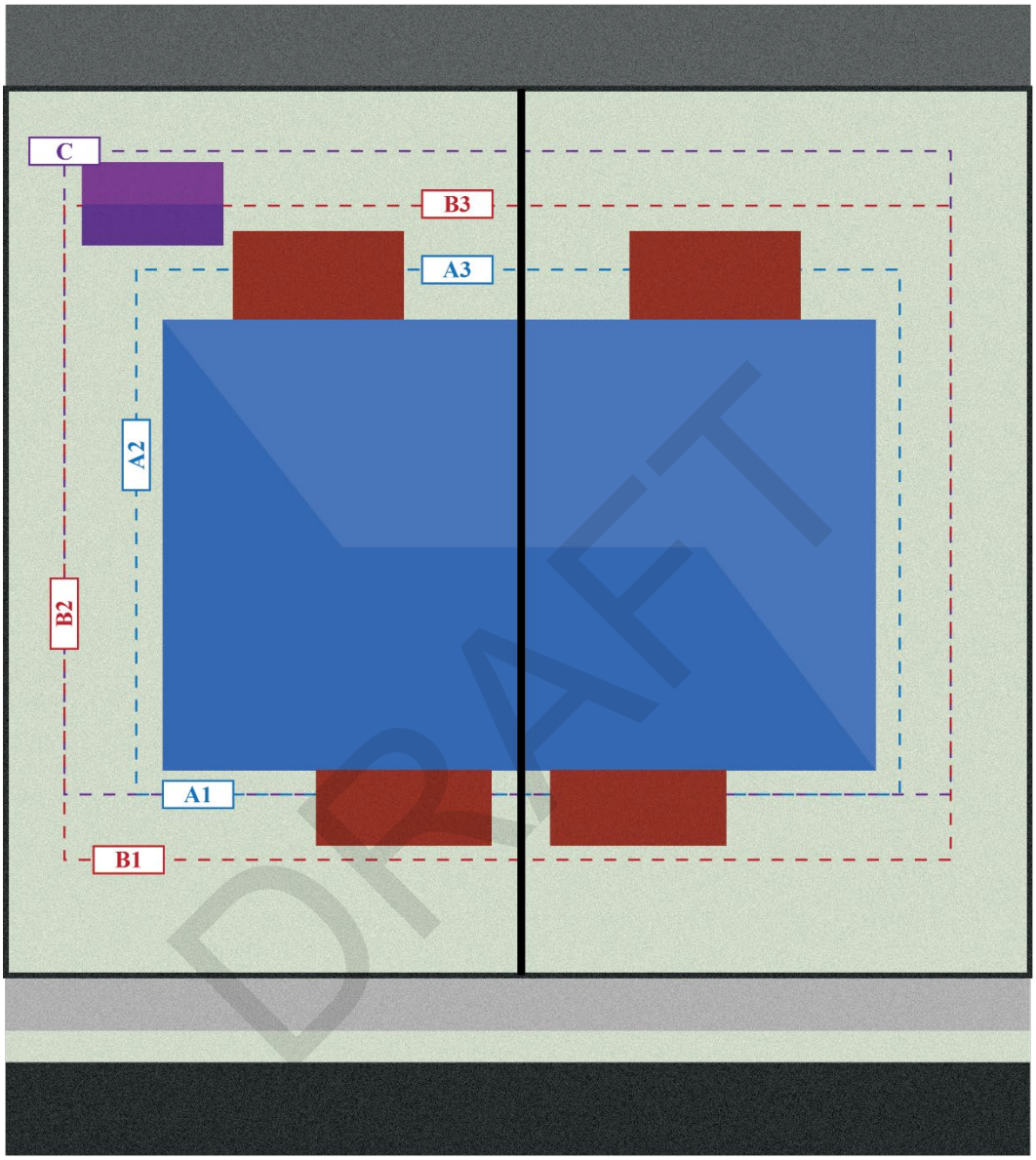
Property Lines

A Minimum Setbacks - A1: Front | A2: Side | A3: Rear

B Minimum Setbacks - B1: Front | B2: Side | B3: Rear

C Minimum Setbacks - C: All

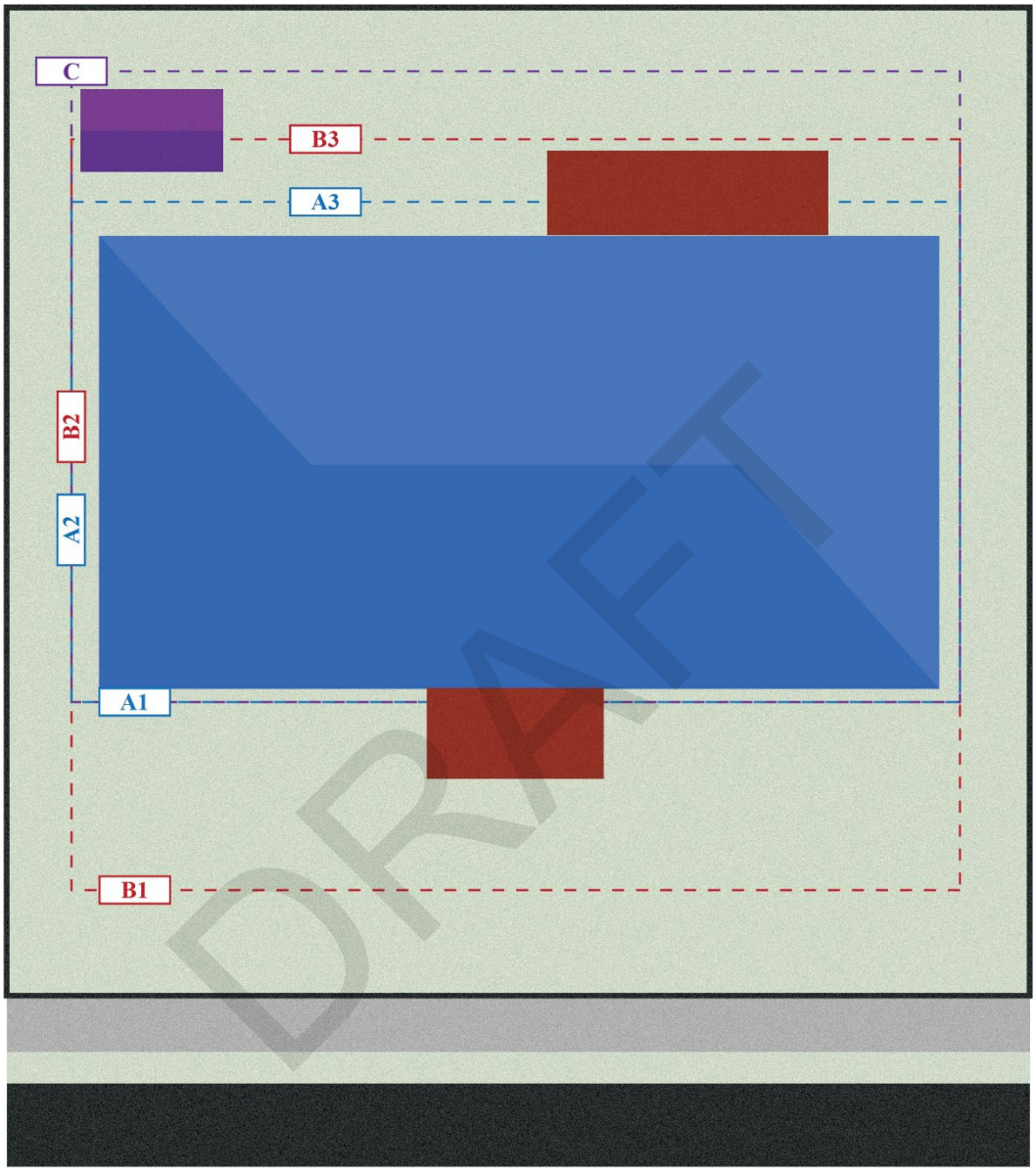
Figure IV-7. Single-Family Small Lot, Attached with Rear Alley.



KEY:

Principal Structure	A Minimum Setbacks - A1: Front | A2: Side | A3: Rear
Deck / Landing	B Minimum Setbacks - B1: Front | B2: Side | B3: Rear
Accessory Structure	C Minimum Setbacks - C: All
Alley	
Sidewalk	
Right-of-Way	
Property Lines	

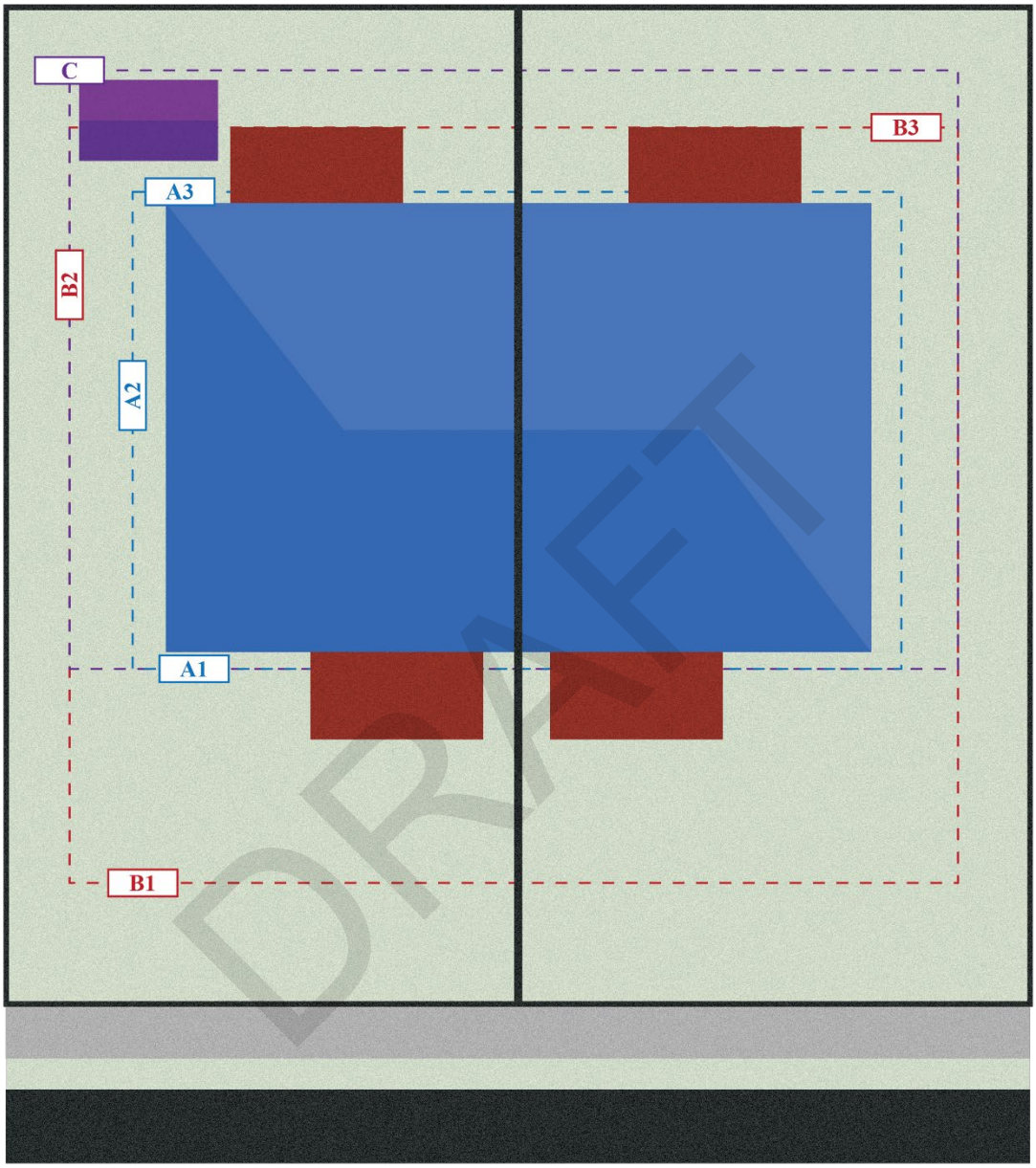
Figure IV-8. Single-Family Small Lot, Detached without Alley.



KEY:

Principal Structure	A Minimum Setbacks - A1: Front | A2: Side | A3: Rear
Deck / Landing	B Minimum Setbacks - B1: Front | B2: Side | B3: Rear
Accessory Structure	C Minimum Setbacks - C: All
Sidewalk	
Right-of-Way	
Property Lines	

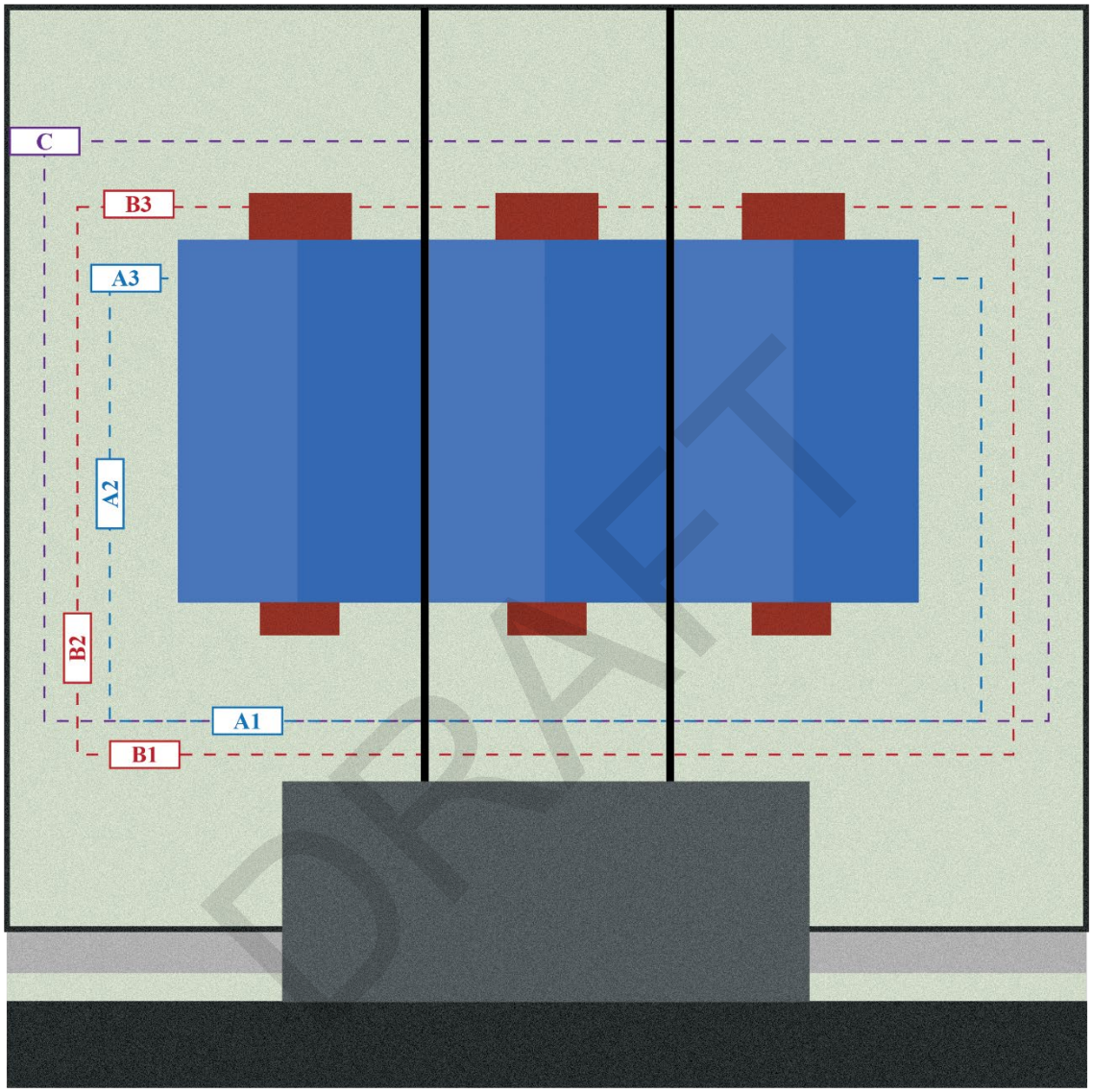
Figure IV-9. Single-Family Small Lot, Attached without Alley.



KEY:

Principal Structure	A Minimum Setbacks - A1: Front | A2: Side | A3: Rear
Deck / Landing	B Minimum Setbacks - B1: Front | B2: Side | B3: Rear
Accessory Structure	C Minimum Setbacks - C: All
Sidewalk	
Right-of-Way	
Property Lines	

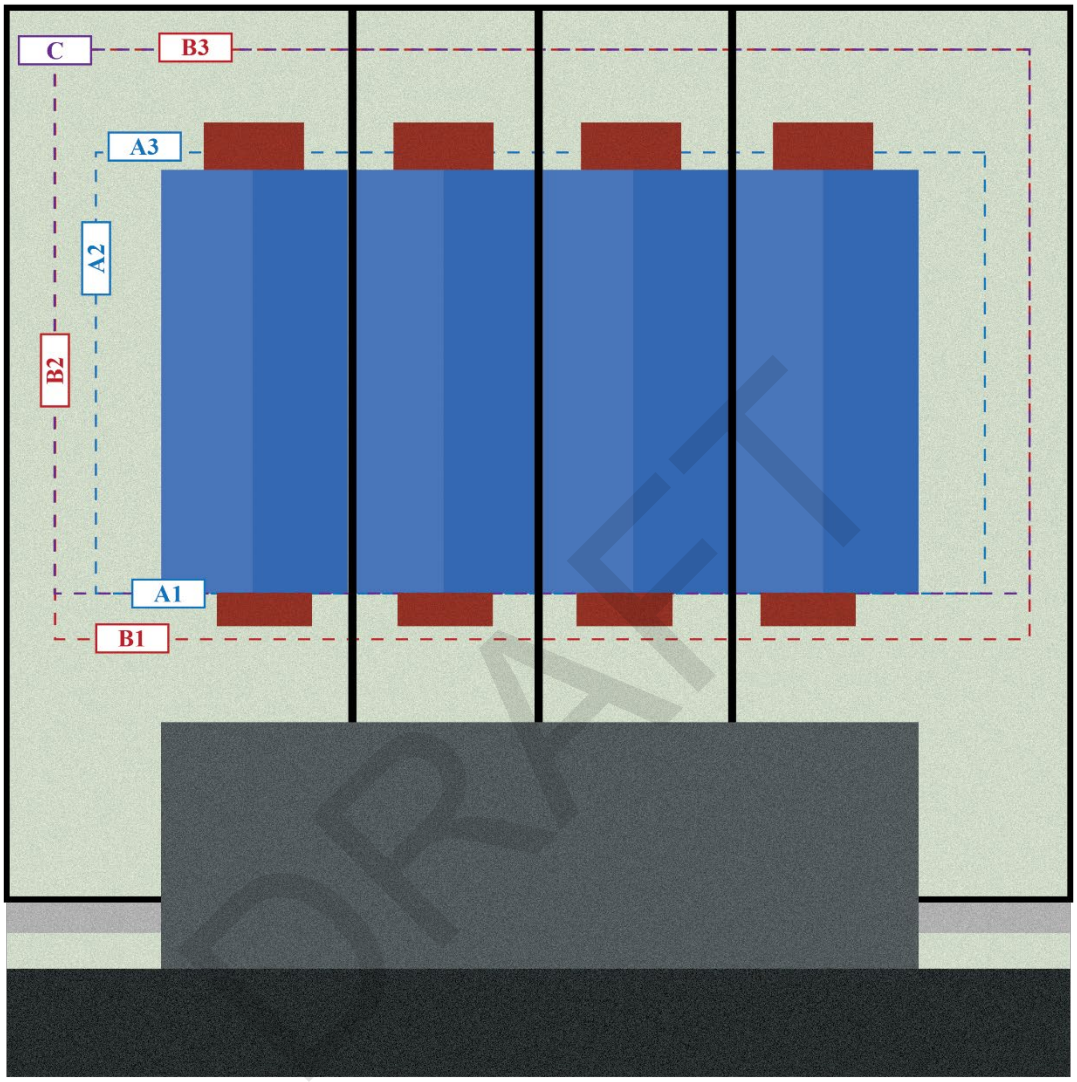
Figure IV-10. Multiplex.



KEY:

Principal Structure	A Minimum Setbacks - A1: Front | A2: Side | A3: Rear
Deck / Landing	B Minimum Setbacks - B1: Front | B2: Side | B3: Rear
Accessory Structure	C Minimum Setbacks - C: All
Parking	
Sidewalk	
Right-of-Way	
Property Lines	

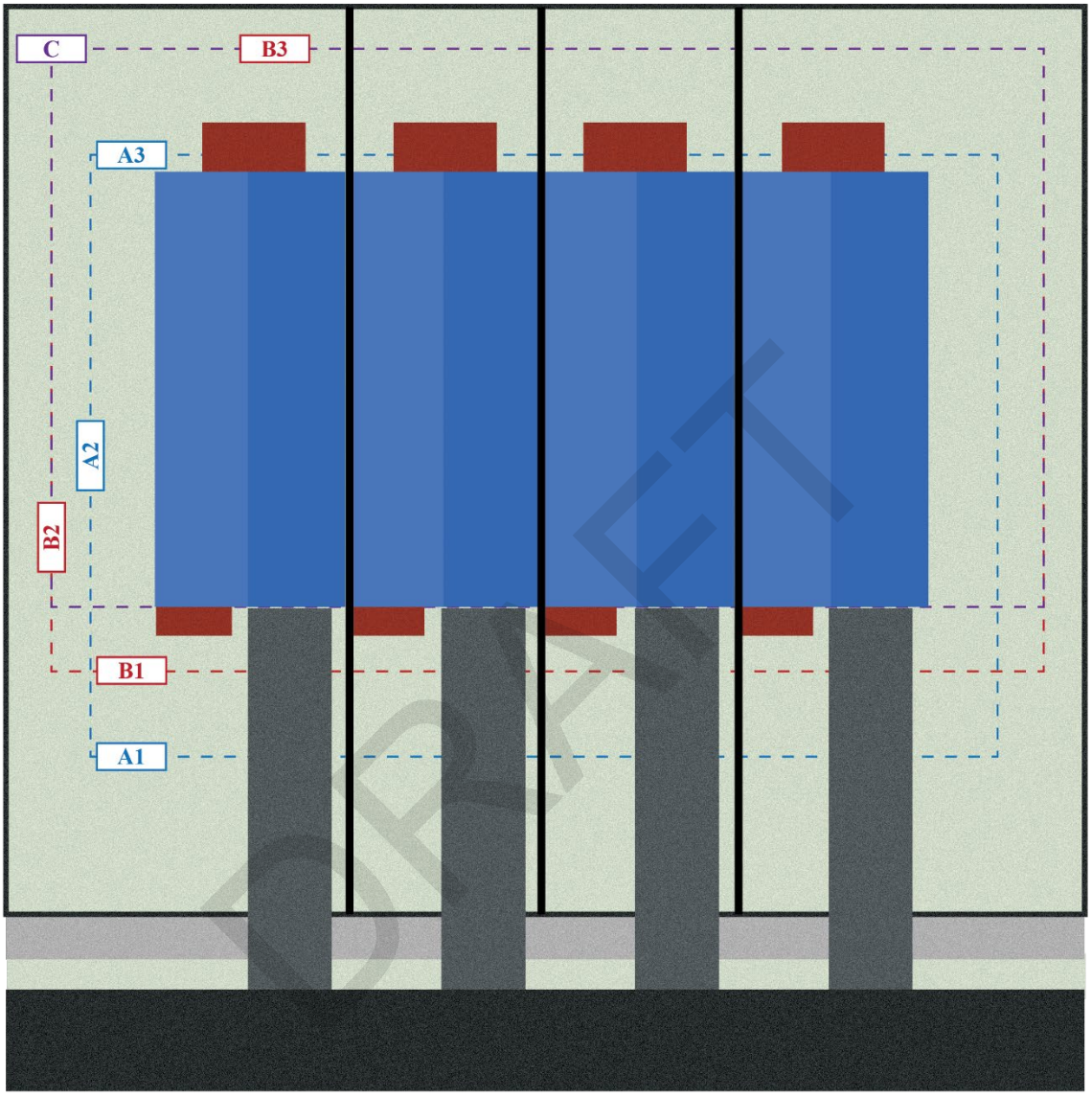
Figure IV-11. Townhouse, without Garage.



KEY:

Principal Structure	A Minimum Setbacks - A1: Front | A2: Side | A3: Rear
Deck / Landing	B Minimum Setbacks - B1: Front | B2: Side | B3: Rear
Accessory Structure	C Minimum Setbacks - C: All
Parking	
Sidewalk	
Right-of-Way	
Property Lines	

Figure IV-12. Townhouse, with Garage.



KEY:

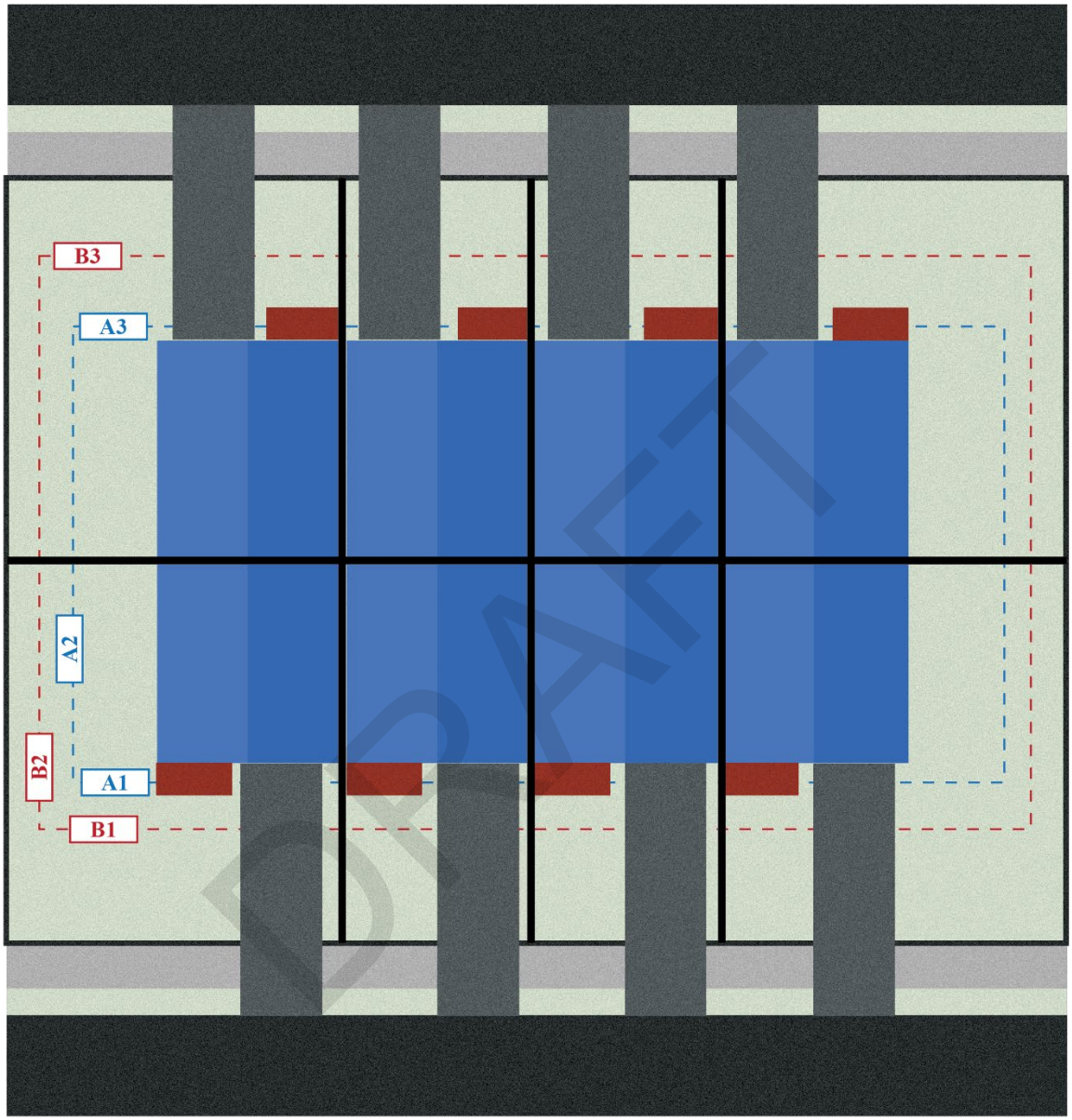
Principal Structure
Deck / Landing
Accessory Structure
Parking
Sidewalk
Right-of-Way
Property Lines

A Minimum Setbacks - A1: Front | A2: Side | A3: Rear

B Minimum Setbacks - B1: Front | B2: Side | B3: Rear

C Minimum Setbacks - C: All

Figure IV-13. Townhouse, Back-to-Back, with Garage.



KEY:

Principal Structure — A Minimum Setbacks - A1: Front | A2: Side | A3: Rear

Deck / Landing — B Minimum Setbacks - B1: Front | B2: Side | B3: Rear

Parking

Sidewalk

Right-of-Way

Property Lines

Figure IV-14. Garden Apartments.

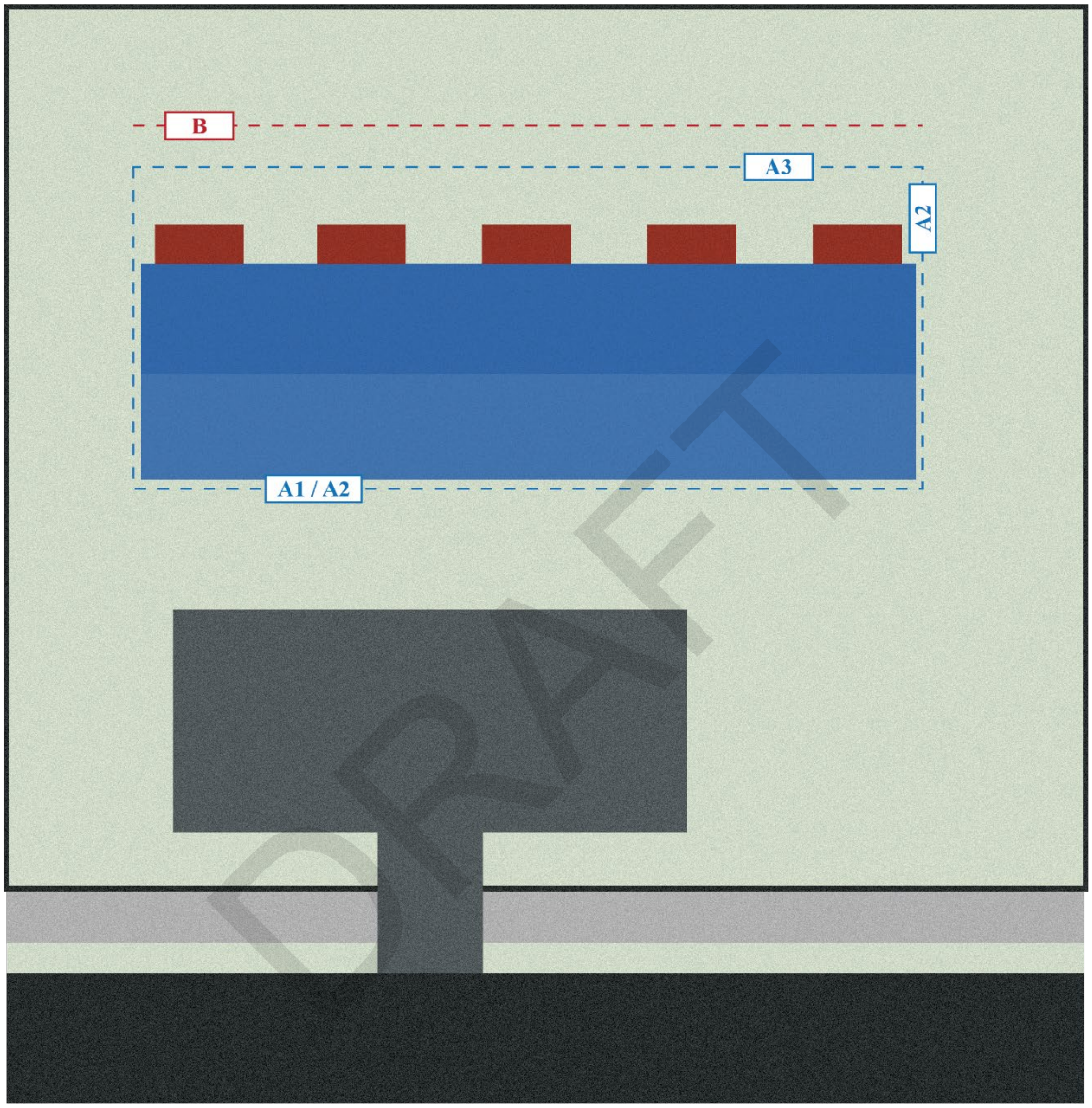
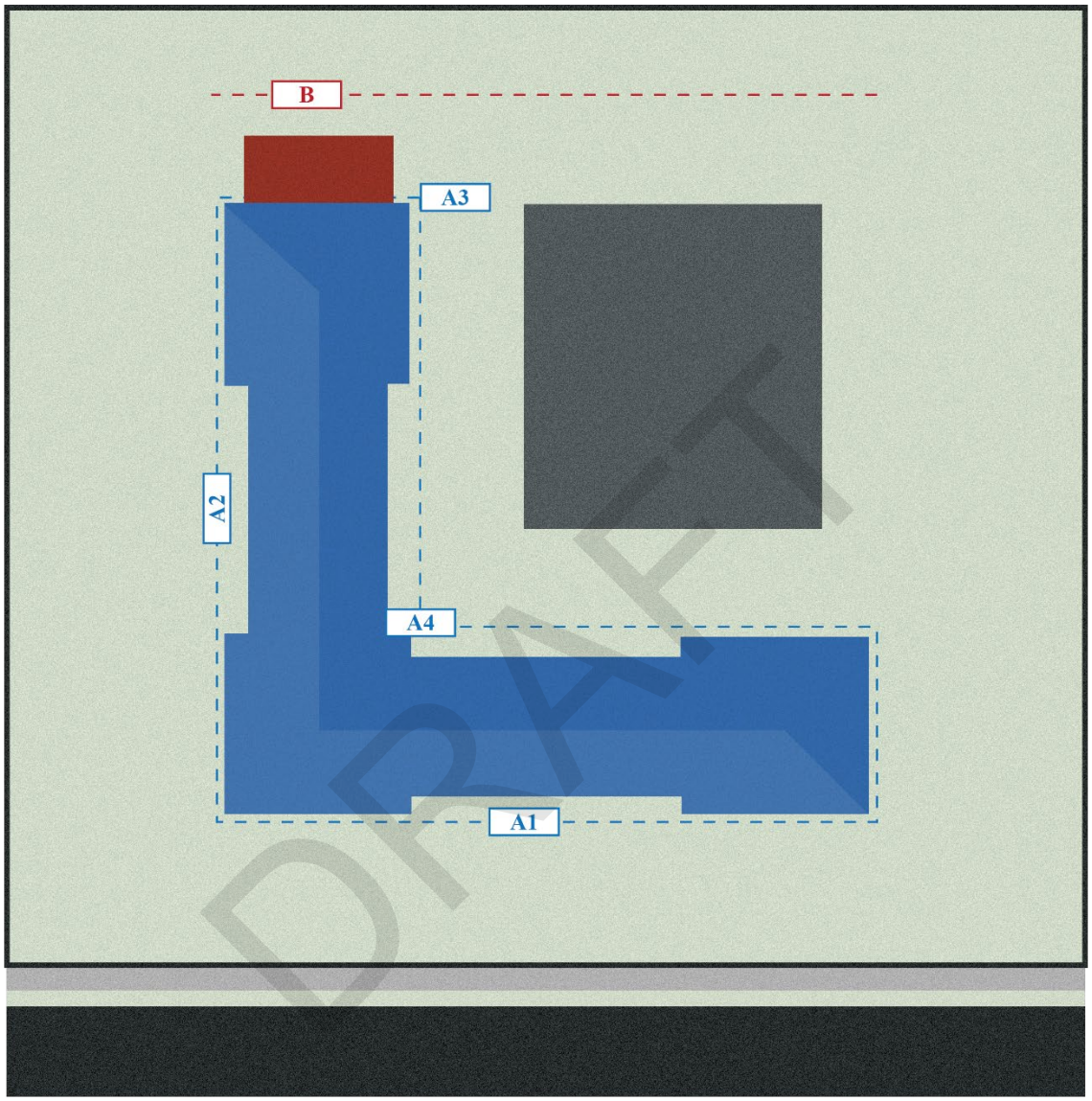


Figure IV-15. Multifamily Residential Buildings.



KEY:

Principal Structure

Balcony / Deck

Parking

Sidewalk

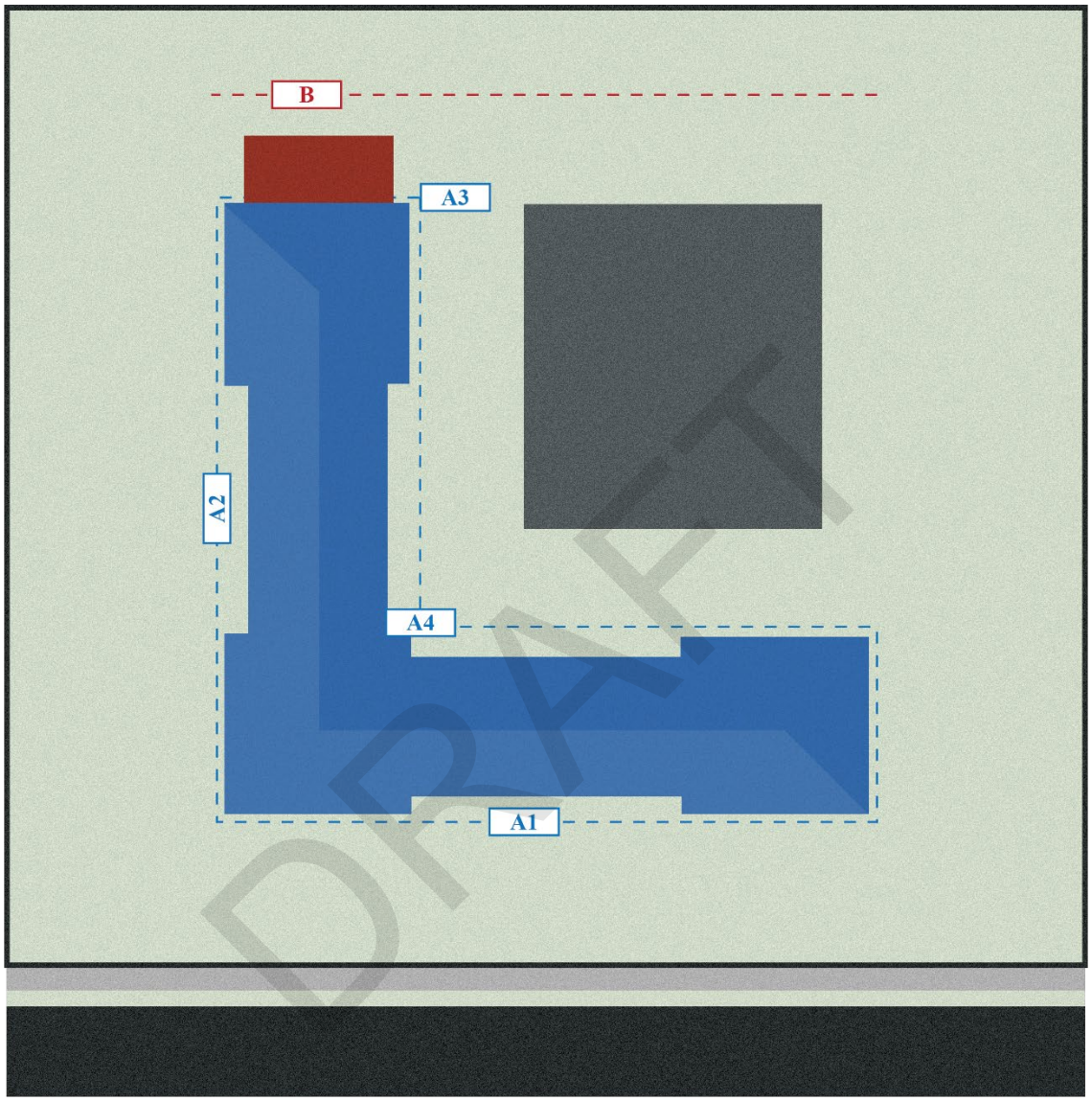
Right-of-Way

Property Lines

A Minimum Setbacks - A1: Front | A2: Side | A3: Rear | A4: From Parking

B Minimum Setbacks - B: Rear

Figure IV-16. Age-Restricted Multifamily Buildings.



KEY:

Principal Structure — A Minimum Setbacks - A1: Front | A2: Side | A3: Rear | A4: From Parking

Balcony / Deck — B Minimum Setbacks - B: Rear

Parking

Sidewalk

Right-of-Way

Property Lines

Section 165-405.02. MH1, Mobile Home Community District Standards.

Table IV-9. MH1 Mobile Home Community District Standards.		
	Individual Manufactured Home Sites	Total Community Area
Maximum Density (du/acre)		
		8
Minimum Lot Area		
All Lots	4,000 sq. ft.	
Minimum Required Setbacks		
Perimeter Setback		
Principal Structures		50 ft.
Accessory Structures	5 ft.	
Street ROW Setback		
Principal Structures	20 ft.	
Common areas, parking lots and sidewalks		
Principal Structures	10 ft.	
Minimum Distance Between Structures		
Principal Structures	20 ft.	

A. **General Requirements.**

(1) Manufactured homes may be located in planned developments on parcels of land under common ownership or as manufactured home subdivisions.

B. **Development Standards.**

(1) **Lots.** The corners of lots for each individual dwelling unit shall be clearly posted by permanent markers which shall be maintained.

(2) **Utilities.** Certification from the Virginia Department of Health (VDH) that each manufactured home lot will be provided with an approved source of water supply and an approved means of sewage disposal must be obtained before the manufactured home park will be approved.

i. Water and sewer service must be provided through a public or community systems.

ii. All community systems shall be dedicated to a public authority.

(3) **Streets.** Notwithstanding all applicable requirements of Chapter 144, Subdivision of Land, of the County Code, the following standards shall apply to all streets in all manufactured home parks:

i. **Public Streets**. All manufactured home lots in a manufactured home park shall have direct access to a dedicated public street which meets all requirements of the Virginia Department of Transportation (VDOT).

ii. **Private Streets**. The Board of Supervisors may allow new sections of existing manufactured 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:

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a. **Right-of-Way.**

(i). The minimum width for private streets in a manufactured home park shall be 30 feet.

(ii). Dead-end streets shall be provided with culs-de-sac, with a minimum radius of 40 feet.

b. **Pavement**.

(i). A minimum pavement width of 20 feet shall be provided, with a minimum shoulder width of six (6) feet.

(ii). The minimum paved radius for a cul-de-sac shall be 30 feet.

c. 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.

d. A surface of bituminous prime-and-double-seal treatment shall be applied on a base of no less than six (6) 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 manufactured home lots.

e. Street intersections shall generally be at right angles. Offsets at intersections and intersections of more than two (2) streets at one (1) point shall be avoided.

Part 406. Business Districts.

Section 165-406.01. Business District Standards.

Table IV-10. Business District Standards.

	B1, Neighborhood Business	B2, General Business	B3, Industrial Transition	HE, Higher Education
Minimum Lot Size				
All Lots				
Minimum Required Setbacks				
Front				
All Structures, *if front yard is on primary or arterial highway*	50 ft.			
All Structures, *if front yard is on collector or minor street*	35 ft.			
Side				
All Structures			15 ft.	15 ft.*
Rear				
All Structures			15 ft.	25 ft.*

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Table IV-10. Business District Standards.				
	B1, Neighborhood Business	**B2, General Business**	**B3, Industrial Transition**	**HE, Higher Education**
Minimum Lot Width				
All Lots				
Minimum Lot Depth				
All Lots				
Maximum Floor Area Ratio (FAR)				
All Lots	0.3	1.0		2.0
Maximum Height				
All Structures	35 ft.		35 ft.**	45 ft.

* When the adjacent use is single-family residences, an additional foot shall be added to the minimum side and rear yard setback, as measured from the respective yard boundary, for every foot that the height of the structure exceeds 45 feet.
** 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 exceed 45 feet in height.

A. **B-2, General Business District Development Standards.**

(1) The Board of Supervisors may require that more than 15% of the area of a site shall be landscaped in order to meet the intent of this Article.

i. 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.

Part 407. Industrial Districts.

Section 165-407.01. Industrial District Standards.

Table IV-11. Industrial District Standards.				
	TM, Technology-Manufacturing Park	**M1, Light Industrial**	**M2, Industrial General**	**EM, Extractive Manufacturing**
Minimum District Size				
All	10 contiguous acres			
Minimum Lot Size				
All Lots				
Minimum Required Setbacks				
Front				
	All Structures, *if front yard is on primary or arterial highway* 50 ft. All Structures, *if front yard is on collector or minor street* 35 ft.	*All Structures* 75 ft.		*All Structures* 75 ft. *Excavations* 100 ft.**
Side				

Table IV-11. Industrial District Standards.				
	TM, Technology-Manufacturing Park	**M1, Light Industrial**	**M2, Industrial General**	**EM, Extractive Manufacturing**
All Structures	15 ft.	25 ft.		25 ft. 100 ft.*** *if adjacent property is zoned RA, RP, R4, R5 or MH1*
Rear				
All Structures	15 ft.	25 ft.		25 ft.
Minimum Lot Width				
All Lots				
Minimum Lot Depth				
All Lots				
Maximum Floor Area Ratio (FAR)				
All Lots	2.0	1.0		
Maximum Height				
	Office Buildings 90 ft. *Automobile Parking Structures* 70 ft. *All Other Uses* 60 ft.	*All Structures* 60 ft.		*All Structures* 45ft.

** The Board of Supervisors 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.
*** The Board of Supervisors 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.

A. **TM, Technology Manufacturing Park Development Standards.**

(1) Any building facing a road ROW shall be faced on all sides with durable materials, including but not limited to painted two-tone precast concrete panels.

(2) Loading docks or loading entrances shall be completely screened from view from public streets and adjoining properties by six (6) foot tall opaque fencing, masonry walls, berms or a double row of evergreen tree plantings.

(3) Outdoor storage shall be limited to 35% of total lot area, be located outside of front setbacks, and shall be in conformance with § 165-808.01.

B. **EM, Extractive Manufacturing Standards.**

(1) **General**. All uses shall conform to applicable state, federal, and local regulations, including those governing noise and vibration.

(2) **Development Standards.**

i. 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 Board of Supervisors may reduce this yard requirement to a minimum of 200 feet.

ii. Appropriate landscaping or screening may be required by the Board of Supervisors within any required yard setback area in order to reasonably protect adjacent uses from noise, sight, dust or other adverse impacts.

Part 408. Planned Development Districts.

Section 165-408.01. R4, Residential Planned Community District Standards.

Table IV-12. R4 Residential Planned Community District Standards	
Minimum District Size	
All Lots/Total District	
Maximum Gross Density	
All Residential Uses	
Minimum and Maximum Commercial and Industrial Uses	
Total District	Minimum: 10% of gross area
All Other Dimensional Requirements	
All Structures or Lots	Areas shall be specifically designated for each different use on the MDP. 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. See Tables IV-3, IV-4, IV-5, IV-6, IV-8, or IV-9.

A. **General Standards.**

(1) **Alternative Dimensional Plan.** An alternative dimensional plan may be included with the MDP for the development. This plan shall describe a system of dimensional requirements for all planned uses in the development.

i. When these dimensional requirements are approved, they shall constitute enforceable amendments to this Ordinance, applying to the land included in the development, and shall replace other dimensional requirements contained in this Ordinance. Such alternative dimensional requirements shall be based on general concepts described by the plan submitted.

ii. The Planning Commission and Board of Supervisors shall only approve an alternative plan if the plan:

a. Meets all of the intentions of this Ordinance; and

b. Conforms to policies set forth in the Comprehensive Plan.

(2) **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.

i. 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.

ii. Essential street entrances to the planned residential community shall be provided with the initial phases of the development.

iii. 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.

B. **Development Standards.**

(1) **Housing Types.** 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.

i. 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, garden apartments, or any combination of those housing types.

(2) **Road Access.**

i. All planned community developments shall have direct access to an arterial or collector road or to roads improved to arterial or collector standards.

ii. The planned community development shall be provided with a complete system of public streets dedicated to the VDOT.

iii. All roads in the development shall be provided with curbing and gutters. The Zoning Administrator may approve certain exceptions to the requirement for curbs and gutters, if determined to be acceptable by the Director of Public Works, in order to implement a particular stormwater management plan.

iv. The road system shall conform with the Frederick County Comprehensive Plan and with road improvement plans adopted by the County.

(3) **Pedestrian Access.**

i. 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.

ii. Such walkways shall be connected with existing walkways adjacent to the planned community development.

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iii. All pedestrian access shall comply with applicable requirements of Section 144-302.07 of the County Code.

C. **Modifications; applicability of other regulations.** An applicant may request as part of an application for rezoning to the R4 District that a modification to specific requirements of Chapter 144 of the County Code, this Ordinance, or other requirements of the Frederick County Code applicable to physical development be granted.

(1) 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.

(2) The Board of Supervisors may approve or disapprove such request, in whole or in part, following review by the Planning Commission.

(3) 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:

i. Specification of the Code section(s) to be modified and the proposed alternative standard;

ii. Exhibits demonstrating application of the modified standard such as a detailed plan and/or elevation drawing; and

iii. Identification of the relationship of the modification to the overall community concept.

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

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Section 165-408.02. R5, Residential Recreational Community District Standards.

Table IV-13. R5 Residential Recreational Community District Standards	
Minimum District Size	
Total District	500 contiguous acres
Minimum Lot Area	
Townhouses in Age-Restricted Communities	2,000 square ft.
All Other Lots	Areas shall be specifically designated for each different use on the MDP. Within those areas, the uses shall meet the applicable dimensional requirements set forth for those uses in the RP, B1, and B2 Zoning Districts. See Tables IV-3, IV-4, IV-5, IV-6, or IV-8.
Maximum Gross Density	
All Residential Uses	2.3 du/acre
Minimum Required Setbacks*	
Front	

Table IV-13. R5 Residential Recreational Community District Standards		
Garden Apartments in Age-Restricted Communities	*If front yard is on a public road, greenway, or neighborhood collector*	35 ft.
	If front yard is on a local street, parking area, or driveway	20 ft.
Townhouses in Age-Restricted Communities	*If front yard is on a public road or greenway*	35 ft.
	If front yard is on a neighborhood collector, local street, parking area, or driveway	20 ft.
All Other Structures		Areas shall be specifically designated for each different use on the MDP. Within those areas, the uses shall meet the applicable dimensional requirements set forth for those uses in the RP, B1, and B2 Zoning Districts. See Tables IV-3, IV-4, IV-5, IV-6, or IV-8.
Side		
Garden Apartments in Age-Restricted Communities		50 ft. (perimeter boundary)
Townhouses in Age-Restricted Communities		30 ft. (perimeter boundary)
All Other Structures		Areas shall be specifically designated for each different use on the MDP. Within those areas, the uses shall meet the applicable dimensional requirements set forth for those uses in the RP, B1, and B2 Zoning Districts. See Tables IV-3, IV-4, IV-5, IV-6, or IV-8.
Rear		
Garden Apartments and Townhouses in Age-Restricted Communities		50 ft. (perimeter boundary)
All Other Structures		Areas shall be specifically designated for each different use on the MDP. Within those areas, the uses shall meet the applicable dimensional requirements set forth for those uses in the RP, B1, and B2 Zoning Districts. See Tables IV-3, IV-4, IV-5, IV-6, or IV-8.
Minimum Distance Between Structures		
Garden Apartments in Age-Restricted Communities	*Two-Story Buildings*	30 ft. front and side 50 ft. rear
	Three- and Four-Story Buildings	40 ft. side 50 ft. front and rear
Townhouses in Age-Restricted Communities		30 ft. side. 50 ft. front and rear
All Other Structures		Areas shall be specifically designated for each different use on the MDP. Within those areas, the uses shall meet the applicable dimensional requirements set forth for those uses in the RP, B1, and B2 Zoning Districts. See Tables IV-3, IV-4, IV-5, IV-6, or IV-8.
Minimum Lot Width		

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Table IV-13. R5 Residential Recreational Community District Standards	
Townhouses in Age-Restricted Communities	20 ft.
All Lots	Areas shall be specifically designated for each different use on the MDP. Within those areas, the uses shall meet the applicable dimensional requirements set forth for those uses in the RP, B1, and B2 Zoning Districts. See Tables IV-3, IV-4, IV-5, IV-6, or IV-8.
Minimum Lot Depth; Maximum Floor Area Ratio (FAR)	
All Lots	Areas shall be specifically designated for each different use on the MDP. Within those areas, the uses shall meet the applicable dimensional requirements set forth for those uses in the RP, B1, and B2 Zoning Districts. See Tables IV-3, IV-4, IV-5, IV-6, or IV-8.
Maximum Height	
Garden Apartments in Age-Restricted Communities	65 ft.
Townhouses in Age-Restricted Communities	35 ft.
Accessory Structures in Age-Restricted Communities	20 ft.
All Other Structures	Areas shall be specifically designated for each different use on the MDP. Within those areas, the uses shall meet the applicable dimensional requirements set forth for those uses in the RP, B1, and B2 Zoning Districts. See Tables IV-3, IV-4, IV-5, IV-6, or IV-8.
Maximum Commercial Uses	
Total District	6% of gross area
* With the townhouse housing type, decks may extend five (5) ft. into rear yard setback areas. If the townhouse housing type abuts open space, decks may extend up to 12 ft. into rear yard setback areas. Front porches, stoops and steps may extend 8 ft. into front yard setback areas.	

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A. **General Standards.**

(1) 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.

i. Recreational facilities shall be provided with each phase in proportion to the fraction of the total dwelling units in each phase.

ii. Essential street entrances to the planned residential community shall be provided with the appropriate phases of the development as scheduled on the approved MDP.

B. **Development Standards.**

(1) **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.

(2) **Sidewalk and Pedestrian Access.** In addition to street and sidewalk requirements in accordance with Section 144-302.07 of the Frederick County Subdivision Ordinance, the following shall apply:

i. 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.

ii. All sidewalks and pedestrian paths used as alternative access shall comply with the requirements of Section 144-302.07 of the Frederick County Code.

iii. Access shall be connected with existing travelways adjacent to the residential recreational community development.

iv. In age-restricted communities, at the time of MDP review, the Zoning Administrator 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 MDP.

(3) **Environmental Protection.** Upon recommendation of the Planning Commission, the Board of Supervisors may allow waivers of, or variations to, the environmental requirements of Article VIII, Community Development Standards, of this Ordinance in residential recreational communities.

i. Such waivers shall be shown on the MDP.

ii. In such cases, the environmental features and their function shall be preserved to the greatest extent possible.

(4) **Landscaping Alternative in Age-Restricted Communities.**

i. In age-restricted communities, the following landscaping alternative may be provided in lieu of that required in Article VIII, Community Development Standards, of this Ordinance when utilizing the single-family small lot housing type that front on private streets:

a. Minimum landscape plantings, in addition to the required street trees, shall be three (3) trees and 12 shrubs.

b. Trees shall be a minimum of two (2) inches in caliper at time of planting.

c. Shrubs shall be a minimum of 12 inches in height at time of planting.

C. **Street Standards.** The residential recreational community shall be provided with a complete system of public streets dedicated to VDOT. The road system shall conform with the Frederick County Comprehensive Plan and with road improvement plans adopted by the County.

(1) Within any portion of a residential recreational community, the Board of Supervisors may waive the public street requirement and allow for the installation of private streets, provided that a program for the perpetual maintenance of all streets is provided which is acceptable to the Board of Supervisors and the Zoning Administrator.

i. Developments utilizing private streets shall meet the following conditions:

a. The plan for the development shall include 1,000 or more planned lots;

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b. The subdivision design plans and final subdivision plats for all lots that utilize private streets shall include language that states, "The private streets within this development are not intended for inclusion in the system of state highways and will not be maintained by VDOT or Frederick County. Frederick County and VDOT have no, and will have no, responsibility for the maintenance, repair, or replacement of the private streets within this development. The maintenance and improvement of said private streets shall be the sole responsibility of the property owners' association.";

c. The developer shall establish a reserve fund dedicated solely for the maintenance of the private streets within the development. The reserve fund shall consist of a specified percentage of all dues collected from the residents as determined by the developer. The percentage may be reduced by the developer or the property owners' association (POA) only after a reserve study has been completed and said study shows that a lesser amount is necessary to maintain the private street system within the development. The POA shall complete a capital reserve study on a biennial basis, and such study will be used as the basis of the reserve funding. Such reserve study shall be held at the office of the POA and available for review by the County, if requested; and

d. Sales brochures or other literature and documents, provided by the seller of lots served by such private streets, shall include information regarding responsibility for maintenance, repair, replacement, and covenants pertaining to such lots, including a statement that the County has no, and will have no, responsibility for the maintenance, repair, or replacement of private streets.

ii. All private streets shall meet all VDOT standards for:

a. Structural section design;

b. Material composition and quality;

c. Construction standards, techniques, and workmanship quality;

d. Drainage and stormwater management systems; and

e. All the design, testing and materials, and in-place quality testing and as-built drawings for the road system must be certified by the developer, the builder, and a registered professional engineer in the Commonwealth of Virginia, that the roads meet all of VDOT structural and quality standards, and the plans are submitted to the Frederick County Engineer and the Frederick County Department of Planning and Development.

iii. Three (3) classes of private streets permitted shall be identified on an MDP as follows:

a. **Greenways**. All private streets with a projected Average Daly Traffic (ADT) count of over 3,000 shall have a minimum ROW 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 (2) inches at the time of planting, spaced not more than 50 feet apart. Along the portions of ROW which abut mature woodland, the Planning Director may waive the requirement for street trees. The horizontal center line geometrics and

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vertical profile design shall meet the VDOT criteria for subdivision streets with a design speed of 30 miles per hour (mph).

b. **Neighborhood collectors.** All private streets with a projected ADT count of over 400 shall have a minimum ROW 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 (2) 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.

c. **Local streets.** All private streets with a projected ADT count of 400 or less shall have a minimum ROW of 30 feet and may have lot frontage. Local streets shall be lined with street trees having a minimum caliper of two (2) 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.

iv. Within R-5 residential recreation community developments approved prior to 1980, the Board of Supervisors may allow the extension of existing private roads if no other means of access is available.

v. Within developments utilizing private streets, a certified professional engineer, licensed in the Commonwealth of Virginia, shall be employed by the developer to monitor and supervise:

a. The materials used;

b. The adequacy of the subgrade;

c. The installation of drainage structures, curb and gutter, and all concrete items; and

d. All road, driveway, and parking area construction activities, including material compaction, grading tolerances, and compliance with the plans and specifications.

vi. Prior to bond release, the certified professional engineer shall provide the County with certification that:

a. The bonded phase or section of construction met density requirements;

b. All material depths were verified for compliance; and

c. The road and parking areas have been constructed in strict accordance with the plans and specifications.

Section 165-408.03. General Standards for R4 and R5 Planned Development.

A. **Applicability.** The standards of this Section shall apply to all development in the R4 and R5 Zoning Districts.

B. **General Standards.**

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(1) All phases of a planned or recreational community development shall be included under a single property owners' association according to the requirements of Chapter 144, Subdivision of Land, of the County Code.

(2) When a rezoning includes proffers that specifically identify allowance for designated conditional uses on the property that is subject to the rezoning, subsequent approval of a Conditional Use Permit (CUP) for any such designated conditional use(s) shall not be required, as long as the use(s) takes place consistent with the terms of the proffers and any MDP required for the property.

C. **Development Standards.**

(1) The requirements of Chapter 143 of the County Code shall apply to the total residential planned or recreational community development.

(2) All residential planned and recreational community developments shall be served by public sewer and water facilities owned by or dedicated to a public authority.

Section 165-408.04. MS, Medical Support District Standards.

Table IV-14. MS Medical Support District Standards.

Minimum Lot Size		
Total District Area		20 acres
Maximum Residential Density		
CCRC		10 du/acre*
Single-family detached and single-family attached residential structures		1 du/3,000 SF
All Other Residential Uses		1 bedroom/1,000 SF
Minimum Required Setbacks		
*Front***		
Non-Residential Uses	*If front yard is on urban collector*	50 ft.
	If front yard is on urban local	35 ft.
Residential Uses***	*If front yard is on public urban local*	25 ft.
	If front yard is on private urban local	20 ft.
Side and Rear		
All Other Uses		None
Minimum Lot Width		
All Lots		None
Minimum Lot Depth		
All Lots		None
Maximum Floor Area Ratio (FAR)**		
Hospitals, office buildings, conference/events centers, wellness centers, and educational support services		2.0
All Other Uses		1.0
Maximum Height		

Table IV-14. MS Medical Support District Standards.	
Hospitals, office buildings, colleges/universities and libraries	90 ft.
Residential care facilities, nursing and personal care facilities, dormitories, garden apartments, and parking structures	70 ft.
All other uses permitted in MS	35 ft.

* 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. All other residential land uses shall provide a minimum of 1,000 square feet of average lot area per bedroom.
** 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.
*** 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.
****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 (1) parcel, or for the total site area of individual parcels in the development that are subdivided for development purposes.

A. **Development Standards.**

(1) 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.

(2) All manufacturing and wholesale support services must meet the Flex-Tech performance standards established in Article VII, Additional Regulations for Specific Uses, of this Ordinance.

(3) 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.

i. These identified areas shall begin at a distance of 25 feet from the structure and shall have a minimum width of 20 feet.

ii. 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.

(4) **Parking Lots.**

i. 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.

ii. 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 (3) feet in height above the finished grade developed at a slope of 3:1.

a. Evergreen shrubbery that is a minimum of two (2) feet tall at the time of planting shall be provided along the apex of the berm at a rate of 25 plantings per 100 linear

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feet. This element shall begin at the street ROW and end at the beginning of the parking lot.

b. Parking lots located between the urban local street and the building front shall be developed to the standards set forth in Article VIII, Community Development Standards, of this Ordinance.

(5) **Access Regulations.**

i. All land uses permitted in the MS district 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.

ii. 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 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.

iii. 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.

iv. Commercial entrances for permitted support services and entrances for related residential developments shall have a minimum spacing requirement satisfying VDOT spacing standards, from street intersections to provide for adequate vehicle stacking.

v. Driveways serving individual related residential land uses shall only be permitted along urban local streets.

vi. 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 Zoning Administrator may grant a waiver to this requirement if topographic constraints or land use conflicts prevent interparcel connectivity or make it undesirable.

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Article V. Overlay Districts.

Part 501. Establishment of Overlay Districts.

Section 165-501.01. Overlay Zoning District Establishment.

A. This Article establishes overlay districts, which apply additional standards to the development and design requirements of land in Frederick County. These district standards exist as overlays to the existing underlying zoning districts established in Article IV, Primary Zoning Districts, of this Ordinance. As such, the provisions for the overlay districts do not replace, but shall serve to supplement the underlying district provisions.

(1) If there is any conflict between the provisions or requirements of an overlay district and those of any underlying primary district, the more restrictive provisions will apply.

B. Frederick County is hereby divided into the following overlay districts:

Table V-1. Overlay Zoning Districts.	
All Overlay Districts	
AP1	Airport
FP	Floodplain
HA	Historic Area
IA	Interstate Area
TNDB	Traditional Neighborhood Design-Business

Part 502. AP1, Airport District.

Section 165-502.01. Purpose and 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 require 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 Part also provides for noise easements and noise abatement to protect adjoining zones from the exposure of airport noise.

Section 165-502.02. 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 Zoning Map which is part of this Ordinance.

B. 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.

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(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.

C. The source of the specific geometric standards for these zones is to be found in 14 C.F.R.§ 77.19 or in successor Federal Regulations.

Section 165-502.03. Height Limitations.

A. Except as otherwise provided in this Part, no structure shall be erected, altered, or maintained and no vegetation shall be allowed to grow in any zone created by this Ordinance to a height exceeding the height limit established for each zone.

(1) Where an area is covered by more than one (1) height limitation, the more restrictive limitations shall prevail.

B. Height limitations are hereby established for each of the zones in question as follows:

(1) **Approach Zone:** one (1) 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 (1) foot in height for each 40 feet in horizontal distance to a point 50,200 feet from the end of the runway.

(2) **Conical Zone:** one (1) 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.

(3) **Horizontal Zone:** 150 feet above the airport elevation or a height of 870 feet above mean sea level.

(4) **Transitional Zone:** one (1) foot in height for each seven (7) 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.

i. In addition to the foregoing, there are established height limits of one (1) foot vertical height for each seven (7) 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.

ii. Further, where the approach zone projects through and beyond the conical zone, a height limit of one (1) foot for each seven (7) 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.

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Section 165-502.04. Use Restrictions.

A. Notwithstanding any other provisions of this district and within the area below the horizontal limits of any zone established by this Part, no use may be made of land or water within any zone established by this Ordinance in such a manner as to:

(1) Create electrical interference with navigational signals or radio communication between the airport and aircraft;

(2) Diminish the ability of pilots to distinguish between airport lights and other lights;

(3) Result in glare in the eyes of pilots using the airport;

(4) Impair visibility in the vicinity of the airport;

(5) Create the potential for bird strike hazards; or

(6) Otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

B. No permit shall be granted that would allow the establishment or creation of an airport hazard or a hazard to air navigation.

C. 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.

Section 165-502.05. 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.

(1) It shall be the responsibility of the Department of Planning and Development 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.

Section 165-502.06. Nonconforming Uses.

A. 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 Ordinance or any amendments thereto or than it is when the application for a permit is made.

B. 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 Part.

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Section 165-502.07. Appeals.

A. Prior to being considered by the Board of Zoning Appeals (BZA), 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.

(1) Such variances shall only be allowed in accordance with Article III, Permits and Applications, of this Ordinance and the Code of Virginia.

B. A copy of the application shall be provided to the Executive Director of the Winchester Regional Airport Authority for advice as to the aeronautical effects of the variance prior to consideration by the BZA.

C. Any variance granted may be conditioned to require the owner of the structure in question to comply with Section 165-502.04.C., above.

(1) If deemed proper with reasonable cause by the BZA, 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 503. FP, Floodplain District.

Section 165-503.01. Purpose and Authority.

A. This Part is adopted pursuant to the authority granted to localities by Code of Virginia §§ 15.2-2200, 15.2-2280, and 15.2-2283 and may be referred to as the Frederick County Floodplain Overlay District, floodplain management overlay district, floodplain district, or flood hazard overlay district.

B. The purpose of these provisions is to prevent the:

(1) Loss of life and property;

(2) Creation of health and safety hazards;

(3) Disruption of commerce and governmental services;

(4) Extraordinary and unnecessary expenditure of public funds for flood protection and relief; and

(5) Impairment of the tax base by:

i. 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;

ii. Restricting or prohibiting certain uses, activities, and development from locating within districts subject to flooding;

iii. Requiring all those uses, activities, and developments that do occur in flood-prone districts to be protected and/or floodproofed against flooding and flood damage; and

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iv. Protecting individuals from buying land and structures which are unsuited for intended purposes because of flood hazards.

Section 165-503.02. Applicability.

These provisions shall apply to all privately and publicly owned lands within the jurisdiction of Frederick County and identified as Special Flood Hazard Areas (SFHA) according to the Flood Insurance Rate Map (FIRM) or included in the Flood Insurance Study (FIS) that are provided to Frederick County by the Federal Emergency Management Agency (FEMA).

Section 165-503.03. 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 Ordinance and any other applicable regulations which apply to uses within the jurisdiction of this Ordinance.

B. 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 basic underlying district provisions established in Article IV, Primary Zoning Districts, of this Ordinance, shall remain applicable.

C. The degree of flood protection sought by the provisions of this Ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study, but does not imply total flood protection.

(1) Larger floods may occur on rare occasions.

(2) Flood heights may be increased by man- made or natural causes, such as ice jams and bridge openings restricted by debris.

D. This Part 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.

E. This Part 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 Ordinance or any administrative decision lawfully made thereunder.

Section 165-503.04. Floodplain Administrator.

A. **Designation.** The Zoning Administrator is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator. In the absence of a designated Floodplain Administrator, the duties are conducted by the Frederick County Director of Planning and Development. The Floodplain Administrator may:

(1) Administer the duties and responsibilities herein;

(2) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees; and

(3) Enter into a written agreement or written contract with another locality or private sector entity to administer specific provisions of these regulations. Administration of any part of these

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regulations by another entity shall not relieve the County of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program (NFIP) as set forth in the Code of Federal Regulations at 44 CFR 59.22.

B. **Duties and Responsibilities.** The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:

(1) Review applications for permits to determine whether proposed activities will be located in the SFHA.

(2) Interpret floodplain boundaries and provide available Base Flood Elevation (BFE) and flood hazard information.

(3) Review applications to determine whether proposed activities will be reasonably safe from flooding and require new construction and substantial improvements to meet the requirements of these regulations.

(4) Review applications to determine whether all necessary permits have been obtained from the federal, state or local agencies from which prior or concurrent approval is required; in particular, permits from state agencies for any construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction (including bridges, culverts, structures), any alteration of a watercourse, or any change of the course, current, or cross section of a stream or body of water, including any change to the 100-year frequency floodplain of free flowing, nontidal waters of the state.

(5) Verify that applicants proposing an alteration of a watercourse have notified adjacent communities, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), and other appropriate agencies (VADEQ, U.S. Army Corps of Engineers) and have submitted copies of such notifications to FEMA.

(6) Approve applications and issue permits to develop in flood hazard areas if the provisions of these regulations have been met or disapprove applications if the provisions of these regulations have not been met.

(7) Inspect, or cause to be inspected, buildings, structures, and other development for which permits have been issued to determine compliance with these regulations or to determine if noncompliance has occurred or violations have been committed.

(8) Review elevation certificates and require incomplete or deficient certificates to be corrected.

(9) Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by or for Frederick County, within six (6) months after such data and information becomes available if the analyses indicate changes in BFEs.

(10) Maintain and permanently keep records that are necessary for the administration of these regulations, including:

i. FISs, FIRMs (including historic studies and maps and current effective studies and maps) and Letters of Map Change (LOMC); and

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ii. Documentation supporting issuance and denial of permits, elevation certificates, documentation of the elevation (in relation to the datum on the FIRM) to which structures have been floodproofed, other required design certifications, variances, and records of enforcement actions taken to correct violations of these regulations.

(11) Enforce the provisions of these regulations, investigate violations, issue notices of violations or stop-work orders, and require permit holders to take corrective action.

(12) Advise the BZA regarding the intent of these regulations and, for each application for a variance, prepare a staff report and recommendation.

(13) Administer the requirements related to proposed work on existing buildings, including:

i. Making determinations as to whether buildings and structures that are located in flood hazard areas and that are damaged by any cause have been substantially damaged;

ii. Making reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct; and

iii. Prohibiting the non-compliant repair of substantially damaged buildings except for temporary emergency protective measures necessary to secure a property or stabilize a building or structure to prevent additional damage.

(14) Undertaking, as determined appropriate by the Floodplain Administrator due to the circumstances, other actions which may include but are not limited to:

i. Issuing press releases, public service announcements, and other public information materials related to permit requests and repair of damaged structures;

ii. Coordinating with other Federal, State, and local agencies to assist with substantial damage determinations;

iii. Providing owners of damaged structures information related to the proper repair of damaged structures in SFHAs; and

iv. Assisting property owners with documentation necessary to file claims for Increased Cost of Compliance coverage under NFIP flood insurance policies.

(15) Notify FEMA when the boundaries of Frederick County have been modified and:

i. Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation; and

ii. If the FIRM for any annexed area includes SFHAs that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation, and a copy of the amended regulations shall be provided to the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.

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(16) Upon the request of FEMA, complete and submit a report concerning participation in the NFIP which may request information regarding the number of buildings in the SFHA, number of permits issued for development in the SFHA, and number of variances issued for development in the SFHA.

(17) Taking into account flood, mudslide, and flood-related erosion hazards, to the extent that they are known, in all official actions relating to land management and use throughout the entire jurisdictional area of Frederick County, whether or not those hazards have been specifically delineated geographically (e.g. via mapping or surveying).

Section 165-503.05. Records.

Records of actions associated with administering this Part shall be kept on file and maintained by or under the direction of the Floodplain Administrator in perpetuity.

Section 165-503.06. Administration.

A. **Use and Interpretation of FIRMs.** The Floodplain Administrator shall make interpretations, where needed, as to the exact location of SFHAs, floodplain boundaries, and floodway boundaries. The following shall apply to the use and interpretation of FIRMs and data:

(1) Where field-surveyed topography indicates that adjacent ground elevations:

i. Are below the BFE, even in areas not delineated as a SFHA on the FIRM, the area shall be considered as a SFHA and subject to the requirements of these regulations;

ii. Are above the BFE and the area is labelled as an SFHA on the FIRM, the area shall be regulated as a SFHA, unless the applicant obtains a LOMC that removes the area from the SFHA.

(2) In FEMA-identified SFHAs where BFE and floodway data have not been identified and in areas where FEMA has not identified SFHAs, any other flood hazard data available from a federal, state, or other source shall be reviewed and reasonably used.

(3) BFEs and designated floodway boundaries on FIRMs and in FISs shall take precedence over BFEs and floodway boundaries by any other sources if such sources show reduced floodway widths and/or lower BFEs.

(4) Other sources of data shall be reasonably used if such sources show increased BFEs and/or larger floodway areas than are shown on FIRMs and in FISs.

(5) If preliminary FIRM and/or a preliminary FIS has been provided by FEMA:

i. Upon the issuance of a Letter of Final Determination by FEMA, the preliminary flood hazard data shall be used and shall replace the flood hazard data previously provided from FEMA for the purposes of administering these regulations.

ii. Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall be deemed the best available data pursuant to Section 165-503.10, below, and used where no BFEs and/or floodway areas are provided on the effective FIRM.

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iii. Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data is permitted where the preliminary BFEs or floodway areas exceed the BFEs and/or designated floodway widths in existing flood hazard data provided by FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.

Section 165-503.07. Jurisdictional Boundary Changes.

A. The County floodplain ordinance in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements for participation in the NFIP. Municipalities with existing floodplain ordinances shall pass a resolution acknowledging and accepting responsibility for enforcing floodplain ordinance standards prior to annexation of any area containing identified flood hazards.

(1) If the FIRM for any annexed area includes SFHAs that have flood zones that have regulatory requirements that are not set forth in these regulations, the Board of Supervisors shall prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation, and a copy of the amended regulations shall be provided to the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.

B. In accordance with 44 C.F.R. § 59.22(a)(9)(v), all NFIP participating communities must notify the Federal Insurance Administration and, optionally, the State Coordinating Office in writing whenever the boundaries of the County have been modified by annexation or the County has otherwise assumed or no longer has authority to adopt and enforce floodplain management regulations for a particular area.

C. To ensure all FIRMs accurately represent the County's boundaries, a copy of a map of the County suitable for reproduction, clearly delineating the new corporate limits or new area for which the County has assumed or relinquished floodplain management regulatory authority must be included with the notification.

Section 165-503.08. District Boundary Changes.

A. 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 have been conducted or undertaken by the United States Army Corps of Engineers or other qualified agency or individual documenting the necessity for such change.

(1) Prior to any such change, FEMA approval must be obtained. A completed Letter of Map Revision (LOMR) is a record of this approval.

Section 165-503.09. Letters of Map Revision (LOMR).

A. The County's BFEs may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six (6) months after the date such information becomes available, the County shall notify FEMA of the changes by submitting technical or scientific data.

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(1) The County may submit data via an LOMR.

(2) Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates, and floodplain management requirements will be based upon current data.

B. When development in the floodplain will cause or causes a change in the BFE, the applicant, including state agencies, must notify FEMA by applying for a Conditional Letter of Map Revision (CLOMR) and then a LOMR. Examples may include, but are not limited to:

(1) Any development that causes a rise in the BFEs within the floodway.

(2) Any development occurring in Zones A1-30 and AE without a designated floodway, which will cause a rise of more than one (1) foot in the BFE.

(3) Alteration or relocation of a stream (including but not limited to installing culverts and bridges) in accordance with §§ 44 C.F.R 65.3 and 65.6(a)(12).

Section 165-503.10. Description of Special Flood Hazard Districts.

A. **Basis of Districts.** The various flood hazard districts shall include the SFHAs. The basis for the delineation of these districts shall be the FIS and the FIRM for Frederick County prepared by FEMA, dated January 29, 2021, and any subsequent revisions or amendments thereto.

(1) Frederick County may identify and regulate local flood hazard or ponding areas that are not delineated on the FIRM. These areas may be delineated on a Local Flood Hazard Map using best available topographic data and locally derived information such as flood of record, historic high-water marks, or approximate study methodologies.

(2) The boundaries of the SFHAs are established as shown on the FIRM which is declared to be a part of this Part, and which shall be kept on file at the Frederick County Department of Planning and Development.

B. **Description of Flood Hazard Zones.** The flood hazard zones described below constitute the Floodplain Overlay District.

(1) **General AE Zone.** Those areas for which one percent (1%) annual chance flood elevations have been provided and the floodway has been specifically defined in Table 2 of the above-referenced FIS and shown on the accompanying FIRMs.

i. The following provisions shall apply within the Floodway District of an AE Zone:

a. Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in flood levels within the County during the occurrence of the base flood discharge.

(i). 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.

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Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Floodplain Administrator.

b. Development activities which increase the water surface elevation of the base flood may be allowed, provided that the applicant first applies, with Frederick County's endorsement, for a CLOMR, and receives FEMA approval.

c. If Section 165-503.10, above, is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Sections 165-503.14 through 165-503.16, below.

d. 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.

ii. The AE Zone on the FIRM accompanying the FIS shall be those areas for which one percent (1%) annual chance flood elevations have been provided and the floodway has not been delineated. The following provisions shall apply within an AE Zone where FEMA has provided BFEs:

a. Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within the SFHAs, designated as Zones A1-30 and AE on the FIRM, 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 (1) foot at any point within Frederick County.

b. Development activities in Zones A1-30 and AE, on the Frederick County FIRM which increase the water surface elevation of the base flood by more than one (1) foot may be allowed, provided that the applicant first applies, with Frederick County's endorsement, for a CLOMR, and receives FEMA approval.

(2) **A Zone.** Those areas for which no detailed flood profiles or elevations are provided, but the one percent (1%) annual chance floodplain boundary has been approximated, as shown on the maps accompanying the FIS. For these areas, the following provisions shall apply:

i. The BFEs and floodway information from federal, state, and other acceptable sources shall be used, when available.

ii. Where the specific one percent (1%) annual chance 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 BFE.

iii. For development proposed in the approximate floodplain, the applicant must use technical methods that correctly reflect currently accepted practices, such as point on boundary, high-water marks, or detailed methodologies hydrologic and hydraulic

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analyses. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough review by the Floodplain Administrator.

iv. The Floodplain Administrator reserves the right to require a hydrologic and hydraulic analysis for any development. When such BFE data is utilized, the lowest floor shall be elevated to or above the base flood level no lower than one (1) foot above the BFE.

v. During the permitting process, the Floodplain Administrator shall obtain:

a. The elevation of the lowest floor (in relation to mean sea level), including the basement, of all new and substantially improved structures; and

b. If the structure has been floodproofed in accordance with the requirements of this Part, the elevation (in relation to mean sea level) to which the structure has been floodproofed.

vi. BFE data shall be obtained from other sources or developed using detailed methodologies comparable to those contained in an FIS for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed 50 lots or five (5) acres, whichever is the lesser.

(3) **X Zone.** If shaded on the FIRM, these are areas of the County where the annual flood risk is considered moderate at between one percent (1%) and 0.2 percent (0.2%). If unshaded, these are areas where the annual flood risk is considered low at below 0.2 percent (0.2%). There are no specific development requirements in the X Zone pursuant to this Part.

Section 165-503.11. Flood Insurance Rate Map (FIRM).

The boundaries of the SFHA and floodplain districts are established as shown on the FIRM, which are by reference made a part of this Ordinance and which shall be kept on file at the Frederick County Department of Planning and Development.

Section 165-503.12. Interpretation of District Boundaries.

A. 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 BZA shall make the necessary determination in accordance with Article III, Permits and Applications, of this Ordinance.

(1) The person questioning or contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the BZA and to submit technical evidence if they desire.

Section 165-503.13. Permit and Application Requirements.

A. **Permit Requirement.** All uses, activities, and development occurring within any floodplain district, including placement of manufactured homes, shall be undertaken only upon the issuance of a permit.

(1) Such development shall be undertaken only in strict compliance with the provisions of this Ordinance and with all other applicable codes and regulations, including but not limited to the

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Virginia Uniform Statewide Building Code (VA USBC), the Frederick County Subdivision Ordinance, and the Erosion and Sediment Control Ordinance.

(2) 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.

(3) 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.

(4) 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. **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) For structures to be elevated, the elevation of the lowest floor (including basement);

(3) For structures to be floodproofed (nonresidential only), the elevation to which the structure will be floodproofed; and

(4) Topographic information showing existing and proposed ground elevations.

C. **Standards for Subdivision Proposals.**

(1) All subdivision proposals shall:

i. Be consistent with the need to minimize flood damage;

ii. Have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage; and

iii. Have adequate drainage provided to reduce exposure to flood hazards.

(2) In A Zones, BFE data shall be obtained from other sources or developed using detailed methodologies, hydraulic and hydrologic analysis, comparable to those contained in a FIS for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions) that exceed 50 lots or five (5) acres, whichever is the lesser.

D. **Alteration or Relocation of Watercourse.** In addition to the other applicable provisions of this Part, the following additional provisions shall apply in all SFHAs:

(1) 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, VADEQ, and the Virginia Marine Resources Commission (a joint permit application is available from any of these organizations).

i. Furthermore, in riverine areas, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and Recreation

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(Division of Dam Safety and Floodplain Management), other required agencies, and FEMA.

(2) The flood-carrying capacity within an altered or relocated portion of any watercourse shall be maintained.

Section 165-503.14. General Standards.

A. In all identified flood hazard areas where BFEs have been provided in the FIS or generated by a certified professional in accordance with Section 165-503.10, above, the following provisions will apply:

(1) New construction and substantial improvements shall be:

a. Built according to the VA USBC, and anchored to prevent flotation, collapse, or lateral movement of the structure.

b. Constructed with materials and utility equipment resistant to flood damage.

c. Constructed by methods and practices that minimize flood damage.

(2) 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.

(3) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(4) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.

(5) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

Section 165-503.15. Elevation and Construction Standards.

A. In all SFHAs where BFEs have been provided in the FIS or generated by a certified professional according to Section 165-503.10.C. of this Ordinance, the following provisions shall apply:

(1) **Residential Construction.** New construction or substantial improvement of any residential structure (including manufactured homes) in Zones A1-30, AE, AH, and A with detailed BFEs shall have the lowest floor, including basement, elevated no lower than one (1) foot above the BFE.

(2) **Nonresidential Construction.** New construction or substantial improvement of any commercial, industrial, or nonresidential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than one (1) foot above the BFE.

i. Nonresidential buildings located in all A1-30 and AE Zones may be floodproofed in lieu of being elevated, provided that all areas of the building components below the elevation corresponding to the BFE plus one (1) foot are:

a. Watertight with walls substantially impermeable to the passage of water; and

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b. Using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy.

ii. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied.

(3) **Space Below the Lowest Floor.** In Zones A, AE, and A1-A30, fully enclosed areas, of new construction or substantially improved structures, which are below the regulatory flood protection elevation shall:

i. 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);

ii. Be constructed entirely of flood-resistant materials below the regulatory flood protection elevation;

iii. Include 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 (2) 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 (1) 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.

(4) **Accessory Structures.** Accessory structures in the SFHA shall comply with the elevation requirements and other requirements of A.(2), above, or, if not elevated or dry floodproofed, shall:

i. Not be used for human habitation;

ii. Be limited to no more than 600 square feet in total floor area;

iii. Be usable only for parking of vehicles or limited storage;

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iv. Be constructed with flood-damage-resistant materials below the BFE;

v. Be constructed and placed to offer the minimum resistance to the flow of floodwaters;

vi. Be anchored to prevent flotation;

vii. Have electrical service and mechanical equipment elevated to or above the BFE; and

viii. Be provided with flood openings which shall meet the following criteria.

a. There shall be a minimum of two (2) flood openings on different sides of each enclosed area; if a building has more than one (1) enclosure below the lowest floor, each such enclosure shall have flood openings on exterior walls.

b. The total net area of all flood openings shall be at least one (1) square inch for each square foot of enclosed area (nonengineered flood openings), or the flood openings shall be engineered flood openings that are designed and certified by a licensed professional engineer to automatically allow entry and exit of floodwaters.

(i). The certification requirement may be satisfied by an individual certification or an evaluation report issued by the ICC Evaluation Service, Inc.

c. The bottom of each flood opening shall be one (1) foot or less above the higher of the interior floor or grade, or the exterior grade, immediately below the opening.

d. Any louvers, screens or other covers for the flood openings shall allow the automatic flow of floodwaters into and out of the enclosed area.

(5) **Standards for Manufactured Homes and Recreational Vehicles.**

i. 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.

ii. In zones A and AE, all manufactured homes placed, or substantially improved, on individual lots or parcels must meet all the requirements for new construction, including the elevation and anchoring requirements in Sections 165-503.13 through 165-503.17. of this Ordinance.

iii. All recreational vehicles placed on sites must either:

a. Be on the site for fewer than 180 consecutive days, 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

b. Meet all the requirements for manufactured homes in A.(5)i., above.

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Section 165-503.16. Existing Structures in Floodplain Areas.

A. Any structure or use of a structure or premises must be brought into conformity with these provisions when it is changed, repaired, or improved unless one (1) of the following exceptions is established before the change is made:

(1) The Floodplain Administrator has determined that:

i. Change is not a substantial repair or substantial improvement; and

ii. No new square footage is being built in the floodplain that is not compliant; and

iii. No new square footage is being built in the floodway; and

iv. The change complies with this Part and the VA USBC; and

(2) The changes are required to comply with a citation for a health or safety violation.

(3) The structure is a historic structure, and the change required would impair the historic nature of the structure.

Section 165-503.17. 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 Article II, Administration, of this Ordinance.

(1) The VA USBC addresses building code violations and the associated penalties in Section 104 and Section 115.

B. In addition to the above penalties, all other actions are hereby reserved, including an action in equity for the proper enforcement of this Article. The imposition of a fine or penalty for any violation of, or noncompliance with, this Article shall not excuse the violation or noncompliance or permit it to continue.

(1) All such persons shall be required to correct or remedy such violations or noncompliance within a reasonable time. Any structure constructed, reconstructed, enlarged, altered or relocated in noncompliance with this Article may be declared by Frederick County to be a public nuisance and abated as such.

C. Flood insurance may be withheld from structures constructed in violation of this Article.

Part 504. HA, Historic Area Overlay Zone.

Section 165-504.01. Purpose and Intent.

A. In accordance with Code of Virginia §§ 15.2-2283 and 15.2-2306, the Historic Area (HA) 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:

(1) Foster civic pride and an appreciation for historic values;

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(2) Maintain and improve property values by providing incentives for upkeep and rehabilitation;

(3) Protect and enhance the County's attractiveness to tourists and visitors;

(4) Provide for the education and general welfare of the people of the County; and

(5) Encourage nomination of qualified historic properties to the state and national registers.

Section 165-504.02. Establishing Overlay Boundaries.

A. HA Zones may be created by amending this Ordinance as provided for in Article III, Permits and Applications, of this Ordinance.

B. 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 a historic area.

(1) 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.

(2) A public hearing shall be held by the Board of Supervisors prior to adoption of a proposed HA zone.

i. Notice shall be sent to all property owners in accordance with Article III, Permits and Applications, of this Ordinance.

a. The Board of Supervisors shall alter the boundaries of the proposed zone to exclude those property owners expressing opposition.

(3) 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 may be adopted by the Board of Supervisors and applied to the zone created.

(4) 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 (2) years.

Section 165-504.03. Criteria for Determining Historic Significance.

A. The significance of a 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:

(1) **Architectural Style.**

i. Presence of distinguishing characteristics of a recognized style.

ii. Significance of architectural design.

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iii. Scale and/or interrelationship of structures and/or environmental features.

iv. Significant patterns of development.

v. Quality of workmanship.

vi. Amount of surviving original material.

vii. Original location and/or use.

viii. Remaining outbuildings or dependencies.

ix. Surrounding environment, gardens, landscaping and walks.

x. Overall aesthetic quality.

xi. Original integrity of the structure and its details.

(2) **Historic and/or Cultural Significance.**

i. Association with historic person.

ii. Association with historic events.

iii. Work of leading architect or master craftsman.

iv. Site or structure of cultural significance.

(3) **Additional Information.**

i. 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.

ii. A list of structures within the zone which notes which structures are contributing and which are not. Surviving building types and structures which are not historic in themselves, but adding to the character of a historic area, should be evaluated as potentially deserving preservation.

iii. An analysis of lands not occupied by structures, including lands near and visually related to the district.

a. For public lands, ownership, use, and location shall be indicated.

b. For private lands, assessed valuation shall be added as well as existing zoning and planned land use.

iv. 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.

a. 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.

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Section 165-504.04. Use Regulations.

Within the Historic Area Overlay Zone, general regulations and permitted uses shall be the same as provided within the respective underlying zoning districts, as established in Article VI, Use Matrix, of this Ordinance, except where such regulations are modified or amended by recommendation of the HRAB and adoption of the Board of Supervisors.

Section 165-504.05. Guidelines for New Construction or Alterations.

A. **General Standards.**

(1) The HRAB may use reasonable discretion in determining an applicant's degree of compliance, as long as a proposed design is consistent with the purpose and intent of the HA Zone.

B. **Development Standards.**

(1) New construction should speak of the historical era within the particular HA Overlay Zone and should not seek to replicate or reproduce existing features but complement the existing historic architecture and character.

i. Franchise architecture should be avoided in HA Overlay Zones.

(2) All new construction should:

i. Protect and preserve significant archaeological resources.

ii. Maintain a height and scale which is compatible with adjacent buildings and other existing structures in the historic area.

C. **Screening.**

(1) Items such as mechanical equipment, meters, transformers, HVAC equipment and dumpsters should be visually screened from public view.

D. **Parking.**

(1) Parking areas should be designed to maintain the integrity of an area's historic nature by minimizing the dominance of the automobile and reducing the visual impact of parking areas.

(2) Parking areas should be placed as to not de-emphasize the main structures in the HA Overlay Zone.

(3) Parking areas within an HA Zone shall conform to the parking space and landscaping requirements of Article VIII, Community Development Standards, of this Ordinance, but shall not be subject to the surface materials and curbs and gutters requirements unless necessary for erosion and sediment control or stormwater management purposes.

(4) Parking areas within HA Zones shall be permitted to utilize brick, pavers, reinforced gravel systems, or similar materials so long as a dust-free environment is maintained.

(5) Parking surfaces comprised solely of unfortified grass areas are not acceptable.

E. **Signs.**

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(1) Freestanding signage shall conform to the requirements of Article VIII, Part 809, of this Ordinance.

(2) Wall-mounted signs shall be limited to a height of 20 feet above grade.

(3) One (1) building-mounted sign not to exceed 50 square feet shall be permitted per building face.

Part 505. IA, Interstate Area Overlay District.

Section 165-505.01. Purpose and Intent.

A. The Interstate Area (IA) 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 Article VIII, Part 809 of this Ordinance. This flexibility is provided to inform the traveling public of business service opportunities at specific interstate interchange areas.

B. The standards within this Part 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.

C. 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.

Section 165-505.02. District Boundaries.

Properties included within the IA Overlay District shall be delineated on the Official Zoning Map for Frederick County.

Section 165-505.03. Establishment of Districts.

A. The Board of Supervisors may apply the IA 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; and

(3) The property has met the requirements of Article I, General Provisions, of this Ordinance, as well as the requirements of Code of Virginia § 15.2-2286.A.7.

Section 165-505.04. District Regulations.

A. **Permitted Signs.** Signs permitted in the underlying zoning district(s) shall be permitted in addition to those established in this Section.

B. **Prohibited Signs.** Signs prohibited in the underlying zoning district(s) shall be prohibited in the IA Overlay district.

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C. **Number of Freestanding Commercial Business Signs.** On any parcel within the IA Overlay District, one (1) interstate overlay sign that complies with the requirements set forth in this Part 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 for the underlying zoning district as established in Article IV, Primary Zoning Districts, of this Ordinance.

(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 or HE zoning districts, or any property which has a residence as its primary use, the setback shall be the normal setback plus one (1) foot for every foot over the maximum height of the underlying zoning district(s).

(3) The Board of Supervisors may waive any portion of the setback described in (2), above, 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 Section 165-809.03.D. of this Ordinance and shall meet all other applicable spacing requirements.

F. **Maximum Size.** No interstate overlay sign shall exceed a total of 300 square feet in area.

(1) When more than one (1) qualifying use is located on a single parcel within the IA Overlay District, a single support structure may be erected which contains one (1) or more signs, the total combined square footage of which shall not exceed 500 square feet in area.

G. **Illumination.** Direct and reflected light from any illuminated IA overlay sign shall comply with the applicable requirements of Article VIII, Community Development Standards, of this Ordinance.

H. **Maintenance and Permits.**

(1) All signs that are erected in the IA Overlay District shall meet the maintenance and permit requirements as specified in Article VIII, Part 809, of this Ordinance.

(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:

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Table V-2. Maximum Heights for Interstate Overlay Signs.		
Exit Number	Exit Name	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 506. TNDB, Traditional Neighborhood Design-Business Overlay District.

Section 165-506.01. Purpose and Intent.

A. The Traditional Neighborhood Design-Business (TNDB) Overlay District is intended to implement the adopted Comprehensive Plan goals to advance and promote the health, safety, and general welfare of the public and the orderly development of Frederick County by:

(1) Supporting a business climate conducive to economic activity and orderly economic growth;

(2) Providing a variety of housing types and locations to meet the varied needs and income levels of the County's present and future population; and

(3) Providing for adequate and safe pedestrian and bicycle travel and promoting traditional neighborhood design in urban centers and neighborhood villages.

B. The TNDB Overlay District provides parcels within the following locations with the ability to utilize traditional neighborhood design criteria that are different from the criteria specified in Article IV, Primary Zoning Districts, of this Ordinance:

(1) The County's Urban Development Area (UDA); or

(2) 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 (SWSA).

(3) All 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.

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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.

Section 165-506.02. District Boundaries.

Properties that are included within the TNDB Overlay District shall be delineated on the Official Zoning Map for Frederick County.

Section 165-506.03. Establishment of Districts.

The Board of Supervisors may apply the TNDB Overlay District, following the procedures of Article III, Permits and Applications of this Ordinance, to properties of less than 20 acres in the B1 and B2 Zoning Districts, upon concluding that the parcel(s) meet the criteria established in 165-506.01.B., above., and that the requirements of this Part will not have an adverse impact on adjoining properties whose primary use is residential.

Section 165-506.04. Use and Dimensional Regulations.

A. **Uses Allowed.** Any use allowed in the underlying zoning district shall be allowed.

(1) 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. **Dimensional and Intensity Requirements.** The following dimensional and intensity requirements shall apply and supersede those of the underlying zoning district:

Table V-3. TNDB Dimensional and Intensity Requirements.	
Maximum Residential Density	10 dwelling units/acre
Minimum Front Yard Setback on Primary or Arterial Highways	30 ft.
Maximum Front Yard Setback on Primary or Arterial Highways	50 ft.
Minimum Front Yard Setback on Collector or Minor Streets	10 ft.
Maximum Front Yard Setback on Collector or Minor Streets	20 ft.
Side Yard Setbacks	
Rear Yard Setbacks	
Floor Area to Lot Area Ratio (FAR)	1.00

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Table V-3. TNDB Dimensional and Intensity Requirements.	
Minimum Landscaped Area (Percentage of Lot Area)	15%
Maximum Height	60 ft.
Maximum Number of Habitable Floors	3

C. 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.

D. All other applicable dimensional and intensity requirements of Article IV, Primary Zoning Districts, of this Ordinance shall apply.

Section 165-506.05. Off-Street Parking; Parking Lots.

A. Off-street parking shall be provided on each lot or parcel on which any use is established according to the requirements of Part.

B. **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.

Table V-4. Required Off-Street Parking for Residential Dwelling Units in TNDB.	
Number of Bedrooms	Off-Street Parking Spaces
Efficiency	1.0
1	1.0
2+	2.0

(2) Required parking spaces for commercial uses shall be in accordance with Article VIII, Part 804, of this Ordinance.

i. 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.

(3) On-street parking can be counted towards meeting the required parking in Article VIII, Part 804, of this Ordinance, provided such parking is located within 400 feet of the subject principal use.

C. Areas devoted to parking or circulation of vehicles shall not be located in the front yard, nor shall such areas be located closer to the street than the primary structure on the lot.

D. All other regulations concerning off-street parking and parking lots shall be as required in Article VIII, Part 804, of this Ordinance.

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Section 165-506.06. Design Standards.

A. **Purpose.** 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.

(1) Entrances at building corners may be used to satisfy this requirement.

(2) 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 (2) and eight (8) 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 two percent (2%) of the total acreage of the site, whichever is greater.

(1) At least one (1) side of the plaza shall adjoin a road.

(2) The plaza shall include public amenities, such as ponds, fountains, public areas, plant beds, benches, drinking fountains, clock pedestals, and other similar features.

(3) Buildings that adjoin the plaza shall be a minimum of two (2) stories.

E. **Sidewalks and Pedestrian Ways.** Sidewalks shall be installed along all building entrances and along all streets.

(1) Sidewalks located along primary building entrances utilized for the general public shall be a minimum of 10 feet wide.

(2) All other sidewalks shall be a minimum of five (5) 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.

(1) 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 Article VIII, Part 802 of this Ordinance for the underlying zoning district.

(2) Any residential dwelling units shall be treated as commercial floor space solely for the purpose of buffers and screening requirements.

(3) Zoning district buffers shall not be required along any existing right-of-way (ROW) which borders the development.

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(4) The Board of Supervisors may grant a waiver to reduce the required buffer distance requirements with the consent of the adjacent (affected) property owners.

i. Should a waiver be granted, the distance requirements of Article VIII, Part 802, of this Ordinance may be reduced, provided the full screening requirements of the section are met.

(5) Loading areas shall be landscaped, screened and buffered from view as seen from adjoining streets and residential areas.

H. **Street Trees.**

(1) One (1) street tree shall be provided for every 30 feet of street frontage.

(2) Street trees shall be planted no more than 10 feet from any ROW.

(3) Acceptable trees shall be based on the list of street trees included in the Frederick County Master Planting List.

(4) Street trees shall be a minimum of three (3)-inch caliper at the time of planting.

Section 165-506.07. Master Development Plan (MDP).

A. The Director of Planning and Development may waive the requirements of an MDP in the TNDB Overlay District for:

(1) Sites less than 10 acres in accordance with Section 165-306.03.A.(1) and D. of this Ordinance; or

(2) Any site, provided that a proffer statement, accepted by the Board of Supervisors, associated with the development contains a plan which shows:

i. The proposed location and arrangement of all street and utility systems.

ii. The proposed location of entrances to the development from existing streets.

iii. A conceptual plan for stormwater management and description of the location of all stormwater facilities designed to serve more than one (1) parcel.

iv. The location and treatment proposed for all historical structures and sites recognized as significant by the Board of Supervisors or as identified on the Virginia Historical Landmarks Commission Survey for Frederick County.

B. All other regulations concerning MDPs shall be as required in Article III, Permits and Applications, of this Ordinance.

Section 165-506.08. 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 (6) square feet on any side of the building.

(2) The distance from the lower edge of the signboard to the ground shall be eight (8) feet or greater.

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(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 (6) inches.

(5) The width of the signboard shall not exceed three (3) feet.

B. **Awning Signs.** Where awnings are provided over windows or doors, awning signage is permitted with the following provisions:

(1) Maximum of eight (8) square feet of signage area on an awning.

(2) No backlit awnings are allowed.

C. **Wall-Mounted Signs.** 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.

(1) Wall-mounted signs shall not exceed 18 feet in height.

D. **Freestanding Signs.** Freestanding business signs shall not exceed 50 square feet in area and 12 feet in height.

E. **All Other Signs.** All other sign regulations shall be as required in Article VIII, Community Development Standards, of this Ordinance for the underlying zoning district.

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Article VI. Use Matrix.

Part 601. In General.

Section 165-601.01. Organization.

A. The Use Matrix in this Article organizes permitted uses by zoning districts and use types. The Use Matrix; Article VII, Additional Regulations for Specific Uses; and Article XI, Definitions, of this Ordinance, together provide a systematic basis for identifying and organizing uses and distinguishing whether a particular use is allowable in a particular zoning district.

(1) **Use Classifications.** Use classifications by zoning districts identify broad general classifications of land use and include agricultural uses; residential uses; public, civic, and recreational uses; commercial uses; industrial uses; and miscellaneous uses.

(2) **Use Types.** The specific use types identify the specific principal uses that fall within each classification.

Section 165-601.02. Use Matrix Abbreviations.

A. **Permitted Uses.** "P" in a Use Matrix cell indicates that the use type in that row is permitted by-right in the zoning district at the head of that column, subject to any performance standards required by Article VII, Additional Regulations for Specific Uses, of this Ordinance.

B. **Conditional Uses.** "CUP" in a Use Matrix cell indicates that the use type in that row is allowed in the zoning district at the head of that column only upon approval of a Conditional Use Permit, in accordance with Article III, Permits and Applications, and subject to any performance standards in Article VII, Additional Regulations for Specific Uses, of this Ordinance.

C. **Accessory Uses.** "A" in a Use Matrix cell indicates that the use type in that row is permitted as an accessory use incidental to a permitted or specially permitted use in the zoning district at the head of that column, subject to any performance standards required by Article VII, Additional Regulations for Specific Uses, of this Ordinance.

D. **Prohibited Uses.** A blank cell in the Use Matrix indicates that the use type in that row is prohibited in the zoning district at the head of that column.

Part 602. Uses Not Provided.

Section 165-602.01. Uses Not Provided.

A. The Zoning Administrator shall determine whether an unlisted use is part of an existing use classification or use type as defined in Article XI, Definitions, of this Ordinance. Upon determining the most similar use type, the Zoning Administrator shall treat the proposed use the same as the most similar one.

(1) If the Zoning Administrator determines that the proposed use is not similar to any listed use type, that use is prohibited.

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Part 603. Use Permissions.

Section 165-603.01. Primary and Accessory Uses.

A. If a use is identified as accessory in the use matrix, within the definition of the primary use, or is otherwise determined by the Zoning Administrator to be incidental and customarily associated with the primary use, a separate zoning permit is not required for the accessory use.

(1) Notwithstanding the above, when permitted accessory uses that are typically found in association with the allowed primary use are located on the same lot as the primary use, secondary uses shall meet the requirements of this Ordinance as well as any particular standard imposed on such use in Article VII, Additional Regulations for Specific Uses, of this Ordinance.

Section 165-603.02. Use Matrix.

[Table VI-1, Use Matrix, begins on the following page.]

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Use Type	Primary Zoning Districts														Use Performance Standards
	RA	RP	MH1	R4	R5	MS	B1	B2	B3	TM	M1	M2	EM	HE	
	P = Permitted CUP = Permitted w/Conditional Use Permit A = Accessory														
AGRICULTURAL															
Agricultural Supply Cooperatives	**CUP**														**165-701.01**
Agriculture, Farming, Dairies, Animal Husbandry, and Forestry	**P**												**P**		
Agritourism	**P**														
Backyard Chickens and Chicken Coops	**P**			**P**	**P**										**165-701.02**
Commercial Stables, Equestrian Facilities and Commercial Riding Facilities	**P**														
Cut-Your-Own Christmas Tree and Evergreen Tree	**P**														
Farm Breweries	**P**														**165-701.03**
Farm Distilleries	**P**														**165-701.03**
Farm Stay	**CUP**														
Farm Wineries	**P**														**165-701.03**
Fish Hatcheries and Fish Production	**P**												**P**		
Hog Farming	**P**												**P**		**165-701.04**
Off-Premises Farm Markets and Wayside Stands	**CUP**														
On-Premises Wayside Stand, Roadside Stand, or Wayside Market, Accessory to a Bona Fide Operating Farm	**A**														
Sawmills And Planing Mills, Type B	**CUP**														
Slaughterhouses	**CUP**														**165-701.05**
RESIDENTIAL															
Adult Care Residences, Assisted Living Care Facilities, and Convalescent or Nursing Homes		**CUP**		**CUP**	**CUP**										**165-702.01**
Age-Restricted Multifamily Housing		**P**		**P**	**P**										**165-702.02**
Bed-and-Breakfasts	**CUP**	**CUP**		**CUP**	**CUP**										
Community Correctional Facility						**P**									

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Use Type	Primary Zoning Districts														Use Performance Standards
	RA	RP	MH1	R4	R5	MS	B1	B2	B3	TM	M1	M2	EM	HE	
	P = Permitted CUP = Permitted w/Conditional Use Permit A = Accessory														
Continuing Care Retirement Community (CCRC)						P									165-702.01
Cottage Occupations	CUP	CUP	CUP	CUP	CUP										165-702.03
Dormitories, Medical and Allied Health						P									
Family Care Home						P									
Family Day Home (1-4 Children)	P	P		P	P										
Garden Apartments		P		P	P										165-702.04
Group Homes	P	P		P	P	P									
Home Occupations	P	P	P	P	P										165-702.05
Manufactured Homes	P		P												
Manufactured Home Parks & Subdivisions			P												165-702.06
Multifamily Residential Buildings		P		P	P										165-702.07
Multiplex		P		P	P										
Residential Uses which are Accessory to Allowed Business Uses				P	P		P	P	P		P	P			
Single-Family Detached Cluster		P		P	P										
Single-Family Detached Rural Traditional		P		P	P										
Single-Family Detached Traditional		P		P	P										
Single-Family Detached Urban		P		P	P										
Single-Family Detached Zero Lot Line		P		P	P										
Single-Family Small Lot		P		P	P										
Single-Family Dwellings	P														
Short-Term Lodging or Tourist Home	P	P	P	P	P										165-702.08
Temporary Family Health Care Structure	P	P		P	P										165-702.09
Townhouse; Back-To-Back Townhouse		P		P	P										
Treatment Home						P									

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Use Type	Primary Zoning Districts														Use Performance Standards
	RA	RP	MH1	R4	R5	MS	B1	B2	B3	TM	M1	M2	EM	HE	
	P = Permitted CUP = Permitted w/Conditional Use Permit A = Accessory														
PUBLIC, CIVIC, AND RECREATIONAL															
Administrative Review Eligible Project	P	P	P	P	P	P	P	P	P	P	P	P	P	P	165-703.01
Amateur Radio Antenna	P	P	P												
Broadcasting And Content Providers				P				P							
Business, Professional, Labor, Political and Similar Organizations				P						P	P	P			
Campgrounds	CUP				P										165-703.02
Churches and Places of Worship	P	P	P	P	P	P								P	
Colleges, Universities, and Professional Schools						P								P	
Commercial and Institutional Cemeteries With or Without Funeral Homes or Cemetery Office Complexes	P														
Electric, Gas, and Other Utility Facilities and Offices Excluding Sanitary Services				P					P						
Frederick County Sanitary Landfill	P														165-703.03
Humanitarian Aid Organizational Office	CUP														165-703.04
Libraries		P		P	P	P		P							
Museums, Parks or Historic Sites Used For Educational or Historic Preservation Purposes	P	CUP		CUP	CUP										
Nationally Chartered Fraternal Lodges or Civic Clubs, Social Centers and Their Related Club Facilities	CUP	CUP		CUP	CUP	P								P	165-703.05
Parks	P	P	P	P	P		P	P	P		P	P	P	P	
Postal Services	P			P		P	P	P	P		P	P		P	
Preserves and Conservation Areas	P				P										
Public Administration and Government Support Buildings, Including Fire Stations, Companies, and Rescue Squads	P	P	P	P	P	P	P	P	P	P	P	P			165-703.06

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Use Type	Primary Zoning Districts														Use Performance Standards
	RA	RP	MH1	R4	R5	MS	B1	B2	B3	TM	M1	M2	EM	HE	
	P = Permitted CUP = Permitted w/Conditional Use Permit A = Accessory														
Public Utilities, Transmission and Distribution Facilities	P	P	P	P	P	P	P	P	P	P	P	P	P	P	165-703.07
Public Utilities, Power-Generating Facilities	CUP			P		P			P	P	P	P			165-703.07
Regional Criminal Justice, Enforcement, and Detention Facilities				P							P	P			
Radio and Television Towers and Their Accessory Buildings	P														
Recreational Vehicle Storage					P										
Religious, Grantmaking, Civic, Professional, and Similar Organizations				P	P		P	P	P						
Schools (With Residential Component)	CUP													P	
Schools	P	P	P	P	P										
Social Assistance Services Excluding Services That Offer Residential or Housing Accommodations				P				P							
Technical and Trade Schools				P				P		P	P	P			
Telecommunication Facilities and Offices, Broadcasting and Content Providers, Including Wired and Wireless Telephone, Radio, Television, and Other Satellite Communications				P					P	P	P	P			
Telecommunications Towers and Facilities	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	165-703.08
Utility-Scale Solar Power Generating Facilities	CUP														165-703.09
Vocational Schools (Technical, Trade, Business, Computer and Management Training)				P					P						
Wired And Wireless Telecommunication Carriers (Excluding Satellite)				P				P						P	
COMMERCIAL															
Administrative and Support Services				P					P						
Advertising Specialties - Wholesale				P					P						
Adult Day-Care Centers				P	P	P	P	P						P	

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Use Type	Primary Zoning Districts														Use Performance Standards
	RA	RP	MH1	R4	R5	MS	B1	B2	B3	TM	M1	M2	EM	HE	
	P = Permitted CUP = Permitted w/Conditional Use Permit A = Accessory														
Adult Retail								CUP							165-704.01
Ambulatory Health Care Services, Hospitals, Nursing and Residential Care Facilities						P									
Amusement, Arts, Gambling, Excluding Amusement Parks, Theme Parks, and Outdoor Shooting				P				P	P						
Antique Shops	CUP														
Auction Houses	CUP														
Automotive Oil Change and Lubrication Shops				P				P							165-704.02
Blacksmith Shops	P														
Boat Clubs and Service Areas					P										
Boat Repair Shop	CUP														165-704.03
Building Materials and Garden Equipment Supplies Dealers				P				P							
Building Materials, Hardware, Garden Supply, and Retail Nurseries				P					P						165-704.02
Car, Truck, Utility Trailers, and RV (Recreational Vehicle) Rental and Leasing				P					P						165-705.07
Car Washes				P				P							165-704.04
Child Day-Care Services	CUP	CUP		CUP	CUP	P	P	P			A			P	
Coin Operated Laundries, Drycleaners, and Linen Supplies				P		P		P						P	
Commercial Recreation, Indoors (As Defined)				P		P	P	P	P		CUP			P	165-704.05
Commercial Recreation, Outdoors (As Defined)	CUP			P				P							165-704.05
Commercial Shooting and Archery Ranges (Indoor or Outdoor)	CUP														165-704.06
Conference/Event Centers				P		P		P	P						
Consumer Goods Rentals				P				P	P						
Country General Stores Without Fuel Sales	CUP														165-704.07

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Use Type	Primary Zoning Districts														Use Performance Standards
	RA	RP	MH1	R4	R5	MS	B1	B2	B3	TM	M1	M2	EM	HE	
	P = Permitted CUP = Permitted w/Conditional Use Permit A = Accessory														
Death Care Services Excluding Cemeteries				P	P		P	P							
Electronic Precision Equipment Repair and Maintenance				P		P			P						
Farriers	P														
Finance, Insurance, Legal and Offices Of Real Estate				P		P				P					
Flea Markets, Operated Indoors Or Outdoors	CUP														165-704.08
Flex-Tech				P					P	P	P	P			165-704.09
Food and Beverage Retailers				P					P						165-704.10
Food and Beverage Retailers, Excluding Fruit and Vegetable Stands				P				P							
Food and Beverage Retailers, Excluding Fruit and Vegetable Stands and Vending Machine Operators						P								P	
Food Services, Restaurants and Other Eating Places				P	P			P	P		P	P			165-704.11
Food Services, Restaurants and Other Eating Places Excluding Drive-Thru Facilities	CUP			P	P	P	P							P	
Gasoline Stations With or Without Convenience Stores, Excluding Fuel Dealers				P	P			P	P						
General Automotive, Motorcycle and Truck Repair, Services and Parking	CUP			P					P		P	P			165-704.02
General Business Offices				P	P			P	P						
General Merchandise Store					P										
Gift, Novelty, and Souvenir Retailers	CUP														
Hardware, and Plumbing and Heating Equipment and Supplies Merchant Wholesalers Excluding Accessory Outdoor Storage				P				P							165-704.12
Health and Personal Care Retailers						P								P	165-704.16
Health Care Services				P						P					

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Use Type	Primary Zoning Districts														Use Performance Standards
	RA	RP	MH1	R4	R5	MS	B1	B2	B3	TM	M1	M2	EM	HE	
	P = Permitted CUP = Permitted w/Conditional Use Permit A = Accessory														
Health Care Services Including Skilled Nursing Facilities				P				P							
Home Furnishing Store					P										
Horseshoeing	P														
Hotels, Motels, Lodges, and Resorts	CUP			P	P	P		P						P	
Household Appliances and Electrical and Electronic Goods Merchant Wholesalers Excluding Accessory Outdoor Storage				P				P							
Ice Cream Parlor	CUP														
Kennels	CUP														165-704.13
Landscape and Horticultural Services	CUP			P					P		P	P			
Medical Equipment Rental and Leasing						P									
Miscellaneous Retailers Limited to Bookstores, News Stands/Dealers, Stationary Stores, Gift Shops, Florists, and Uniform Stores						P								P	
Miscellaneous Retail Stores Including Food, Drug, Health, and Personal Care Not to Exceed 15,000 Square Feet, Excluding Fruit and Vegetable Stands				P	P		P								
Model Home Sales				P				P	P						
Motor Vehicle and Parts Dealers				P				P	P						165-704.14
Movie Theaters, Including Drive-In Theatres				P	P			P	P						
Offices and Clinics of Doctors of Medicine, Dentists and Other Health Practitioners	CUP	CUP		CUP	CUP		P								165-704.15
Offices of Real Estate, Finance, and Insurance				P	P		P	P							
Pet Care (Excluding Veterinary) Services, With All Activities and Animals Kept Within Fully Enclosed Primary Structure				P				P	P						
Personal and Household Goods Repair and Maintenance				P					P						

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Use Type	Primary Zoning Districts														Use Performance Standards
	RA	RP	MH1	R4	R5	MS	B1	B2	B3	TM	M1	M2	EM	HE	
	P = Permitted CUP = Permitted w/Conditional Use Permit A = Accessory														
Personal and Household Goods Repair and Maintenance Excluding Motorcycle Repair				P				P							
Personal and Laundry Services Excluding Industrial Launderers				P	P		P								
Personal Care Services Including Hair, Nail, Beauty Salon, and Barber Shops, Excluding Escort Services; Turkish Baths; and Steam Baths				P		P		P						P	
Photocopying and Duplicating Services						P								P	
Professional, Scientific, and Technical Services Including Testing Laboratories				P				P	P	P					
Retail Bakery	CUP														
Retail Nursery	CUP			P				P							
Retail Trade Excluding Manufactured (Mobile Home) Dealers and Tire Dealers				P				P					P		
Services to Building and Dwellings Including Pest Control, Janitorial Services, and Carpet Cleaning Services Excluding Landscape Service and Product Sterilization				P				P							
Special Event Facility	CUP														165-704.17
Taxidermists	P														
Travel Arrangement and Reservation Services				P			P	P	P		P	P			
Truck, Utility Trailer, and RV (Recreational Vehicle) Rental and Leasing				P							P	P			165-705.07
Veterinary Office, Clinic Or Hospital, Including Livestock Services	CUP														
Veterinary Offices, Veterinary Clinics or Veterinary Hospitals, Excluding the Boarding of Animals for Nonmedical Purposes.		CUP													
Veterinary Services for Animal Specialties (Excluding Horses), With All Activities And Animals Kept Within A Fully Enclosed Primary Structure				P	P		P								

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Use Type	Primary Zoning Districts														Use Performance Standards
	RA	RP	MH1	R4	R5	MS	B1	B2	B3	TM	M1	M2	EM	HE	
	P = Permitted CUP = Permitted w/Conditional Use Permit A = Accessory														
Veterinary Services with All Activities and Animals Kept Within the Fully Enclosed Primary Structure, Excluding Livestock				P				P	P						
Welding Repair	CUP														165-704.18
INDUSTRIAL															
Air Transportation				P					P		P	P			
Aircraft Manufacturing				P						P					
Ammunition, Ordnance and Accessory Manufacturing												P			
Apparel Manufacturing				P							P	P			
Chemicals Manufacturing												P			
Coating, Engraving, Heat Treating, and Allied Activities												P			
Commercial and Industrial Machinery and Equipment Repair and Maintenance				P							P	P			
Commercial Printing				P					P						
Computing Infrastructure Providers, Data Processing, and Data Centers				CUP					CUP	P	CUP	CUP			165-705.01
Concrete Block and Brick and Related Products				P							P	P			
Concrete Block and Brick, Glass, and Related Products excluding Asbestos												P			
Construction Sand Mining													P		
Converted Paper Product Manufacturing				P						P	P	P			
Crushed and Broken Limestone, Granite, and Other Stone Mining and Quarrying													P		
Data Entry, Data Processing, Data Verification, and Optical Scanning Data Services						P									
Drugs and Druggists' Sundries Merchant Wholesalers						P									

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Use Type	Primary Zoning Districts														Use Performance Standards
	RA	RP	MH1	R4	R5	MS	B1	B2	B3	TM	M1	M2	EM	HE	
	P = Permitted CUP = Permitted w/Conditional Use Permit A = Accessory														
Electrical Equipment, Appliance, and Component Manufacturing				P						P	P	P			
Electronic and Precision Equipment Repair and Maintenance						P									
Fabricated Metal Product Manufacturing				P							-	P			
Fabricated Metal Products Manufacturing, excluding Coating, Engraving and Allied Services				P							P	P			
Fabricated Metal Products Manufacturing, excluding the following: Engraving and Allied Services, Ammunition, Ordnance and Accessories				P						P					
Food, Beverage, and Tobacco Manufacturing excluding Seafood Product Preparation and Packaging and Animal Slaughtering and Processing				P						P	P	P			
Food Manufacturing including Animal Slaughtering and Processing, Seafood Product Preparation and Packaging, and Rendering and Meat Byproduct Processing												P			165-701.05
Fuel Dealers												P			
Furniture and Related Product Manufacturing				P						P	P	P			
Guided Missiles and Space Vehicles Manufacturing				P						P					
Industrial Launderers, Dry-Cleaning and Laundry Services				P					P						
Junkyards and Auto Merchant Wholesalers												P			165-705.02
Kaolin, Clay, and Ceramic Mineral Mining and Quarrying													P		
Leather and Allied Products Manufacturing												P			
Linen Supply and Drycleaning and Laundry Services except Coin Operated Laundries				P							P	P			
Logging												P			

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Use Type	Primary Zoning Districts														Use Performance Standards
	RA	RP	MH1	R4	R5	MS	B1	B2	B3	TM	M1	M2	EM	HE	
	P = Permitted CUP = Permitted w/Conditional Use Permit A = Accessory														
Machinery Cleaning				P							P	P			
Machinery Manufacturing and Computer and Electrical Product Manufacturing				P						P	P	P			
Manufactured (Mobile) Home Dealers				P					P						
Medical and Dental Laboratories				P						P					
Medical, Dental, and Hospital Equipment Merchant Wholesalers						P									
Medical Equipment and Supplies Manufacturing						P									
Mining (except Oil and Gas)													P		
Miscellaneous Manufacturing				P						P	P	P			
Nonmetallic Mineral Product Manufacturing excluding Asbestos													P		
Offices and Storage Facilities for Building Construction Contractors, Heavy Construction Contractors and Special Trade Contractors				P					P		P	P			
Oil and Natural Gas Exploration	P												P		165-705.03
Ophthalmic Goods Merchant Wholesaler						P									
Petroleum and Coal Products Manufacturing including Fuel Dealers												P			
Pharmaceutical and Medicine Manufacturing				P		P				P	P	P			
Pharmaceutical Machinery Manufacturing						P									
Plastics and Rubber Products Manufacturing excluding Tire Manufacturing				P						P					
Plastics and Rubber Products Manufacturing including Footwear Manufacturing				P							P	P			
Primary Steel Manufacturing												P			
Printing, Publishing and Allied Industries				P						P	P	P			
Product Sterilization Services						P									

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Use Type	Primary Zoning Districts														Use Performance Standards
	RA	RP	MH1	R4	R5	MS	B1	B2	B3	TM	M1	M2	EM	HE	
	P = Permitted CUP = Permitted w/Conditional Use Permit A = Accessory														
Professional, Scientific and Technical Services including Testing Laboratories				P						P					
Professional, Scientific and Technical Services, including Business Offices not providing services to the general public on a primary basis				P							P	P			
Pulp, Paper, and Paperboard Mills												P			
Sand, Gravel, Clay, and Ceramic and Refractory Minerals Mining and Quarrying													P		
Sand, Shale, and Clay mining	CUP														165-705.04
Scientific Research and Development Services including Testing Agencies						P									
Self-Service Storage Facilities				P				P	P		P	P			165-705.05
Small Arms Ammunition Manufacturing											P				
Solid Waste Collection, Materials Recovery Facilities, Septic Tank and Related Services, and Other Miscellaneous Management Services				P							P	P			
Stone and Dimension Stone Mining and Quarrying													P		
Storage Batteries and Primary Battery Manufacturing				P						P	P	P			
Support Activities for Mining excluding Drilling Oil and Gas Wells													P		
Textile Products and Textile Mill Products				P							P	P			
Tractor Truck and Tractor Truck Trailer Parking				CUP					CUP		CUP	P			165-705.06
Transportation Equipment Manufacturing				P							P	P			
Transit and Ground Passenger Transportation				P							P	P			
Transit and Ground Passenger Transportation and related support activities				P					P						
Truck or Fleet Maintenance Facilities				P		P					P	P			165-705.07
Truck Transportation				P					P		P	P			

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Use Type	Primary Zoning Districts														Use Performance Standards
	RA	RP	MH1	R4	R5	MS	B1	B2	B3	TM	M1	M2	EM	HE	
	P = Permitted CUP = Permitted w/Conditional Use Permit A = Accessory														
Veneer, Plywood, and Engineered Wood Product Manufacturing				P							P	P			
Warehousing and Storage				P					P	A	P	P			165-705.08
Warehousing, Medical and Allied Health Services						P									
Waste Management and Remediation Services including Incinerators												P			
Waste Recovery and Recycling Facility					P										
Wholesale Trade				P							P	P			
Wholesale Trade Businesses excluding Livestock, Farm Products, Mining and Chemical Storage				P					P						
Wood Product Manufacturing												P			
MISCELLANEOUS															
Accessory Dwellings		P		P	P										165-706.01
Accessory Uses							P	P	P	P	P	P			165-706.02
Heliports or Air Strips					P										
Winchester Regional Airport	P														
Temporary Model Homes Used For Sale of Properties in a Residential Development		P		P	P										

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Article VII. Additional Regulations for Specific Uses.

Part 701. Agricultural Use Standards.

Section 165-701.01. Agricultural Supply Cooperatives.

A. Agricultural supply cooperatives located in the RA Zoning District shall meet the following requirements:

(1) The use shall adhere to B2 Zoning District dimensional standards established in Article IV, Part 406, of this Ordinance.

(2) The sale of agricultural and garden machinery shall only be permitted as an accessory use.

(3) The repair of agricultural and garden machinery is prohibited.

(4) The on-site sale of gasoline, off-road diesel, and other liquid fuels shall not be permitted on premises, however off-site sale (via delivery) of gasoline, off-road diesel, and other liquid fuels shall be permitted. Propane shall be permitted to be sold on the premises.

(5) A site plan shall be submitted to and approved by Frederick County prior to the establishment of the use.

Section 165-701.02. Backyard Chickens and Chicken Coops.

A. Backyard chickens and chicken coops in the R4 and R5 zoning districts shall meet the following requirements:

(1) Roosters and other species of fowl are prohibited.

(2) Chickens shall be permitted accessory to single-family detached residences only.

(3) A maximum of six (6) chickens (hens only) shall be permitted with one (1) single-family detached residence.

(4) Chicken coops and pens shall meet the setbacks for accessory structures in the RP Zoning District contained in Article IV, Part 405, of this Ordinance and shall not be placed in the front setback yard required for the primary use per Article IV, Part 402 of this Ordinance.

(5) Chickens shall not run at large in accordance with § 48-26 (Animals and Fowl Running at Large) of the County Code.

(6) Chicken waste shall be stored in an enclosed container and properly disposed of by composting or other means to not create a nuisance.

(7) Chicken feed shall be stored in an enclosed, vermin proof container.

Section 165-701.03. Farm Breweries; Farm Distilleries; Farm Wineries.

A. Farm breweries, farm distilleries, and farm wineries in the RA District shall meet the following requirements:

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(1) **Farm Breweries (Limited Brewery).** A farm brewery shall be licensed as a limited brewery in accordance with Code of Virginia § 4.1-206.1.

i. All activities specified under Code of Virginia § 15.2-2288.3:1 shall be permitted.

(2) **Farm Distilleries (Limited Distiller).** A farm distillery shall be licensed as a limited distiller in accordance with Code of Virginia § 4.1-206.1.

i. All activities specified under Code of Virginia § 15.2-2288.3:2 shall be permitted.

(3) **Farm Wineries.** A farm winery shall be licensed as Class I, Class II, Class III, or Class IV farm winery in accordance with Code of Virginia § 4.1-219.

i. All activities specified under Code of Virginia § 15.2-2288.3E shall be permitted.

(4) The following activities are permitted accessory uses at farm wineries, breweries and distilleries:

i. On-site tours;

ii. Kitchen and catering activities; and

iii. Providing light refreshments and appetizers (food preparation beyond this, excluding catering for events, shall require a CUP for a restaurant).

(5) Events shall be permitted only on farm breweries, farm distilleries and farm wineries of 10 acres or larger.

i. For the purposes of this Section, events shall include but are not limited to meetings, conferences, dinners, festivals, and wedding receptions.

(6) An illustrative sketch plan in accordance with the requirements of Article III, Permits and Applications, shall be submitted to and approved by Frederick County for all farm breweries, distilleries, and wineries.

(7) Farm breweries, distilleries, and wineries that share a private access easement with another property owner(s) must show the easement allows a use of this type or written permission must be obtained by the sharing parties.

Section 165-701.04. Hog Farming.

No hog pen shall be located closer than 200 feet to a residence or an adjoining property used for human habitation.

Section 165-701.05. Slaughterhouses; Food Manufacturing including Animal Slaughtering and Processing.

A. **Setbacks.** All buildings, animal unloading/staging areas, and animal pens shall be a minimum of 100 feet from all property lines.

B. **Size of Use.** Total building(s) square footage shall not exceed 20,000 square feet (SF).

C. **Screening and Buffering.**

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(1) All operations must be under roof and screened from view from adjoining properties and public streets.

(2) Additional buffering and screening may be required as specified by the Zoning Administrator.

D. **General Standards.**

(1) 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, shall be maintained and operated in a clean and sanitary manner at all times.

(2) Such establishments shall be constructed and maintained 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 fourteen (14)-gauge mesh.

(3) The word "slaughterhouse," as used in this section, shall not be construed to prohibit farmers from killing their own cattle, sheep, swine, goats, and fowl for their own family use.

Part 702. Residential Use Standards.

Section 165-702.01. Adult Care Residences, Assisted Living Care Facilities, Residential Care Facilities, and Convalescent or Nursing Homes.

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

(1) Adult care residences and assisted living care facilities shall retain open space in accordance with Article VIII, Community Development Standards, of this Ordinance.

i. Areas designated for buffers and screening and stormwater management facilities that are required to serve this use may be included in this percentage.

(2) Road efficiency buffers as specified in Section 165-802.07.G. of this Ordinance shall be met.

B. **Residential Care Facilities.**

(1) Residential care facilities may consist of any of the following residential structures:

i. Single-family small lot;

ii. Duplex;

iii. Multiplex;

iv. Atrium House; or

v. Garden Apartments.

vi. Residential care facilities may include home occupations, as defined in Article XI, Definitions, of this Ordinance.

(2) Residential care facilities must consist of residential units which provide all of the following for its residents:

i. Independent-living facilities;

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ii. Congregate-care assisted-living facilities; and

iii. Nursing home care.

(3) Occupancy of the dwelling units shall be restricted to older persons, as defined under "housing for older persons" in Code of Virginia § 36-96.7, with the following exceptions:

i. The spouse of a resident, regardless of age;

ii. The child of a resident, provided that the child requires convalescent care, regardless of the age of the child; and

iii. Resident staff necessary for operation of the facility are also allowed to live on site.

(4) 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.

i. Such facilities must be conveniently located in relation to the remainder of the development, particularly the dwelling units; they must not be externally advertised.

ii. The Board of Supervisors may restrict their use to residents and staff only.

Section 165-702.02. Age-Restricted Multifamily Housing.

A. Age-restricted multifamily housing shall consist of multifamily buildings in which individual dwelling units share a common outside access and a common yard area, which is the sum of the required lot areas of all dwelling units within the building.

B. Age-restricted multifamily housing shall only be permitted within proffered age-restricted developments.

C. Elevator service shall be provided to each floor of age-restricted multifamily housing structures for use by residents and guests.

D. The maximum number of units per building shall be 110.

Section 165-702.03. Cottage Occupations.

A. **Location of Use.** All or part of the business, such as a home office, shall be conducted within the principal residential building or an accessory building or structure.

B. **Employees and Customers.** No more than 10 people not residing on the premises, including customers and employees, shall be permitted per day.

C. **General Standards.**

(1) The cottage occupation shall be clearly incidental and secondary to the use of the dwelling unit for residential purposes.

(2) There shall be no exterior display, no exterior storage of materials, and no exterior indication of the occupation or variation from the residential character of the principal building or neighborhood.

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(3) Commercial vehicles are allowed as defined in Article XI, Definitions, of this Ordinance.

Section 165-702.04. Garden Apartments.

A. The following standards shall apply for all garden apartments in addition to the dimensional standards established in Article IV, Primary Zoning Districts, of this Ordinance:

(1) **Minimum Height.** Two (2) stories.

(2) **Maximum Height.** Four (4) stories.

(3) **Minimum Units in Single Structure.** Six (6) units.

(4) **Maximum Units in Single Structure.** Sixteen (16) units.

Section 165-702.05. Home Occupations.

A. **Location of Use.** All or part of the business shall be conducted within the principal building or structure.

(1) In the RA Zoning District, a home occupation may be carried on in an accessory building or structure.

B. **Employees and Customers.** No more than five (5) people not residing on the premises, including customers and/or employees, shall be permitted per day.

C. **General Standards.**

(1) The home occupation shall be clearly incidental and secondary to the use of the dwelling unit for residential purposes.

(2) There shall be no exterior display, no exterior storage of materials, and no exterior indication of the occupation or variation from the residential character of the principal building and neighborhood.

(3) The home occupation shall not produce offensive noise, vibrations, smoke, dust, heat, odor, glare, traffic hazards, or congestion and shall not adversely affect the surrounding properties.

(4) One (1) business vehicle is allowed.

(5) Commercial vehicles as defined in Article XI, Definitions, of this Ordinance are prohibited.

Section 165-702.06. Manufactured Home Parks and Subdivisions.

A. **Common Areas.**

(1) All common areas shall be planted with appropriate landscaping in accordance with Article VIII, Part 802 of this Ordinance, including trees, shrubs and grass lawns. This landscaping shall be properly maintained.

(2) All common areas shall be dedicated to and maintained by property owners' associations. The manufactured home subdivisions and the property owners' associations shall meet all requirements of Chapter 144, Subdivision of Land, of the County Code.

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B. **Recreational Facilities.** All manufactured home parks and subdivisions shall contain at least one (1) recreational unit in accordance with Article VIII, Part 806, of this Ordinance.

Section 165-702.07. Multifamily Residential Buildings.

A. **Location.** Multifamily residential buildings shall only be located in areas designated in the Comprehensive Plan as neighborhood villages, urban centers, or other areas planned for high-density residential.

B. **General Standards.**

(1) Multifamily residential buildings shall have a minimum of four (4) dwelling unit entrances sharing an internal corridor per floor.

i. The entire dwelling unit does not necessarily have to be on the same floor.

ii. External corridors are prohibited.

(2) All multifamily residential developments where more than one (1) residence or use shares a parking lot shall be provided with outdoor trash containers or other means of trash disposal, compliant with all standards of Article VIII, Part 808, of this Ordinance.

Section 165-702.08. Short-Term Lodging or Tourist Home.

A. **Permits.** No short-term lodging activity shall take place on the property until the Department of Planning and Development has approved a short-term lodging administrative permit for the use and the Commissioner of the Revenue has approved a business license for the use.

B. **Maximum Occupancy.** The maximum number of lodgers per night shall not exceed 10 unrelated persons, except where the Uniform Statewide Building Code (USBC) permits only a fewer number of occupants.

C. **Use Regulations.**

(1) No more than five (5) guest rooms are permitted for short-term lodging.

(2) A short-term lodging dwelling unit shall have a maximum of one (1) rental contract per night.

i. All lodgers occupying the short-term lodging dwelling unit must be associated with the same rental contract.

(3) A dwelling or manufactured home used for short-term lodging shall comply with the following standards:

i. Be available for inspection by the County during reasonable hours and in accordance with Article II, Administration, of this Ordinance;

ii. Comply with the requirements of the applicable version of the Virginia USBC or Virginia Manufactured Home Safety Regulations, as determined by the Building Official;

iii. Have a working multipurpose fire extinguisher, smoke detectors and carbon monoxide detectors (when required for a fireplace or gas service);

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iv. Have a plan posted inside the door of each sleeping room showing the exit pathway from the sleeping room used for short-term lodging to the nearest exit from the dwelling or manufactured home; and

v. Have at least two (2) designated off-street parking spaces available for lodgers which the operator has the authority to reserve for short-term lodging purposes.

(4) Special events, as defined in Article XI, Definitions, of this Ordinance, are prohibited in association with short-term lodging uses.

Section 165-702.09. Temporary Family Health Care Structure.

A. **Permits.**

(1) No temporary family health care structure shall be installed without first obtaining a permit.

(2) The permit holder shall provide the County with evidence of compliance on an annual basis as long as the temporary family health care structure remains on the property.

(3) The Zoning Administrator may revoke the permit granted if the permit holder violates any provision of this Section or Code of Virginia § 15.2-2292.1.

B. **Development Standards.**

(1) Only one (1) temporary family health care structure shall be placed on a lot or parcel of land. Such structures shall comply with all setback requirements that apply to the primary structure and with any maximum floor area ratio limitations that may apply to the primary structure.

(2) Any temporary family health care structure shall be connected to the water, sewer, and electric utilities serving the primary residence on the property and shall comply with all applicable requirements of the Virginia Department of Health.

C. **General Standards.**

(1) A temporary family health care structure shall be permitted for use by a caregiver in providing care for a mentally or physically impaired person on property owned or occupied by the caregiver as his residence as a permitted accessory use.

i. Outside agencies or persons not residing on the property may provide care for the mentally or physically impaired person residing in the structure.

(2) No signage advertising or otherwise promoting the existence of the temporary family health care structure shall be permitted either on the exterior of the structure or elsewhere on the property.

(3) Any temporary family health care structure installed pursuant to this section shall be removed within 60 days of the date on which the temporary family health care structure was last occupied by a mentally or physically impaired person receiving services or in need of the assistance provided by the structure.

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Part 703. Public/Civic/Recreational Use Standards.

Section 165-703.01. Administrative Review Eligible Project.

A. Notwithstanding any other provision of this Ordinance, but subject to the requirements of this section, the following shall be permitted in all zoning districts:

(1) Any small cell facility in accordance with Code of Virginia § 15.2-2316.4;

(2) Pursuant to Code of Virginia §§ 15.2-2316.3 and 15.2-2316.4:1(A), any structure that is not more than 50 feet above ground level, provided that the structure with attached wireless facilities meets the following criteria; and

i. Not more than 10 feet above the tallest existing utility pole located within 500 feet of the structure within the same public right-of-way or within the existing line of utility poles;

ii. Not located within the boundaries of a local, state, or federal historic district; and

iii. Designed to support small cell facilities.

(3) Pursuant to Code of Virginia §§ 15.2-2316.3 and 15.2-2316.4:1(A), co-location of a wireless facility on the existing structure of a wireless facility that is not a small cell facility.

B. Pursuant to Code of Virginia § 15.2-2316.4(B)(2), any person seeking to install a facility or structure identified in A. of this section shall make application to the Zoning Administrator. The application shall be subject to consideration as follows:

(1) Within 10 days after receipt of an application and a valid electronic mail address for the applicant, the Zoning Administrator shall notify the applicant by electronic mail whether the application is incomplete and specify any missing information; otherwise, the application shall be deemed complete.

(2) In accordance with Code of Virginia § 15.2-2316.4(B)(1), the Zoning Administrator shall approve or disapprove the application within 60 days of receipt of the complete application.

i. The 60 period may be extended by the Zoning Administrator, in writing, for a period not to exceed an additional 30 days.

ii. The application shall be deemed approved if the Zoning Administrator fails to act within the initial 60 days or an extended 30-day period.

iii. Any disapproval of the application shall be in writing and accompanied by an explanation for the disapproval.

(3) In accordance with Code of Virginia § 15.2-2316.4(B)(4), the Zoning Administrator shall only deny approval for the facility or structure on account of:

i. Material potential interference with other preexisting communications facilities or with future communications facilities that have already been designed and planned for a specific location or that have been reserved for future public safety communications facilities; or

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ii. The public safety or other critical public service needs.

iii. Otherwise, administrative approval of the facility or structure shall be granted.

C. In accordance with Code of Virginia § 15.2-2316.4(B)(5), the applicant may voluntarily submit, and the Zoning Administrator may accept, conditions that address potential visual or aesthetic effects resulting from the placement, pursuant to this Section, of a facility or structure.

Section 165-703.02. Campgrounds; Lodges and Resorts.

A. **Minimum Lot Size.** The minimum lot size for a campground shall be five (5) 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. **Permanent Residences.** No more than one (1) 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 permitted, a Category "C" zoning district separation buffer and screen, as described by Article VIII, Part 802, of this Ordinance, shall be provided in relation to surrounding properties containing residential uses.

F. **Health and Safety.** Campgrounds shall meet all applicable requirements of the Virginia Department of Health (VDH).

Section 165-703.03. Frederick County Sanitary Landfill.

A. **General.**

(1) Sanitary landfills shall be permitted only where specifically allowed by Article VI, Use Matrix, of this Ordinance.

(2) Sanitary landfills shall meet all requirements of the Frederick County Code and applicable state and federal regulations.

(3) Where allowed, landfills shall be completely screened from the view of surrounding roads and properties by fences, walls, screens or other methods.

B. **Landfills.**

(1) A minimum buffer of 600 feet shall be maintained on parcels containing a landfill adjacent to properties containing residences or properties zoned RP, MH1, R4, or R5.

i. Such buffers shall be along the boundary of the property adjacent to the properties so zoned or containing the residences.

ii. In addition, the Board of Supervisors may require landscape screening or full screening in the buffer as described Article VIII, Part 802, of this Ordinance.

(2) If a residential development is established adjacent to an existing landfill, a Category "C" buffer as described in Article VIII, Part 802, of this Ordinance, shall be placed on the land containing the residential development.

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i. In no case shall residences be placed within 600 feet of a landfill.

Section 165-703.04. Humanitarian Aid Organizational Office.

A. Humanitarian aid organizational offices located in the RA Zoning District shall be subject to the following requirements:

(1) A Category "B" zoning district buffer and screen, as described by Article VIII, Part 802, of this Ordinance, shall be provided in relation to surrounding properties containing residential uses.

(2) Maximum building square footage shall not exceed 15,000 square feet, or a FAR of 0.3, whichever is less.

(3) All signs shall conform with the cottage occupation sign requirements in Article VIII, Part 809, of this Ordinance.

(4) No marketing of merchandise shall occur from this property.

Section 165-703.05. Nationally Chartered Fraternal Lodges or Civic Clubs, Social Centers, and Their Related Club Facilities.

A. **Development Standards.**

(1) Prior to the establishment of the use, a site plan shall be submitted to and approved by Frederick County in accordance with Article III, Permits and Applications, of this Ordinance.

B. **General Standards.**

(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.

(3) All facilities or activities shall be erected or conducted at least 30 feet from any residential district or area within other districts which are predominantly residential in nature.

Section 165-703.06. Public Administration and Government Support Buildings, Including Fire Stations, Companies, and Rescue Squads.

A. Government services office located in the RA District shall be subject to the following requirements:

(1) Government services office uses shall be located within the Frederick County Sewer and Water Service Area (SWSA) and served by public water and sewer.

(2) The improvements identified as necessary to achieve, or maintain, a minimum Level of Service (LOS) C shall be constructed in conjunction with the facilities.

(3) The use and site shall adhere to B2 Zoning District dimensional standards, as established in Article IV, Part 406, of this Ordinance.

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Section 165-703.07. Public Utilities, Transmission and Distribution Facilities; Public Utilities, Power-Generating Facilities.

A. **Development Standards.** Lot requirements for lots used by political subdivisions, municipal corporations, the Virginia Department of Transportation (VDOT), the Frederick-Winchester Service Authority, or Frederick Water 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 at least 15 feet wide.

(4) If a buffer requirement is imposed by this Ordinance, the Zoning Administrator shall have the authority to modify the buffer standard if the adjoining property does not contain residential uses.

B. **Transmission Voltage Electrical Substations.** The following shall apply to transmission voltage electrical substations in the RA Zoning District:

(1) A modified Category C Type full screen buffer is required around the perimeter of the facility. The following enhanced landscaping and screening requirements apply:

i. A minimum 8-foot-tall berm shall be provided.

ii. Deciduous trees shall be a minimum of one-and-one-half-inch (1.5”) caliper, and a minimum of six (6) feet tall, at the time of planting.

iii. Evergreen trees shall be a minimum of six (6) feet in height at the time of planting.

iv. Shrubs shall be a minimum of 36 inches in height at time of planting.

v. All other landscaping requirements, not modified above and contained in Article VIII, Community Development Standards, Part 802, of this Ordinance, shall apply.

C. **Distribution Voltage Electrical Substations.** The following shall apply to distribution voltage electrical substations in the RA Zoning District:

(1) A Category B Type full screen buffer satisfying the requirements of Section 165-802.08 of this Ordinance is required around the perimeter of the facility.

i. Chain-link fencing with slats, with a privacy factor of 90% or greater, may be utilized to satisfy the opaque fence requirements, provided it also complies with Section 165-810.01.A.2. and Section 165-810.01.A.3.i. of this Ordinance.

D. **Sewage Treatment Facilities.**

(1) Sewage treatment facilities serving three (3) or more dwellings, lots, or uses shall only be permitted if dedicated to a public authority or agency.

i. Sewage treatment facilities serving primary or accessory agricultural uses shall be exempt from this requirement.

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(2) **Residential Separation.** In no case shall residences be placed within 600 feet of a sewage treatment facility.

(3) **Landscaping and Screening.**

i. A minimum buffer of 600 feet shall be maintained on parcels containing sewage treatment facilities adjacent to properties containing residences or properties zoned RP, MH1, R4, or R5.

ii. Required buffers shall be located along the boundary of the property adjacent to the properties so zoned or containing the residences.

iii. If a residential development is established adjacent to an existing sewage treatment facility, a Category "C" buffer as described by Article VIII, Part 802, of this Ordinance shall be placed on the land containing the residential development.

a. The Board of Supervisors may otherwise require landscape screening or full screening in the buffer as described by Article VIII, Part 802, of this Ordinance.

Section 165-703.08. Telecommunications Towers and Facilities.

A. **Definitions.** The terms used in this section shall have the same meanings as set out in Code of Virginia § 15.2-2316.3, unless the context requires a different meaning.

B. **Standard Process Projects.**

(1) Except as provided in Section 165-703.01. of this Article, no wireless facility or wireless support structure shall be sited, constructed, or operated except pursuant to a Conditional Use Permit (CUP) issued pursuant to Article III, Permits and Applications, of this Ordinance.

(2) The issuance of a CUP for the siting, construction, and operation of a wireless facility is permitted within the zoning districts specified in Article VI, Use Matrix, of this Ordinance, provided that the wireless facility aligns with the requirements of Code of Virginia § 15.2-2232(A).

(3) **Application and Review Process.**

i. Any person seeking to install a facility or structure pursuant to this subsection shall make application in accordance with Article III, Permits and Applications, of this Ordinance.

ii. Pursuant to Code of Virginia § 15.2-2316.4:1.C.1., the Zoning Administrator shall notify the applicant by electronic mail whether the application is incomplete and specify any missing information within 10 days after receipt of an application and a valid mail address for the applicant; otherwise, the application shall be deemed complete.

iii. Pursuant to the Code of Virginia § 15.2-2316.4:2(D), the application shall include the information below, in addition to all applicable requirements of Article III, Permits and Applications, of this Ordinance:

a. A map depicting the search area used in siting the proposed facility or structure pursuant to Code of Virginia;

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b. Identification of all service providers and commercial telecommunications facility infrastructure within the search area;

c. Confirmation that attempts to co-locate on existing structures have been made and, if such attempts were unsuccessful, the reasons so;

d. Documentation issued by the Federal Communications Commission indicating that the proposed facility is in compliance with the Federal Communications Commission's established ANSI/IEEE standards for electromagnetic field levels and radio frequency radiation; and

e. An affidavit signed by the landowner and by the owner of the facility or structure stating that they are aware that either or both of them may be held responsible for the removal of the facility or structure as stated in D., below.

f. The applicant may voluntarily submit, and the Board of Supervisors may accept, conditions that address potential visual or aesthetic effects resulting from the placement of the facility or structure.

(4) **Approval or Denial.**

i. The Board of Supervisors shall approve or disapprove the application within 150 days of receipt of the complete application by the Zoning Administrator or such shorter period as required by federal law, unless the applicant and the Board of Supervisors agree to a longer period for approval or disapproval of the application.

ii. If the Board of Supervisors grants a CUP, the following standards shall then apply to any property on which a wireless facility or wireless support structure is sited, in order to promote orderly development and mitigate the negative impacts to adjoining properties, residential properties, land use patterns, scenic areas, and properties of significant historic value:

a. The Board may reduce the required setback distance for the wireless facility or wireless support structure as required by Article IV, Primary Zoning Districts, of this Ordinance, if the applicant submits sufficient documentation, certified by a registered Virginia professional engineer, that, in the event of a collapse of the wireless facility or wireless support structure, the collapsed wireless facility or wireless support structure will be contained in a fall zone that does not extend into the area of the proposed reduced setback, measured from the center line of the base of the wireless facility or wireless support structure.

(i). The setback distance shall not be reduced to less than half the distance of the height of the wireless facility or wireless support structure if the adjoining property is zoned for residential use or if the principal use of the adjoining property is a residence.

b. Monopole-type construction shall be required for any new wireless facility or wireless support structure. The Board may allow lattice-type construction when existing or planned residential areas will not be impacted and when the site is not adjacent to identified historic resources.

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c. No more than two (2) signs shall be permitted on any wireless facility or wireless support structure. Such signs shall be limited to 1.5 square feet in area and shall be posted no higher than 10 feet above grade.

d. When lighting is required for a wireless facility or wireless support structure, dual lighting shall be utilized which provides daytime white strobe lighting and nighttime red pulsating lighting unless otherwise mandated by the Federal Aviation Administration (FAA) or the Federal Communications Commission (FCC). Strobe lighting shall be shielded from ground view to mitigate illumination to neighboring properties. Equipment buildings and other accessory structures operated in conjunction with the wireless facility or wireless support structure shall utilize infrared lighting and motion-detector lighting to prevent continuous illumination.

e. Every wireless facility and wireless support structure shall be constructed with materials of a galvanized finish or be of a noncontrasting blue or gray unless otherwise mandated by the FAA or FCC.

f. Every wireless facility and wireless support structure 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 (ROWs).

g. The entirety of (4)ii. above is based on current Section 165-703.01 of this Article.

iii. If the Board of Supervisors denies a CUP under this subsection, the Board shall provide the following in accordance with Code of Virginia § 15.2-2316.4:1:

a. Provide applicant with a written statement of the reasons for the denial;

b. Identify any modifications of which the County is aware that would permit it to approve the CUP; and

c. Have supporting substantial record evidence in a written record publicly released within 30 days of denial.

C. Pursuant to the Code of Virginia § 15.2-2316.4:3(A), maintenance of existing facilities and/or structures and replacement of existing facilities and/or structures within a six (6) foot perimeter with substantially similar or same size or smaller facilities and/or structures are exempt from fees and permitting requirements.

D. Pursuant to Code of Virginia § 15.2-2316.4:3(B), nothing in this Section shall prohibit a locality from limiting the number of new structures or the number of wireless facilities that can be installed in a specific location.

E. Pursuant to the Code of Virginia § 15.2-2316.4(B)(6), any facility or structure permitted by this section that is not operated or used for a continuous period of 12 months shall be considered abandoned, and the owner of such facility or structure shall remove same within 90 days of receipt of notice from the Frederick County Department of Planning and Development.

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(1) If the facility or structure is not removed within the 90-day period, the County may remove the facility and a lien may be placed to recover expenses.

Section 165-703.09. Utility-Scale Solar Power Generating Facilities.

A. Prior to the establishment of a utility-scale solar power generating facility, a site plan shall be submitted to and approved by Frederick County in accordance with Article III, Permits and Applications, of this Ordinance.

B. The initial approval of a CUP in accordance with Article III, Permits and Applications, for a utility-scale solar power generating facility shall provide the landowner or developer with a minimum of three (3) years to commence the project.

(1) Applications for minor modifications to the CUP do not constitute a waiver of the provisions and do not extend the period of validity.

C. **Siting Agreement.** Any applicant for a utility-scale solar generating facility shall provide notice of intent to enter into a siting agreement with Frederick County in accordance with Code of Virginia § 15.2-2316.7.

(1) The approval of a siting agreement in accordance with Code of Virginia § 15.2-2316.8.B shall deem the utility-scale solar generating facility to be substantially in accord with the Comprehensive Plan, thereby satisfying the requirements of Code of Virginia § 15.2-2232.

(2) The failure of an applicant and the Board of Supervisors to enter into a siting agreement may be a factor in the Board's decision in the consideration of any land use approvals for a solar project, but shall not be the sole reason for a denial of such land use approval.

(3) The effect of such siting agreement shall be as established in Code of Virginia § 15.2-2316.9.

D. **Decommissioning.** Any owner, lessee, or developer of real property for the purposes of solar power energy generation shall enter into a written agreement, prior to site plan approval, with Frederick County to decommission solar energy equipment, facilities, or devices pursuant to the terms and conditions of Code of Virginia § 15.2-2241.2(B).

Part 704. Commercial Use Standards.

Section 165-704.01. Adult Retail.

A. Adult retail uses shall comply with the minimum requirements of this Ordinance, any conditions imposed by the Board of Supervisors, and the following minimum conditions:

(1) Adult retail uses shall be located at least 2,500 feet from the property line of the following uses:

i. Existing adult retail uses;

ii. Schools;

iii. Churches and places of worship;

iv. Parks;

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v. Day-care facilities; and

vi. Residential uses and districts.

(2) Adult retail uses shall not be permitted in shopping centers and/or multitenant buildings.

(3) All merchandise display areas shall be limited to enclosed structures and shall not be visible from the outside.

(4) Business signs shall not exceed a maximum of 25 square feet. Wall-mounted signs and window displays are prohibited.

(5) Hours of operation shall be limited to between 9:00 a.m. and 11:00 p.m.

Section 165-704.02. Automotive Oil Change and Lubrication Shops; Building Materials, Hardware, Garden Supply, and Retail Nurseries; General Automotive, Motorcycle and Truck Repair, Services and Parking.

A. **Location.**

(1) All repair shall take place entirely within an enclosed structure.

(2) Inoperable motor vehicles must be stored within a totally enclosed building or screened on all sides by a six (6) foot opaque element such as a fence, wall or berm.

B. **Screening.** All exterior storage of parts and equipment shall be screened from view of surrounding properties by an opaque fence or screen at least six (6) feet in height. This fence or screen shall be adequately maintained.

(1) Chain-link fencing with double-walled winged slats, with a privacy factor of 90% or greater, may be utilized to satisfy the opaque fence requirements when the adjoining properties are in the B-2, B-3, M-1, M-2, TM, EM, or MS Districts, or other zoning districts where the proposed use is also allowed.

i. An equivalent slat type may be approved by the Zoning Administrator.

C. **Sales.** In the RA, M1, M2, and TM Zoning Districts, the sale of automobiles shall not be permitted as an accessory or secondary use to any automotive repair shop.

Section 165-704.03. Boat Repair Shop.

A. All boat repair uses shall meet the following requirements:

(1) All repair activities shall take place entirely within an enclosed structure.

(2) All exterior storage of parts, equipment, and boats shall be screened from view of surrounding properties by an opaque fence or screen a minimum of six (6) feet in height.

i. This fence or screen shall be adequately maintained.

(3) In the RA, M1, and M2 Zoning Districts, the sale or resale of boats shall not be permitted as an accessory or secondary use to a boat repair shop.

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Section 165-704.04. Car Washes.

A. Car washes in the B-1 and B-2 Zoning Districts that are adjacent to RA with residential dwellings, RP, R-4, R-5, MS (Medical Support with Residential Component), or MH-1 zoned properties shall have an operator on-site during all hours of operation.

(1) Hours of operation for car washes in such districts shall be limited to the following:

Table VII-1. Car Wash Hours of Operation.

Days	Hours
Monday—Friday	7:00 a.m. to 9:00 p.m.
Saturday	8:00 a.m. to 9:00 p.m.
Sunday	12:00 noon to 6:00 p.m.

Section 165-704.05. Commercial Recreation; Indoors or Outdoors.

A. Commercial indoor recreation located in the M1 and TM Zoning Districts shall be subject to the following requirements:

(1) Parking areas for recreation facilities shall be designated to enhance the safety of patrons as they arrive at and leave the facility.

(2) Adequate parking shall be provided on site or through a shared parking agreement per Article VIII, Part 804, of this Ordinance.

(3) Establishments shall include a designated pickup and delivery area for all patrons in such a way that provides safe and clearly designated access to enter or exit the facility.

B. **Commercial Batting Cages.** Commercial batting cages located in the B2 Zoning District shall meet the following requirements:

(1) Outdoor batting cage operations may be developed as standalone facilities or may be located in conjunction with other permitted uses in the B2 Zoning District.

(2) Outdoor batting cage operations shall be constructed to meet the standards for rectangular cage systems and radial cage systems.

i. Monopole cage systems shall not be permitted.

ii. Stock pipe utilized to support the outdoor batting cage net system shall not exceed 25 feet in height.

(3) Outdoor batting cage systems shall be developed within an area not to exceed 15,000 square feet.

i. The perimeter of the outdoor batting cage facility shall be enclosed with an eight (8)-foot high chain link fence.

(4) Lighting fixtures for outdoor batting cage operations shall be engineered to reflect downward and shall not reflect light onto adjoining uses, properties, and road ROWs.

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Section 165-704.06. Commercial Shooting and Archery Ranges, Indoor or Outdoor.

A. **Permits.** Outdoor shooting and archery ranges shall be allowed only with an approved CUP in accordance with Article III, Permits and Applications, of this Ordinance.

B. **Distance to Residences.**

(1) In no case shall a shooting range be located within 1,000 feet of any residence.

(2) In no case shall an archery range be located within 300 feet of any residence.

C. **Landscaping and Screening.** Where outdoor shooting and archery ranges are allowed, a "Category C" zoning district separation buffer, as described by Article VIII, Part 802, of this Ordinance, shall be provided in relation to surrounding properties containing residential uses.

D. **Supervision.** All outdoor shooting and archery ranges shall be supervised at all times by qualified personnel.

Section 165-704.07. Country General Store Without Fuel Sales.

A. Country general stores located in the RA Zoning District shall meet the following requirements:

(1) The use shall adhere to the B2 Zoning District dimensional standards established in Article IV, Part 406, of this Ordinance.

(2) A country general store may not exceed 3,500 square feet of gross retail floor area.

i. Country general stores proposing a square footage in excess of 3,500 square feet or with fuel sales shall be located within or adjacent to a designated rural community center, as defined in the Comprehensive Plan, and/or require a rezoning to a business district.

(3) Country general stores may not include accessory fuel sales.

(4) A Site Plan shall be submitted to and approved by Frederick County prior to the establishment of the use in accordance with Article III, Permits and Applications, of this Ordinance.

(5) All new buildings require building permits reviewed and approved by the Building Official. Existing buildings should conform to the requirements under Article IX, Nonconformities, of this Ordinance.

(6) Any expansion of an approved country general store shall require the approval of a new CUP in accordance with Article III, Permits and Applications, of this Ordinance.

Section 165-704.08. Flea Markets, Operated Indoors or Outdoors.

A. Flea markets in the RA Zoning District shall meet the following requirements:

(1) A Site Plan in accordance with the requirements of Article III, Permits and Applications, shall be submitted to and approved by Frederick County.

i. The site plan shall delineate all vendor spaces in addition to all required parking spaces.

(2) **Size of Use.** Property size shall be a minimum of six (6) acres and a maximum of 15 acres.

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(3) **Location.** Flea markets may be located indoors or outdoors.

(4) **Operation.** Flea markets shall only be permitted to operate Friday through Sunday and on holidays.

(5) **Display of Products.** All items displayed for sale shall be located within designated vendor spaces.

(6) **Parking and Access.**

i. All parking spaces and travel aisles shall be graveled.

ii. The Board of Supervisors may require through the CUP process that all travel aisles and/or parking spaces be paved with a minimum double prime and seal or alternative dust free surface.

iii. The site must have direct frontage and access to a collector or arterial roadway.

a. All entrances shall conform to VDOT standards.

(7) **Landscaping and Screening.**

i. A "Category B" zoning district buffer as described in Article VIII, Part 802, of this Ordinance, shall be required along any adjacent parcel:

a. Six (6) acres in size or less that is used for residential purposes; and

b. Where a dwelling is located 50 feet or less from the proposed flea market property.

ii. When adjacent to property primarily used for purposes other than residential, fencing (wire type, nonopaque) shall be provided along the property line.

Section 165-704.09. Flex-Tech.

A. **Intent.** 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.

B. **Applicability.** These 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.

C. **Permitted Uses.** All uses allowed in the B2, B3, M1, and TM 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.

i. 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.

D. 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.

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E. All flex-tech developments shall adhere to an approved Site Plan that complies with the requirements set forth in this Ordinance, including the following design standards:

(1) **Individual Unit Size Dimensional Requirements.**

i. Maximum unit sizes shall be 20,000 square feet.

(2) **Site Layout Requirements.**

i. **Loading Bays.**

a. All loading bays shall be located so that they are not visible from road ROWs. All loading bays shall be screened from view by the building, landscaping, walls or decorative fencing.

b. 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 ROWs or properties.

c. The Zoning Administrator may waive any and all of the loading bay location and screening requirements when a site is bordered by two (2) or more road ROWs.

d. In no case shall a loading bay be visible from an arterial or collector road.

ii. **Building Separation.** Minimum on-site building separation shall be as follows:

a. Front yard: 30 feet.

b. Side Yard: 30 feet.

c. Rear yard: 120 feet.

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

iv. 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.

v. All uses shall be conducted entirely within enclosed structures.

Section 165-704.10. Food and Beverage Retailers.

A. **B3 Zoning District Requirements.**

(1) Maximum building square footage used for retail sales of grocery or food products shall not exceed 10,000 square feet.

i. The 10,000 square feet shall not include area used for storage warehousing of products.

B. **B1 Zoning District Requirements.**

(1) Maximum building square footage used for retail sales of grocery or food products shall not exceed 15,000 square feet.

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Section 165-704.11. Food Services, Restaurants and Other Eating Places.

A. Restaurants located in the B1 Zoning District shall meet the following requirements:

(1) Drive-through window service is prohibited.

(2) Restaurants shall only be permitted within a shopping center containing at least three (3) other business units.

i. Restaurants shall not exceed 35% of the total floor area within a shopping center.

(3) Restaurants without drive-through facilities located in the RA Zoning District shall meet the following requirements:

i. Restaurants shall have an approved drainfield; alternative waste systems, including pump and hauls, are prohibited.

Section 165-704.12. Hardware, Plumbing, and Heating Equipment and Supplies Merchant Wholesalers.

A. Electrical hardware, plumbing, and heating equipment business located in the B2 Zoning District shall be subject to the following requirements:

(1) Establishments primarily engaged in these businesses shall not exceed 8,000 square feet of total floor area.

(2) Only 25% of the total floor area within a shopping center shall contain such businesses.

(3) Outdoor storage and fabrication and/or manufacturing facilities shall be prohibited.

Section 165-704.13. Kennels.

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

(1) All dogs shall be confined to secure pens or structures.

(2) A "Category C" zoning district buffer, as described by Article VIII, Part 802, of this Ordinance, shall be provided in relation to all surrounding properties containing residential uses.

Section 165-704.14. Motor Vehicle and Parts Dealers.

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.

Section 165-704.15. Offices and Clinics of Doctors of Medicine, Dentists, and Other Health Practitioners.

A. Doctors of medicine, dentists and other health practitioners in the RP and RA Districts shall be subject to the following requirements:

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(1) The use shall adhere to B2 Zoning District dimensional standards established in Article IV, Part 406, of this Ordinance.

i. Buffers and screening are excluded from these requirements and shall be determined by the Zoning Administrator.

(2) The use must front on and be accessed via a collector or arterial roadway.

(3) The primary use of the structure shall be the doctor's office.

(4) The use shall not be located within a residential development/subdivision.

Section 165-704.16. Retail Stores (Drug, Health, and Personal Care).

A. Retail stores (drug, health, and personal care) located in the B1 Zoning District shall meet the following requirements:

(1) **Size of Use.** Maximum building square footage used for retail sales shall not exceed 15,000 square feet.

Section 165-704.17. Special Event Facility.

A. Any special events facility shall be subject to the following requirements:

(1) **Review.**

i. An illustrative sketch plan in accordance with the requirements of Article III, Permits and Applications, shall be submitted with the CUP application.

a. This plan shall identify access for the facility, the location of all parking areas, the location and square footage for all structure(s) to be used, and the location of sewage disposal facilities.

ii. All structures associated with a special events facility shall require review and approval by the Building Official.

(2) **Parking.**

i. Private entrances, driveways, and all travel ways accessing the required off-street parking areas shall be provided with a gravel surface or an approved equivalent.

ii. Adequate area for off-street parking on stable ground shall be provided for the special events center.

iii. Parking areas shall be maintained regularly, free of mud, and stabilized with vegetation. Tracking of mud and debris onto roadways is not permitted.

iv. Parking related to or required for other approved businesses or business activity on the property shall meet the requirements of Article VIII, Community Development Standards, for off-street parking and parking lots.

v. At no time shall the parking of vehicles obstruct vehicular traffic or impede access to emergency services.

vi. Accessible parking shall be provided as required by the Virginia USBC.

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vii. The Board of Supervisors may require through the CUP process that all travel aisles and/or parking spaces be graveled, paved with a minimum double prime and seal, or alternative surface.

viii. Additional requirements may be required as determined by the Frederick County Fire Marshal to maintain fire department apparatus access.

(3) **General Standards.**

i. Portable toilets shall be permitted for special event facilities, provided that they are screened from all adjoining properties and roads by topography, structures or new or existing landscaping.

ii. Special events facilities that share a private access easement with another property owner/s must show the easement allows a use of this type or written permission must be obtained by the sharing parties.

Section 165-704.18. Welding Repair.

A. **Development Standards.**

(1) A Site Plan in accordance with the requirements of Article III, Permits and Applications, shall be submitted to and approved by Frederick County.

(2) Total building area shall not exceed 7,500 square feet.

B. **General Standards.**

(1) Hours of operation shall not exceed 7:00 a.m. through 7:00 p.m., Monday through Saturday.

(2) All outdoor storage or repair areas shall be screened by a six (6) foot board-on-board fence, evergreen screen or berm.

(3) The Board of Supervisors may require buffer and screening elements and/or distance when deemed necessary to protect existing adjacent uses.

Part 705. Industrial Use Standards.

Section 165-705.01. Computing Infrastructure Providers, Data Processing, and Data Centers.

A. All data centers must meet the following requirements:

(1) Prior to the approval of a rezoning application or CUP, the following shall be provided:

i. A site assessment to examine the sound profile of the data center on residential units and schools located within 500 feet of the data center property boundary in accordance with (5), below;

ii. A site assessment evaluating the effect of the proposed facility on the below; and

a. Ground and surface water resources;

b. Agricultural resources;

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c. Parks;

d. Registered Historic Sites; and

e. Forestland on the data center site or immediately contiguous land.

iii. Details of any new or existing substations that will be used to serve the data center and the anticipated transmission voltage required to serve the data center.

(2) Generator testing and cycling shall be limited to weekdays (Monday to Friday) between the hours of 8:00 a.m. to 5:00 p.m.

i. Notwithstanding the foregoing, all noise generated by any on-site generator shall comply with Article VIII, Part 801, of this Ordinance.

(3) **Mechanical Equipment.**

i. Ground-mounted mechanical equipment shall be prohibited in the primary setback.

ii. Ground-mounted and rooftop mechanical equipment shall be screened from public roadways and adjoining properties on all sides.

a. **Generators.** All generators shall be enclosed with a manufacturer-approved enclosure or located within the primary structure.

b. **Other Mechanical Equipment.** An opaque screen shall be provided by either the principal building, louvered wall, or equivalent screen approved by the Zoning Administrator.

(i). The maximum height of the opaque screen should correspond to the tallest piece of equipment being shielded from view.

(4) **Setback and Screening Requirements.**

i. Structures must be set back at least 200 feet from the common property line when adjoining land is zoned RA, RP, R4, R5, or MH1. Otherwise, the base zoning district dimensional standards shall apply in accordance with Article IV, Primary Zoning Districts.

ii. A "Category C" zoning district buffer as described in Article VIII, Part 802, of this Ordinance, shall be provided around the perimeter of the property.

a. If the adjoining property is zoned B3, TM, M1, or M2, no buffer is required.

(5) **Noise and Noise Monitoring.**

i. The applicant shall submit an Environmental Noise Impact Assessment prepared by a qualified full member of the Acoustical Society of America (ASA), a member of the Institute of Noise Control Engineering (INCE), or a member of the National Association of Acoustical Consultants (NCAC). The purpose of such noise impact assessment, modeled in SoundPLAN, CadnaA, or accepted equivalent, shall model anticipated noise levels as a result of facility operation and establish a baseline noise level prior to approval of a rezoning or CUP.

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ii. A noise study certifying noise levels shall be conducted 12 months after the issuance of the first certificate of occupancy (CO) and every five (5) years thereafter. Each noise study shall be submitted for review to the Zoning Administrator and/or his/her designee to assess the actual impact of the completed project.

a. The measurement of sound or noise pursuant to this section shall be as follows:

(i). The measurement of sound or noise shall be made with a Type 1 or Type 2 sound level meter which meet the standards prescribed in ANSI S1.4:2014, Specification for Sound Level Meters. The instruments shall be maintained in calibration and good working order. A minimum of three (3) sound level readings shall be taken. The average of these readings will be used as the average sound level. If the background noise is equal to the levels set forth in this section, three (3) dB shall be subtracted out of the average sound level.

(ii). The slow meter response of the sound level meter shall be used to determine that the average amplitude has not exceeded the dBA readings or the limiting noise spectra set forth in this section.

(iii). Unless otherwise specified, the measurement shall be taken at the property boundary on which such noise is generated.

b. Any additions, alterations, or expansion of a facility or its equipment shall require a new noise impact assessment to be submitted and approved by the Zoning Administrator.

c. If the post construction noise study exceeds the maximum noise level permitted, additional noise mitigation strategies, improvements, or operational changes shall be required.

iii. Any equipment necessary for cooling, ventilating, or otherwise operating the facility, including power generators or other power supply equipment on the property, whether ground-mounted or roof-mounted, shall include the following noise-mitigation elements:

a. Low-noise emission fans.

b. Acoustic wraps for compressors and oil separators.

c. An acoustic perimeter, which may include a perimeter around a group of individual chillers, which may be louvered or solid.

d. Other sound-attenuation measures as approved by the Zoning Administrator.

iv. The owner shall provide documentation in the form of technical specifications, photographs, and/or engineered plans, of the above mitigation measures contained in A.(5)iii., above, with each building permit for a data center building on the property and shall further provide documentation that such measures have been installed concurrently with each occupancy.

Section 165-705.02. Junkyards and Auto Merchant Wholesalers.

A. **General.**

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(1) Junkyards, automobile graveyards, dumping and trash heaps shall be permitted only where specifically allowed by Article VI, Use Matrix, of this Ordinance.

(2) Such uses shall meet all applicable local, state, and federal regulations.

(3) Junkyards and auto merchant wholesalers shall be completely screened from the view of surrounding roads and properties by fences, walls, screens, or other methods.

B. **Junkyards.**

(1) No junkyards shall hereafter be established if any portion is located within 1,000 feet of the nearest edge of the ROW of any interstate or United States highway, or within 500 feet of the nearest edge of the ROW of any Commonwealth of Virginia highway, except as follows:

i. 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.

ii. Junkyards which are not visible from the main traveled way of the highway.

Section 165-705.03. Oil and Natural Gas Exploration.

A. All applicable federal, state, and local regulations shall be met.

B. A site plan shall be reviewed and approved meeting all requirements of the Frederick County Code.

C. Refining is prohibited in the EM Zoning District.

Section 165-705.04. Sand, Shale, and Clay Mining.

A. All mining operations shall:

(1) Be above the mean existing grade level of a parcel;

(2) Meet all applicable state and federal requirements; and

(3) Adhere to the EM Zoning District dimensional standards established in Article IV, Part 407, of this Ordinance.

Section 165-705.05. Self-Service Storage Facilities.

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. **Development Standards.**

(1) Buildings that provide interior and exterior accessible units are permitted.

(2) Individual units within the self-service storage building shall not exceed 1,000 square feet in area.

(3) Minimum building spacing shall be 30 feet apart. Loading areas shall be delineated to ensure that adequate travel aisles are maintained between buildings.

C. **General Standards.**

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(1) 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.

(2) 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 depicted on the approved site plan and is separate from the parking areas and travel aisles.

i. Areas utilized for this purpose shall be exempt from the surface requirements specified under B.(1) of this Section.

(3) Self-service storage facility operations shall be designed to accommodate the storage of residential, commercial and industrial items, excluding hazardous, toxic and explosive materials.

(4) Any use, sale, repair or activity other than storage is prohibited.

(5) A copy of the lease agreement which describes the requirements of this subsection shall be approved in conjunction with the site plan for the self-service storage facility operation.

D. **Landscaping and Screening**.

(1) Facilities located in the B2 Zoning District shall have all overhead doors and loading areas completely screened by a double row of evergreen trees that are staggered and planted a maximum of 12 feet off center and are a minimum of four (4) feet in height when planted.

(2) Facilities located in the B3 or M1 Zoning Districts shall be required to landscape the yard area adjacent to public streets and residences to provide for a double row of evergreen trees that are staggered and planted a maximum of 12 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 four (4) feet in height at the time of planting.

(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 trees that are planted a maximum of 40 feet off center. All trees shall be a minimum of four (4) feet in height at the time of planting.

(4) The installation of an opaque wall or fence that is a minimum of six (6) feet in height may substitute for required landscaped areas in all zoning districts.

(5) A solid building wall, free of windows or doors, is not required to be screened.

(6) Chain-link fencing with slats, with a privacy factor of 90% or greater, may be utilized to satisfy the opaque fence requirements when the adjoining properties are in the B2, B3, M1, M2, TM, EM, MS zoning districts, or other zoning districts where the proposed use is also allowed.

Section 165-705.06. Tractor Truck and Tractor Truck Trailer Parking.

A. **General Standards.**

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(1) No facility shall be located adjacent to residential uses.

(2) All areas utilized for the parking of tractor trucks and the storage of trailers shall utilize a gravel or paved surface.

i. All paved and gravel surfaces shall be properly maintained to ensure that dirt, mud, gravel, or the like is not distributed onto roadways.

(3) The following activities shall be prohibited at such facilities:

i. Fuel sales;

ii. Maintenance of trucks and trailers; and

iii. The parking or storage of inoperable tractor trucks, damaged/salvage trailers, or unlicensed trailers.

(4) Facilities shall be required to landscape the yard area within the front setback to provide for a double row of evergreen trees that are staggered and planted a maximum of 12 feet on center. 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.

i. All trees shall be a minimum of four (4) feet in height at the time of planting.

ii. The Board of Supervisors may allow for alternative landscaping based on topography and/or adjacent land uses.

(5) A Site Plan in accordance with the requirements of Article III, Permits and Applications of this Ordinance, shall be submitted to and approved by Frederick County.

Section 165-705.07. Truck or Fleet Maintenance Facilities; Car, Truck, Utility Trailers, and RV (Recreational Vehicle) Rental and Leasing.

A. In the M1 Zoning 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 (1) gasoline storage tank of 10,000 gallons or less and one (1) diesel storage tank of 10,000 gallons or less.

C. **Development Standards.**

(1) The Zoning Administrator may require additional buffers and screening other than those defined in Article VIII, Part 802 of this Ordinance.

D. **General Standards.**

(1) All repair and maintenance operations shall occur within a completely enclosed structure.

(2) Outdoor storage of parts associated with repair and maintenance shall be prohibited.

(3) Retail sales of fuel are prohibited.

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Section 165-705.08. Warehousing and Storage.

A. In the TM Zoning District, warehousing and storage uses shall be accessory to another principal use.

(1) Such warehousing and storage shall not exceed:

i. More than 50% of the gross square footage of the principal structure; or

ii. More than 75% of the gross square footage of the principal structure, when served directly by rail.

Part 706. Miscellaneous Use Standards.

Section 165-706.01. Accessory Dwellings.

A. One (1) 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 or a minimum of 500 square feet, whichever is greater.

(2) In the RP, R4, and R5 Zoning Districts, accessory dwellings shall only be allowed if they are attached to the primary residential structure.

(3) In no case shall a manufactured home be allowed as an accessory dwelling in the RP, R4, or R5 Zoning Districts.

B. **Dwellings in a Business.** One (1) 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.

Section 165-706.02. Accessory Uses.

A. Secondary or accessory uses shall be permitted by right in the B1, B2, B3, TM, M1, and M2 Districts, but only in conjunction with and secondary to a permitted principal use.

(1) The square footage or area occupied by secondary uses cumulatively shall not exceed 25% of the gross floor area of the related principal use.

(2) In the B3, TM, M1, and M2 Districts, no more than 15% 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 limit of 25% on secondary uses.

B. **General.**

(1) In no case shall a manufactured 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.

C. **Agricultural Accessory Uses.**

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(1) The selling or processing of agricultural products produced on the premises shall be considered accessory to an agricultural use.

(2) On bona fide, operating farms, temporary or permanent housing for workers actively working on the farm shall be an allowed accessory use.

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Article VIII. Community Development Standards.

Part 801. Nuisances.

Section 165-801.01. General Requirements.

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

(1) **Glare**. Outdoor lighting shall be in accordance with Part 807 of this Ordinance. 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.

(2) **Radiation Hazards**. All uses handling radioactive materials shall conform with applicable local, state and federal regulations. No use shall be allowed which:

i. Creates radiation emissions which are hazardous to the health and safety of the general public; or

ii. Discharges radioactive materials into the atmosphere, soils, or bodies of water.

(3) **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.

(4) **Vibrations**. No use shall be allowed which creates any vibration discernible for three (3) minutes or more per hour. In no case shall vibrations exceed a maximum peak particle velocity of 0.05 inch per second.

(5) **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.

(6) **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.

(7) **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 (VDH) concerning the discharge of liquid, toxic, or other wastes into surface waters or the soil.

(8) **Noise**. Sound levels at the property line of a development shall not exceed 70 dba (A scale) within the B3, TM, M1, and M2 zoning districts.

Part 802. Buffers and Landscaping.

Section 165-802.01. Purpose.

A. The requirements of this Part are intended to enhance the appearance, environment, and general welfare of Frederick County by providing minimum landscaping standards and encouraging tree preservation for developments.

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B. It is the intent of the regulations of this Part to encourage proper design of a site in order to protect adjacent existing uses and to protect proposed uses within the site.

Section 165-802.02. Applicability.

The provisions of this Part shall apply to all Site Plan and subdivision design plan applications, including the revision or expansion of any site or development.

Section 165-802.03. Residential Developments.

A. Residential developments which require an MDP, subdivision design plan, or Site Plan shall provide at least one (1) of the three (3) types of landscaping identified below.

(1) **Street Tree Landscaping**.

i. Street tree landscaping shall require one (1) 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.

ii. Planting street trees on the property lines of building lots should be avoided.

iii. Two (2) or more street trees shall be planted on each building lot.

a. The Zoning Administrator may allow fewer than two (2) street trees for an individual building lot if topographical features, utilities, easements, or the width of the lot makes it impractical to do so.

iv. All Street Trees shall adhere to the requirements of Table VIII-4, below.

v. Street Trees shall be selected in accordance with the Frederick County Master Planting List, which shall be maintained by the Zoning Administrator.

(2) **Ornamental Landscaping**.

i. Ornamental landscaping shall be provided for residential developments based on Table VIII-1 and Table VIII-2.

ii. Ornamental trees and shrubs shall comply with the requirements of Sections 165-802.04 and 165-802.05 of this Article.

iii. 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.

Table VIII-1. Index of Lot Types.

Lot Type	Description
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	Multiplex
H	Townhouse, Back-to-Back Townhouse

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Table VIII-1. Index of Lot Types.	
Lot Type	Description
I	Garden Apartment, Multifamily Residential Buildings, and Age-Restricted Multifamily Housing

Table VIII-2. Required Landscaping Per Dwelling Unit.		
Lot Type	Ornamental Shrubs	Ornamental Trees
A	None	10 per 1 unit
B	10 per 1 unit	5 per 1 unit
C		
D		
E		
F	15 per 1 unit	
G	3 per 3 units*	1 per 3 units*
H	6 per 5 units*	2 per 5 units*
I	3 per 2 units*	1 per 2 units*
** Required ornamental trees and shrubs are in addition to all trees and shrubs elsewhere required in the Zoning Ordinance.*		

(3) **Tree Preservation Landscaping**.

i. An area with a tree canopy coverage, of at least 25% of the entire site area, shall be preserved within dedicated open space.

a. 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. These areas may be counted towards the total required open space, if required in by Part 805 of this Article.

c. Residential developments which are not required to have open space per Part 805 of this Article are not exempt from creating open space for the required canopy coverage.

ii. Canopy coverage shall be calculated from the cumulative total of existing tree canopies.

iii. Preserved trees shall be clustered together to maintain a contiguous canopy; and shall be protected from construction activity.

Section 165-802.04. Business and Industrial Developments.

Landscaping shall be provided for business and industrial developments based on Table VIII-3.

Table VIII-3. Required Landscaping for Business Developments.	
Business or Industrial District	Percentage of Lot Area to be Landscaped
B1	35

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Table VIII-3. Required Landscaping for Business Developments.	
Business or Industrial District	Percentage of Lot Area to be Landscaped
B2	15
B3	25
HE	25
TM	15
M1	25
M2	15

Section 165-802.05. Plant Selection.

A. All required trees and shrubs shall be selected from the list of acceptable trees and shrubs shown on the Frederick County Master Planting List.

B. Bradford pears and all varieties of ornamental flowering pears are prohibited from being used to fulfill planting or substitute planting requirements.

Section 165-802.06. Planting Procedure and Maintenance.

A. **General**.

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

(2) Only single-stem trees shall be planted as street trees.

(3) Trees shall not be planted within easements for water, sewer, electric, or gas.

(4) At planting, all plants shall be the minimum size provided in Table VIII-4.

Table VIII-4. Minimum Size at Planting.		
Plant Type	Minimum at Planting	Spacing/Location
Street Trees for Residential Developments	1.5 inch caliper	Maximum of 20 feet from rights-of-way
Deciduous Trees		3 feet to the edge of sidewalks, curb, or other pavement
Evergreen Trees	4 feet in height	
Shrubs; Shrubs for parking lot screening	3-gallon container 36 inches in height*	4 feet on center
Shrubs for buffers	18 inches in height	*n/a*
* *Unless topography allows a reduction to maintain 36 inches from pavement to top of shrub*		

B. **Measurement of Size**.

(1) Caliper shall be measured as:

i. 4-inch caliper and below: six (6) inches above the ground; and

ii. Larger than 4-inch caliper: 12 inches above the ground.

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(2) Diameter at breast height (dbh) shall be measured at the height of 54 inches from the base of the trunk or as otherwise allowed in the Guide for Plant Appraisal.

C. **Maintenance**.

(1) 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 (1) year after planting.

(2) After one (1) year, from the date occupancy is approved, the individual property owner and/or homeowner's association shall become responsible for maintenance.

D. **Guaranty**. The Zoning Administrator may require a bond with surety or other acceptable guaranties to insure the completion of required improvements. Such guaranties shall be:

(1) In the estimated amount of the required improvements;

(2) For a period of completion set by the Zoning Administrator with consultation with the applicant; and

(3) Released when the required improvements have been completed.

E. **Existing Tree Credits**.

(1) If the intent of this Part 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.

(2) Commercial and industrial developments may utilize existing tree credits when calculating the required number of parking lot trees, as required in Section 165-802.07 of this Article, if the preserved trees are shown on an approved Site Plan and serve the intent of interior and perimeter landscaping.

(3) The following table shows the credit given for each preserved tree, based on the tree's caliper:

Table VIII-5. Tree Credit Per Caliper

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

Section 165-802.07. Parking Lot Landscaping.

A. **Applicability**. All parking lots, except for those listed in B., below, shall be landscaped to reduce the visual impact of glare and headlights on adjoining properties and rights-of-way, the visual expansiveness of parking lots, and reflected heat.

B. **Exemptions.** The following are exempt from the requirements of this Part:

(1) Parking lots with 10 or fewer spaces in the RA district; and

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(2) All parking lots in the EM Zoning District.

C. **General**. All plantings used in parking lot landscaping shall comply with the requirements of Sections 165-802.05 and 165-802.06 of this Article.

D. **Perimeter Landscaping**. The perimeter of all impervious areas shall be landscaped with shade trees and other landscaping.

(1) One (1) tree shall be provided for every 2,000 square feet of impervious area for the first 100,000 square feet of the entire site.

(2) One (1) tree shall be provided for every 5,000 square feet in excess of the first 100,000 square feet of the entire site.

(3) The perimeter landscaping trees shall be reasonably dispersed throughout the parking lot.

(4) A three (3) foot tall evergreen hedge, fence, berm, or wall shall be provided to prevent headlights from shining on public ROWs and adjoining properties.

E. **Interior Landscaping**. A minimum of 5% of the interior portions of parking lots shall be landscaped for the purpose of providing shade trees.

(1) No less than one (1) shade tree shall be provided in the interior of the parking lot for each 10 parking spaces.

(2) Such interior landscaping shall be provided on raised islands and in continuous raised strips extending the length of a parking bay.

(3) Within the parking lot, raised islands and landscaped areas should be uses to delineate traffic and pedestrian circulation patterns.

(4) The Zoning Administrator may:

i. Waive the requirement for interior landscaping for parcels located outside of the Sewer and Water Service Area (SWSA) when curb and gutter is not proposed.

ii. Approve alternative locations for interior landscaping for parking lots used for truck parking, as well as other parking lots, if it improves the overall quality of the landscape plan.

Section 165-802.08. Buffer and Screening Requirements.

A. **Buffers Established.** Distance buffers shall be established in accordance with this Section and may consist of inactive and active buffer areas, as defined in Article XI, Definitions, of this Ordinance.

(1) Part of the buffer shall be inactive and part may be active. The inactive portion begins at the adjoining property line, as shown in Figures VIII-1 through VIII-6, below.

B. **Screening**. The purpose of screening is to work with distance buffers to lessen the impact of noise or visual interaction between adjacent activities. There are two (2) levels of screening: landscape screening and full screening. The higher the level of screening provided, the lower the level of distance buffer required.

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(1) **Landscape Screening**.

i. A landscape screen shall consist of a totally landscaped area at least 10 feet in depth.

ii. Plantings are encouraged to be spaced appropriately within the inactive buffer.

iii. Within the area, there shall be a minimum landscaping density of three (3) plants per 10 linear feet. The buffer shall consist of a combination of 1/3 deciduous trees, 1/3 evergreen trees and 1/3 shrubs.

(2) **Full Screen**. A full screen provides all the elements listed in D.(1), above, and also includes either a:

i. Six (6) foot tall, opaque hedge, fence, wall, mound, berm; or

ii. An additional two (2) rows of evergreen trees that are six (6) feet tall at time of planting.

iii. A 50-foot strip of mature woodlands may be allowed as a full screen, in lieu of the requirements of i. and ii., above.

C. **Residential Separation Buffers**. When different housing types are adjoining within the same development, buffers shall be provided in accordance with Table VIII-6 and Table VIII-7. This shall be in addition to the zoning district buffer types required in F., below.

(1) **General**.

i. 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 property owners' association.

ii. 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 (6) feet.

iii. 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.

iv. 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 MDP, shall not require residential separation buffers between housing types contained within the same development.

a. The Zoning Administrator may require residential separation buffers when a MDP is revised and the housing types are modified after construction has already commenced within the development.

(2) **Waivers, Reductions, and Modifications**. The Board of Supervisors may waive, reduce, and/or modify the residential separation buffer requirements (distance or landscaping) if:

i. 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; or

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ii. Utility conflicts preclude the installation of the buffer and would result in unnecessary or otherwise unreasonable hardship to the developer.

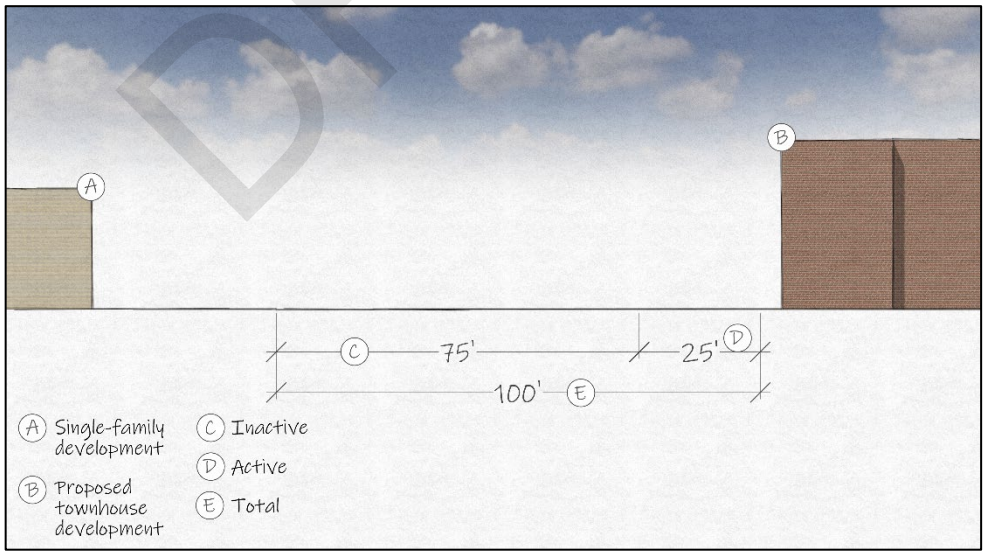
Table VIII-6. Residential Separation Distance Buffer Type Required.

Proposed Use/Development		Adjoining Existing Use/Development				
		1	2	3	4	5
1	Single-family detached			A	B	B
2	Single-family zero lot line or small lot			A	B	B
3	Townhouse	A	A		B	B
4	Garden apartment or multifamily buildings	C	C	B		A
5	Age-restricted multifamily	C	C	C		

Table VIII-7. Residential Separation Distance Buffer Minimums.

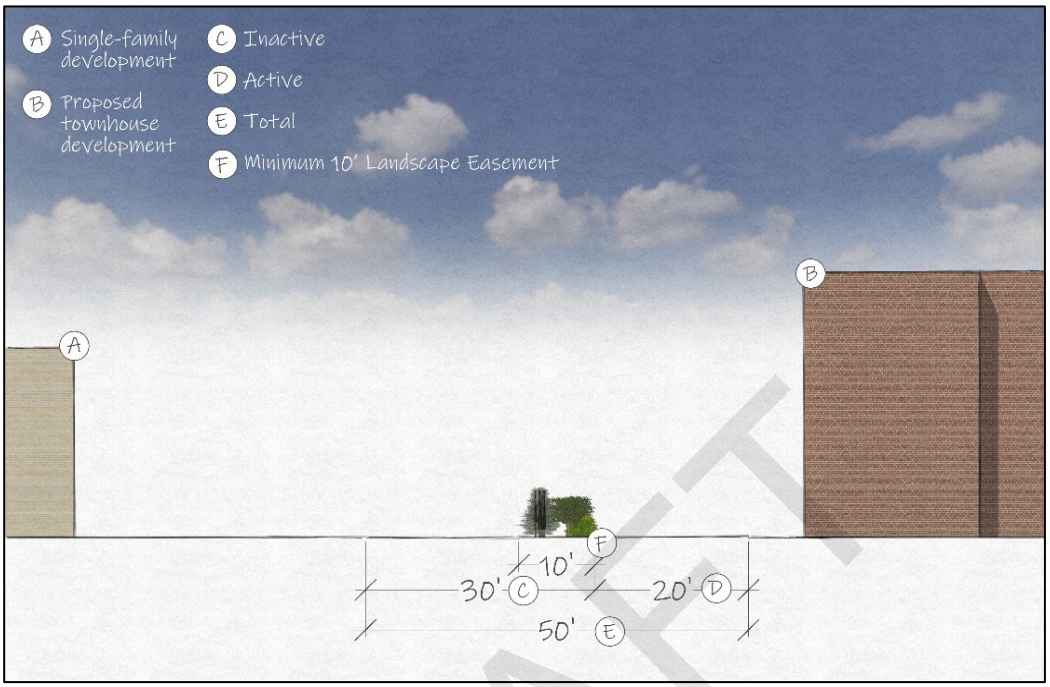
Type	Screen Type	Inactive (Minimum) (feet)	Active (Maximum) (feet)	Total (feet)
A	Full screen	15	10	*25*
	Landscape screen	30	20	*50*
	No screen	75	25	*100*
B	Full screen	30	20	*50*
	Landscape screen	45	30	*75*
	No screen	75	25	*100*
C	Full screen	75	25	*100*
	Landscape screen	100	50	*150*
	No screen	150	50	*200*

Figure VIII-1. Example Residential Separation Buffer – Type A, No Screen.



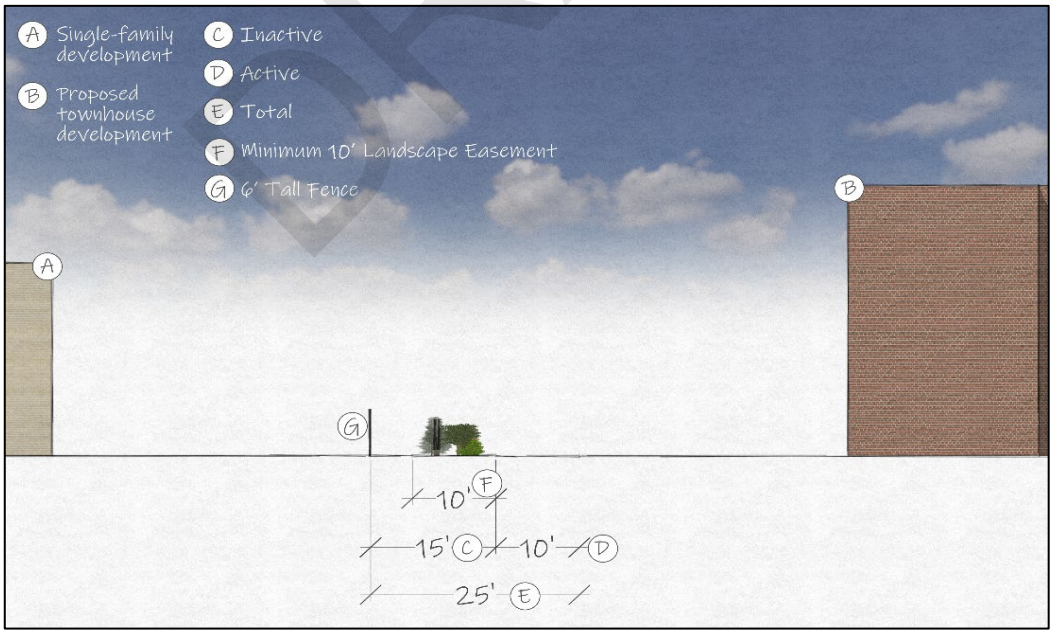
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Figure VIII-2. Example Residential Separation Buffer – Type A, Landscape Screen.



Note: Depicts time of planting, not full maturity.

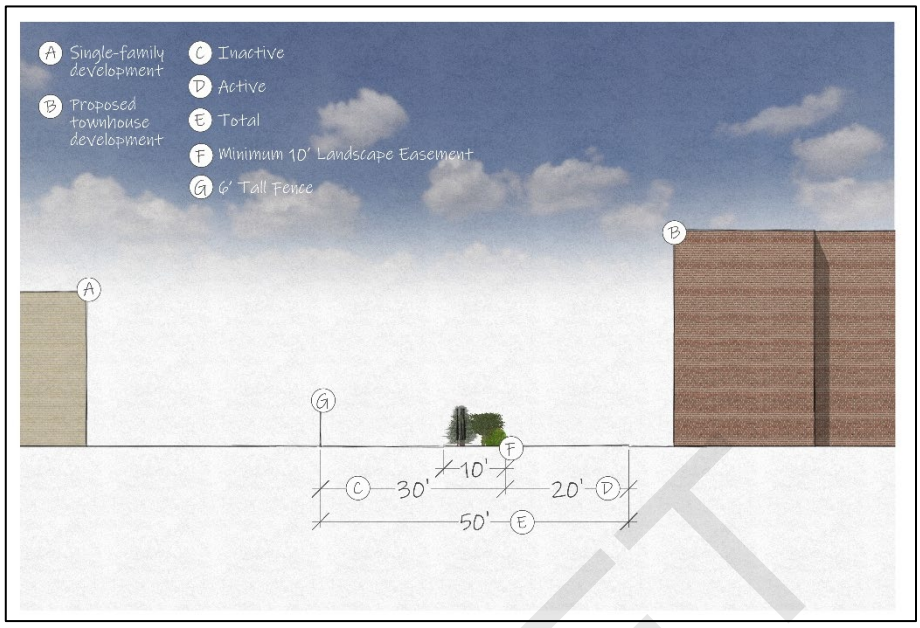
Figure VIII-3. Example Residential Separation Buffer – Type A, Full Screen.



Note: Depicts time of planting, not full maturity.

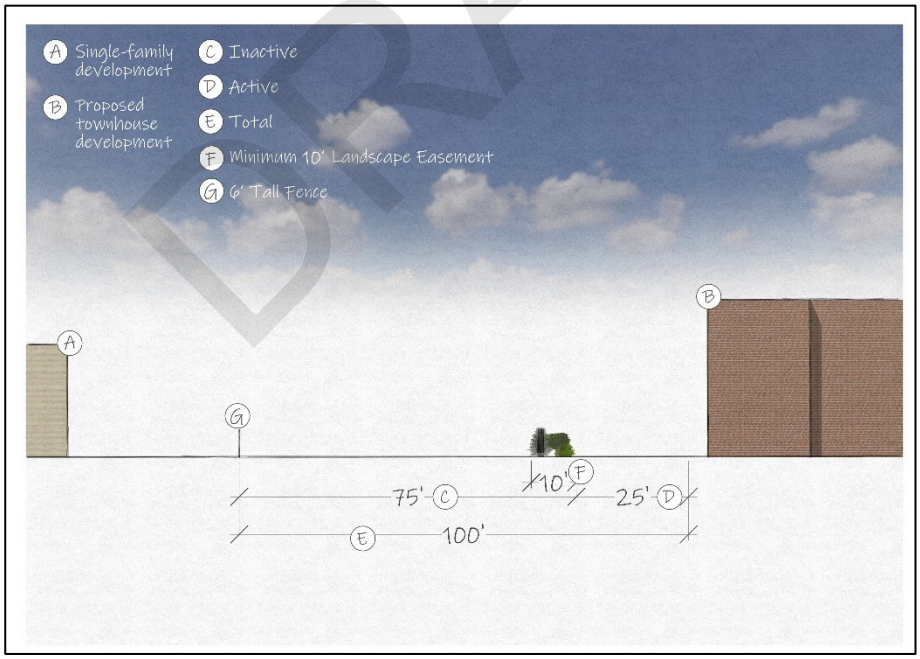
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Figure VIII-4. Example Residential Separation Buffer – Type B, Full Screen.



Note: Depicts time of planting, not full maturity.

Figure VIII-5. Example Residential Separation Buffer – Type C, Full Screen.



Note: Depicts time of planting, not full maturity.

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D. **Zoning District Buffers.** When land to be developed adjoins land in different zoning districts, buffers shall be provided in accordance with Table VIII-8 and Table VIII-9.

Table VIII-8. Zoning District Distance Buffer Type Required.

Zoning of Land to be Developed	Adjoining Land												
	Districts												
	RA	RP	R4	R5	MH1	B1	B2	B3	TM	M1	M2	EM	MS
RP, R4, 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	B			A	A	A	A	A	B
B2	B	B	B	B	B				A	A	A	A	B
B3	C	C	C	C	C	B							C
TM, M1	C	C	C	C	C	B	B						C
M2, EM	C	C	C	C	C	B	B	B	B	B			C
MS	*As required in D.2., below*												
B1, B2, B3, TM, M1, M2	***Roads and Railways***												
	State road with a designated functional classification of interstate, arterial or collector												
	n/a												
	Railroad right-of-way with property zoned B1, B2, B3, TM, M1 or M2 on the opposite side												
	n/a												
	Railroad right-of-way with property zoned residential on the opposite side												
	*As above**												

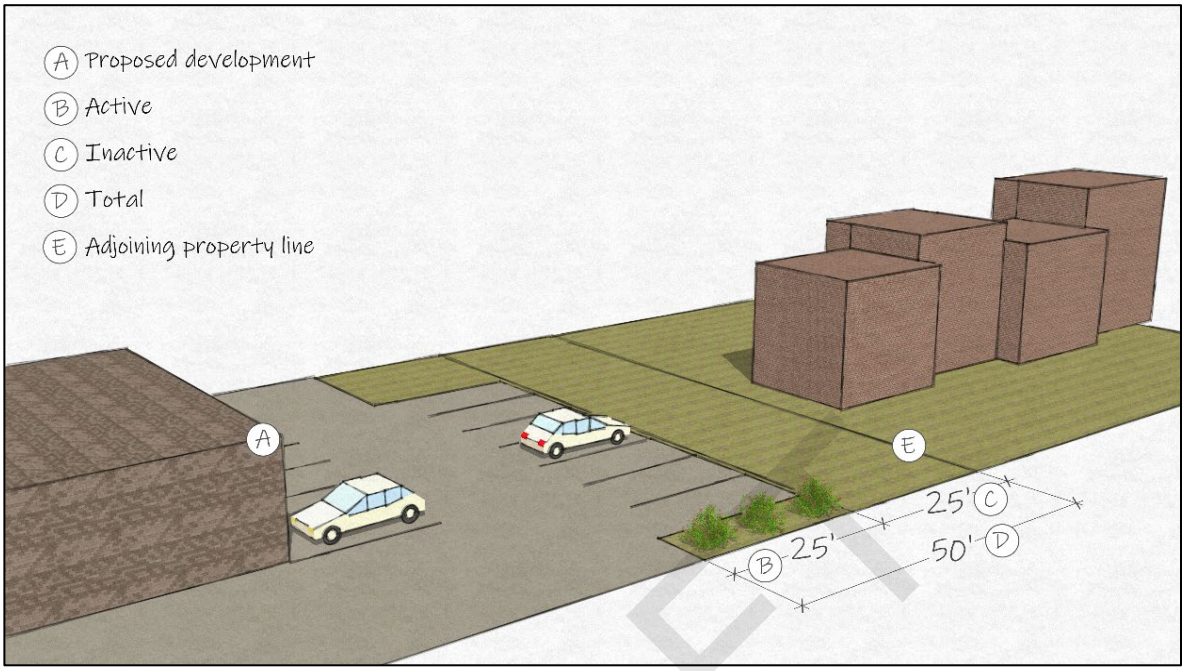
** The width of the railroad right-of-way may be counted towards the required zoning district buffer distance*

Table VIII-9. Zoning District Distance Buffer Minimums.

Type	Screen Type	Inactive (Minimum) (feet)	Active (Maximum) (feet)	Total (feet)
A	No screen	25	25	*50*
B	Full screen	25	25	*50*
	Landscape screen	75	25	*100*
	No screen	150	50	*200*
C	Full screen	75	25	*100*
	Landscape screen	150	50	*200*
	No screen	350	50	*400*

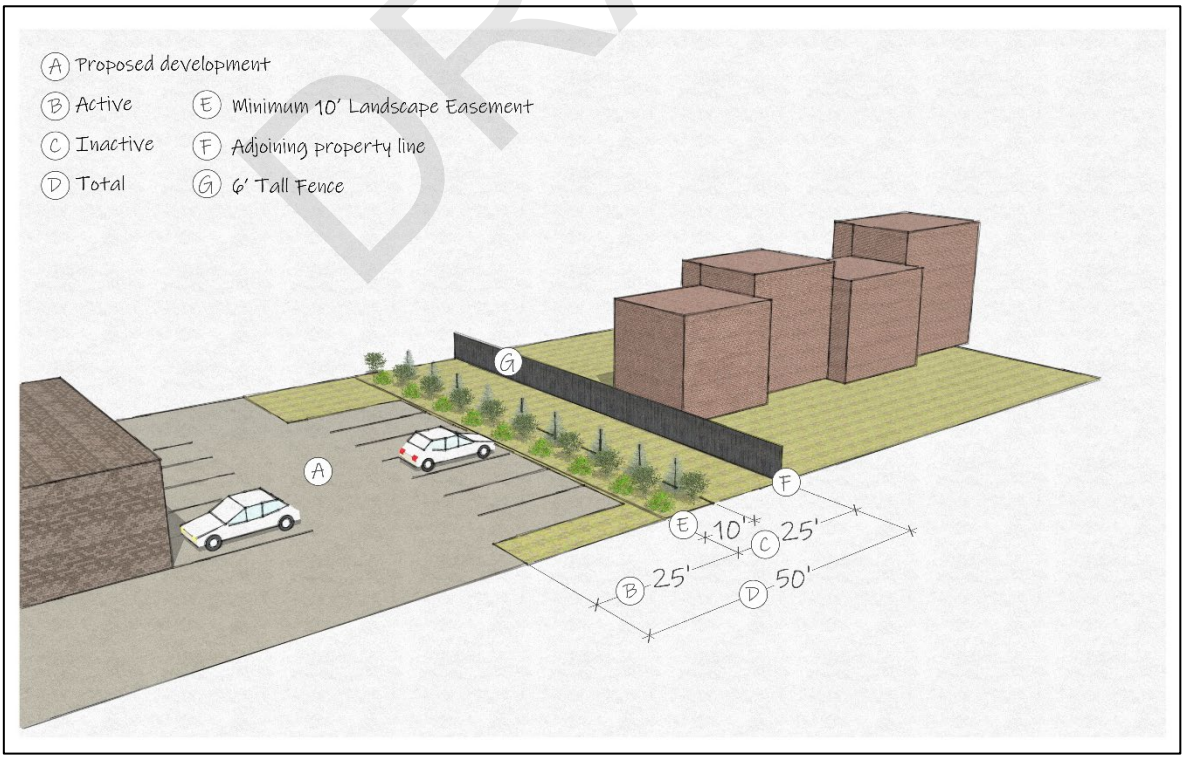
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Figure VIII-6. Example Zoning District Buffer – Type A, No Screen.



Note: Depicts time of planting, not full maturity.

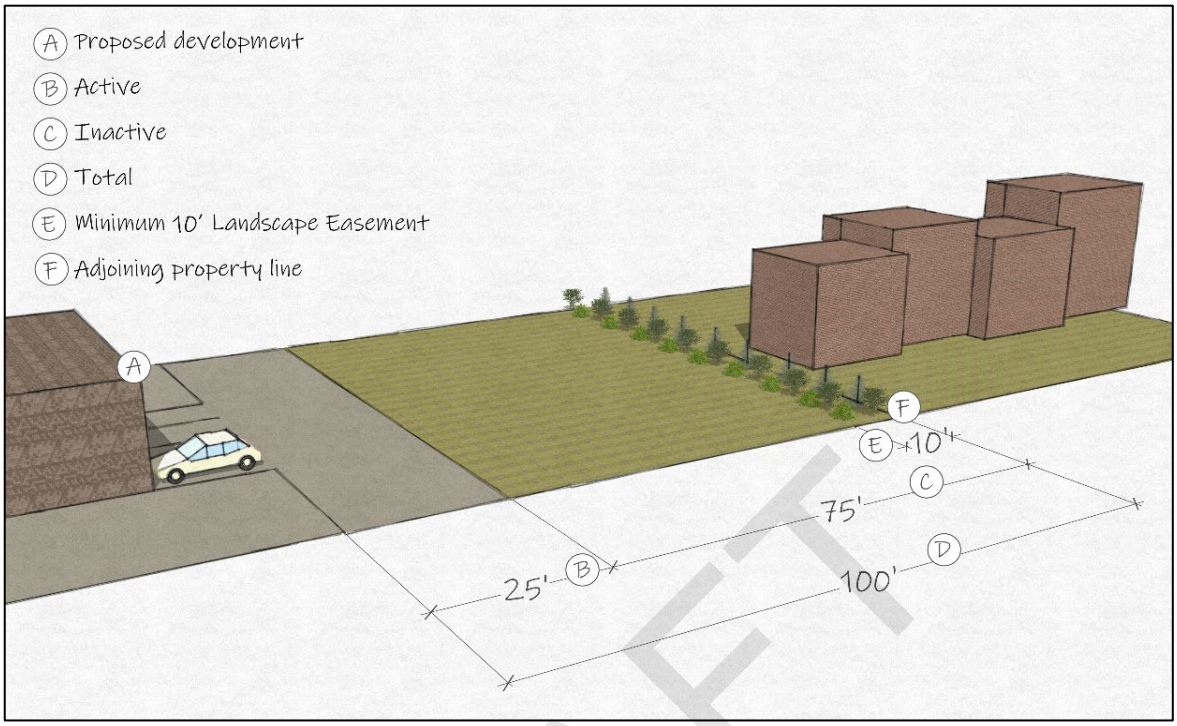
Figure VIII-7. Example Zoning District Buffer – Type B, Full Screen.



Note: Depicts time of planting, not full maturity.

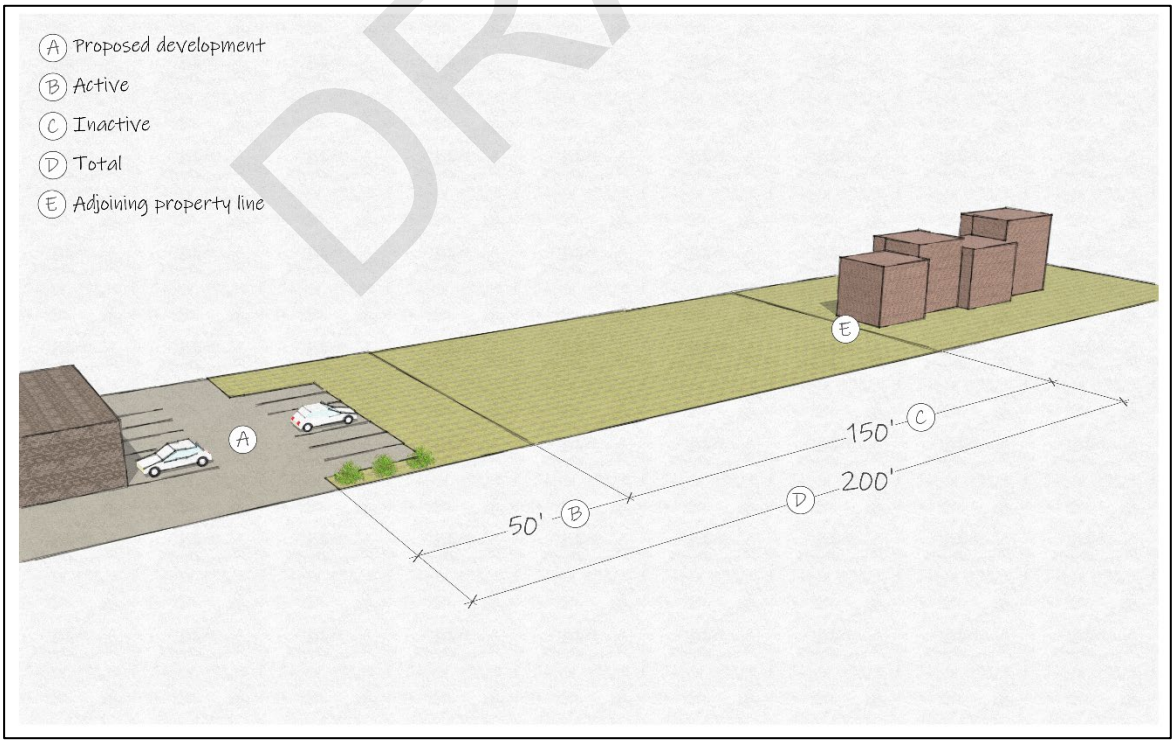
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Figure VIII-8. Example Zoning District Buffer – Type B, Landscape Screen.



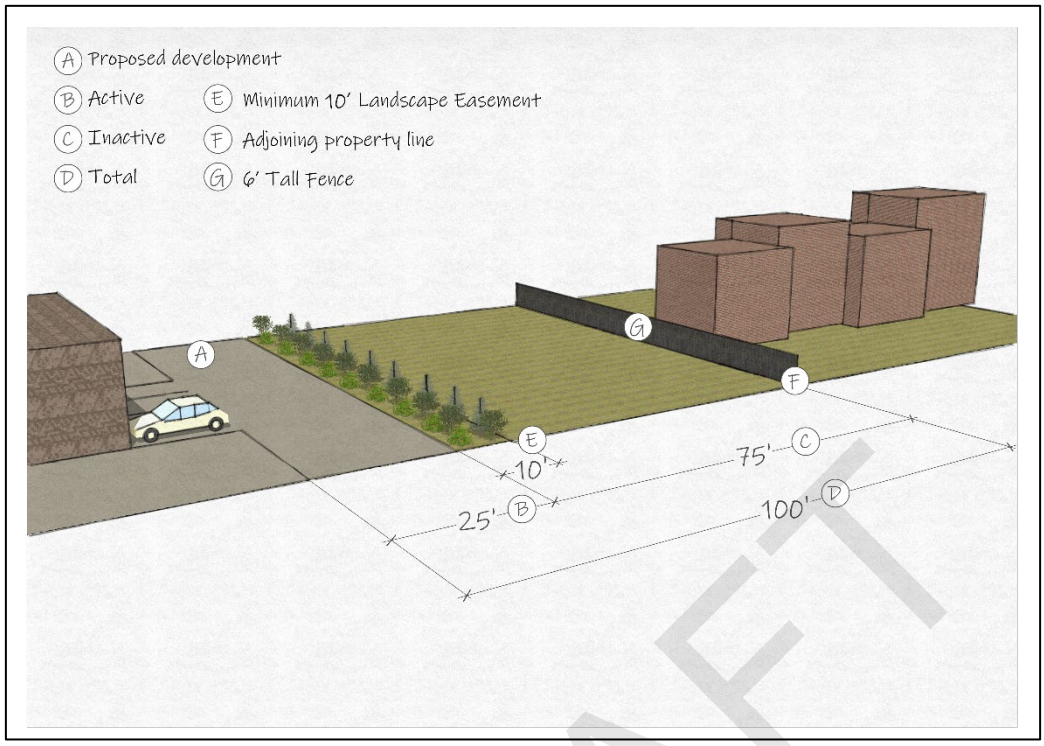
Note: Depicts time of planting, not full maturity.

Figure VIII-9. Example Zoning District Buffer – Type B, No Screen.



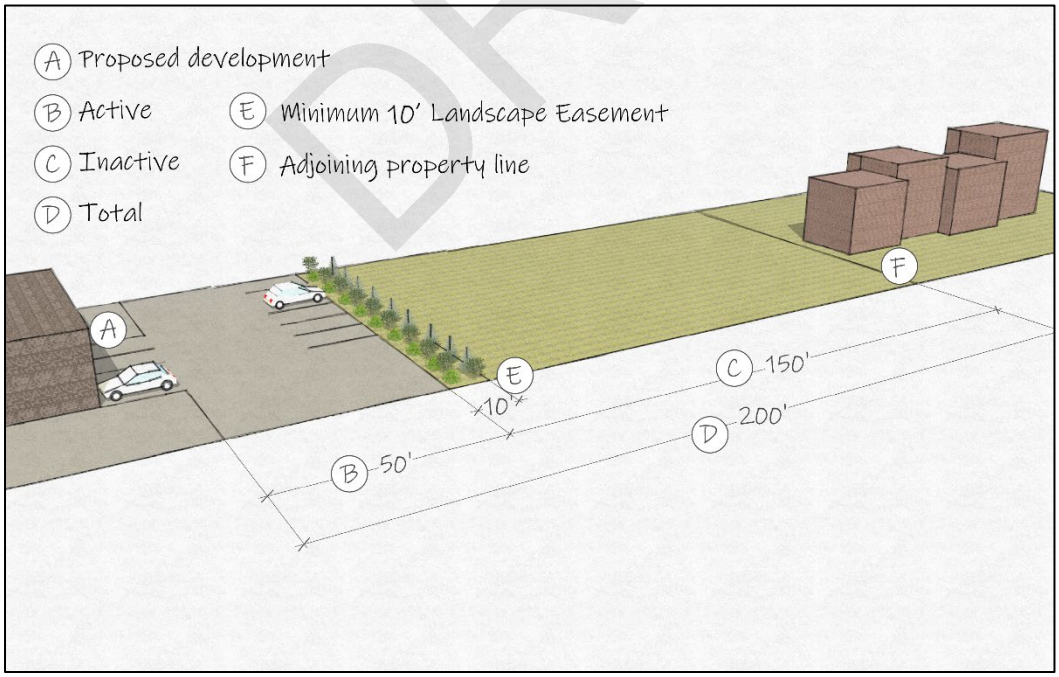
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Figure VIII-10. Example Zoning District Buffer – Type C, Full Screen.



Note: Depicts time of planting, not full maturity.

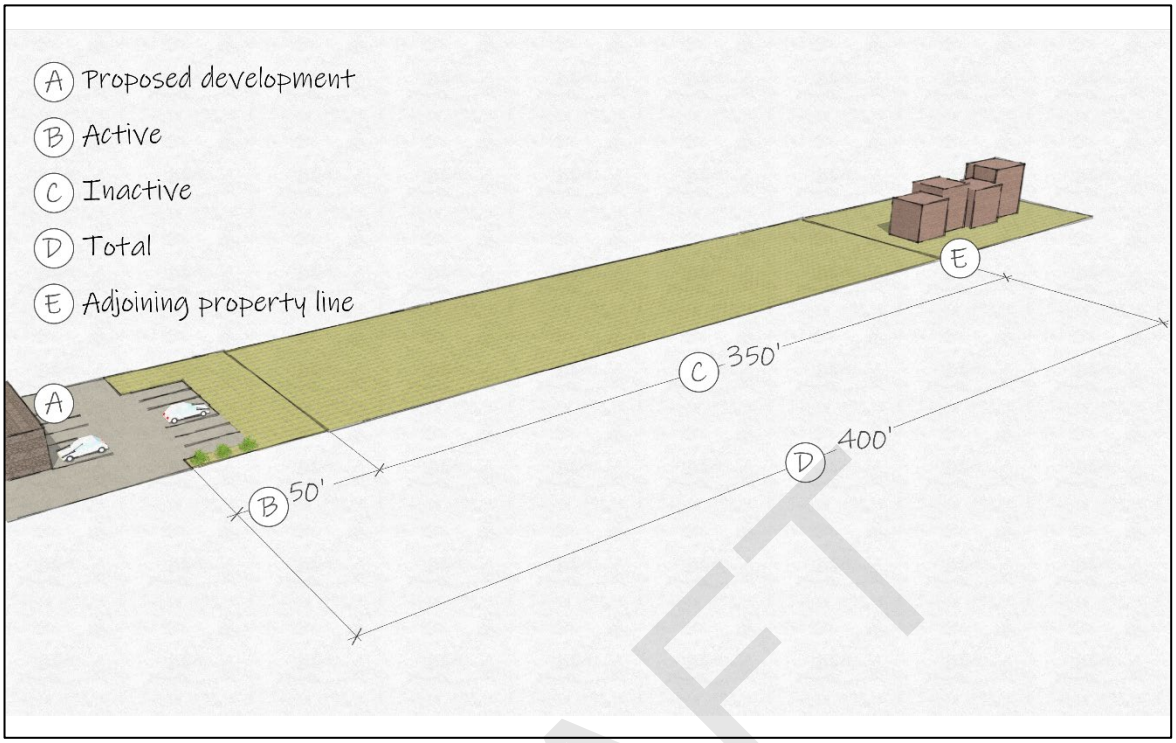
Figure VIII-11. Example Zoning District Buffer – Type C, Landscape Screen.



Note: Depicts time of planting, not full maturity.

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Figure VIII-12. Example Zoning District Buffer – Type C, No Screen.



(1) **HE District.**

i. For the HE district, the Zoning Administrator may require buffers on lots which abut land in any residential district or land in other zoning districts which are predominantly residential in nature. The size and content of the buffers shall be based on the amount of separation needed.

ii. The Zoning Administrator may require landscaped screens or full landscaping to separate uses in this district from adjoining residential uses and to achieve the intentions of this Part.

(2) **MS District.** The following shall apply to all master development planned area that is to be developed:

i. A 50-foot perimeter buffer shall be required along adjoining parcels.

a. The first 25 feet of this buffer area, as measured from the adjoining property line, shall provide vegetative plantings, including a single row of evergreen trees on 10-foot centers that are a minimum of four (4) feet at the time of planting, and a single row of deciduous trees spaced 30 feet apart that have a minimum two (2)-inch caliper at the time of planting.

b. An earth berm that is four (4) 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.

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c. Parking and maneuvering areas may be established within the remainder of the buffer area, provided that all requirements of Section 165-802.07 regarding parking lot landscaping, are met.

ii. A 50-foot internal separation buffer shall be required between all support service land uses and related residential land uses meeting the vegetative planting and earth berm requirements specified in Section 165-802.08 D.(2)i.

iii. An internal 25-foot residential separation buffer shall be required between detached, semidetached, and all other related residential land uses.

a. Such buffer shall contain a single row of evergreen trees on 10-foot centers that are a minimum of four (4) feet at the time of planting.

iv. A 100-foot buffer shall be required adjacent to any RA-zoned parcel whose primary use is utilized for agricultural activities, excluding orchards and residential uses.

a. A 20-foot landscaped easement, measured from the adjoining property line, shall be provided which contains a single row of evergreen trees on 10-foot centers that are a minimum of four (4) feet at the time of planting and an earth berm that is three (3) feet in height and constructed on a slope of 3:1.

b. Parking and maneuvering areas may be established within the remainder of the buffer area, provided that all requirements of Section 165-802.07 are met.

v. A 200-foot buffer shall be provided adjacent to any parcel whose primary use is orchard.

a. A 40-foot landscaped easement, measured from the adjoining property line, shall be provided which contains a double row of evergreen trees on 10-foot centers that are a minimum of four (4) feet at the time of planting and an earth berm that is six (6) feet in height and constructed on a slope of 3:1.

b. Parking and maneuvering areas may be established within the remainder of the buffer area, provided that all requirements of Section 165-802.07 are met.

vi. A road efficiency buffer meeting the requirements of G. of this Section, below, shall be provided for all related residential land uses as permitted in Article VI, Use Matrix, of this Ordinance.

vii. Continuing-care retirement communities shall be exempt from internal separation and internal residential separation buffers.

(3) **Exceptions for R4 and R5 Zoning Districts.**

i. **R4.**

a. Buffers and screening, including road efficiency buffers, shall be provided in accordance with this Part 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.

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b. In addition, along the perimeter boundary of the R4 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.

c. An alternative plan for buffers and screening between uses may be included with the MDP for the development. This plan shall describe a specific system of buffers, screening, and use separation for all planned uses in the development.

(i). When these dimensional requirements are approved, they shall constitute enforceable amendments to this Ordinance 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.

(ii). An alternative plan shall only be approved if the plan meets all of the intentions of this Ordinance and conforms to policies set forth in the Comprehensive Plan.

(iii). Buffer and screening requirements for the perimeter boundary of the planned community shall not be included in the alternative buffer and screening plans.

ii. **R5**.

a. Buffers and screening, including road efficiency buffers, shall be provided in accordance with this Part, 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.

b. In addition, along the perimeter boundary of the R5 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.

c. The Board of Supervisors 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.

(4) **General Reductions.**

i. Land proposed to be developed in the B3, TM, M1, or M2 Zoning Districts 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.

(i). All-weather surface fire lanes necessary to meet the requirements of Chapter 90, Fire Prevention, of the County Code, shall be exempt from this requirement.

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c. A full screen is created within the reduced buffer distance area. Such screen shall be comprised of a:

(i). Continuous earth berm that is six (6) feet higher in elevation than the highest elevation within the reduced buffer distance area; and

(ii). A double row of evergreen trees that are a minimum of six (6) feet tall and planted a maximum of eight (8) feet from center to center.

ii. Proposed developments required to provide buffers and screening as determined by Table VIII-9 may be permitted to establish a common shared buffer and screening easement with the adjoining property.

a. The common shared buffer and screening easement shall include all components of a full screen, which shall be clearly indicated on a Site Plan.

b. The required buffer distance may be reduced by 50% for a common shared buffer and screening easement if existing vegetation achieves the functions of a full screen.

c. A legal agreement signed by all appropriate property owners shall be provided to the Department of Planning and Development and shall describe the location of the required buffer within each property, the number and type of the plantings to be provided and include a statement regarding the maintenance responsibility for this easement.

(5) **Zoning Administrator Waivers, Reductions, and Modifications**. The Zoning Administrator may:

i. Waive any or all of the requirements for the zoning district buffers on a particular Site Plan when all uses shown are allowed in the zoning district in which the development is occurring and in the adjoining zoning districts.

ii. Waive, reduce and/or modify buffer yard requirements (distance and landscaping) if the topography of both the lot providing the buffer yard and the lot being protected is such that the required yard would not be effective.

iii. Modify the buffer yard requirements to maintain highway sight distances.

iv. Allow for a reduction of the distance buffer and the relocation of the screening requirements when a flex-tech development is split by a zoning district line, 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 MDP.

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.

v. Allow chain-link fence with slats to satisfy the opaque fence requirements for zoning district buffers between land primarily used for residential purposes and land located in

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the B1 or B2 Districts with the consent of the adjacent (affected) property owners, provided all chain-link fencing with slats complies with the requirements of Section 165-808.02.B. of this Ordinance.

(6) **Board of Supervisors Waivers.** The Board of Supervisors may grant a waiver:

i. To reduce the required buffer distance requirements between land primarily used for residential purposes and the B1 and B2 Districts with the consent of the adjacent (affected) property owners. Should a waiver be granted by the Board of Supervisors, the distance requirements of Table VIII-8 may be reduced, provided that the full screening requirements of this Section are met.

ii. That modifies or eliminates a required zoning district buffer between land being developed in the B1, B2, B3, TM, M1, or M2 Districts that is adjacent to land primarily used for residential purposes in the RA District, provided that:

a. The adjoining land is designated in the adopted Comprehensive Plan for a use which would not require a buffer between the land under site plan and the adjoining property; and

b. The owner of the adjoining RA property provides written and notarized consent to the waiver of the required buffer.

E. **Road Efficiency Buffers**.

(1) **Intent**. Road efficiency buffers are intended 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.

(2) **General**. All residential structures shall be separated from interstate, limited access, primary, major arterial, minor arterial, or major collector roads, as designated by VDOT or the Frederick County Comprehensive Plan, in accordance with Table VIII-10, below.

i. All road efficiency buffers shall begin at the edge of the road ROW, with the inactive portion abutting the road ROW.

ii. All road efficiency buffers shall contain landscaping evergreen trees intended to reach a minimum height of 20 feet at maturity.

iii. Maintenance of the road efficiency buffer shall be in accordance with Section 165-802.06 (C).

iv. Access roads serving as the primary means of vehicular travel to residential subdivisions are permitted to traverse road efficiency buffers.

(3) **Inactive Portion**.

i. 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.

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ii. The inactive portion of the road efficiency buffer is permitted to count towards the required open space, in accordance with Part 805 of this Article; however, no portion of a residential lot shall be located within the inactive portion of the road efficiency buffer.

(4) **Active Portion**.

i. 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.

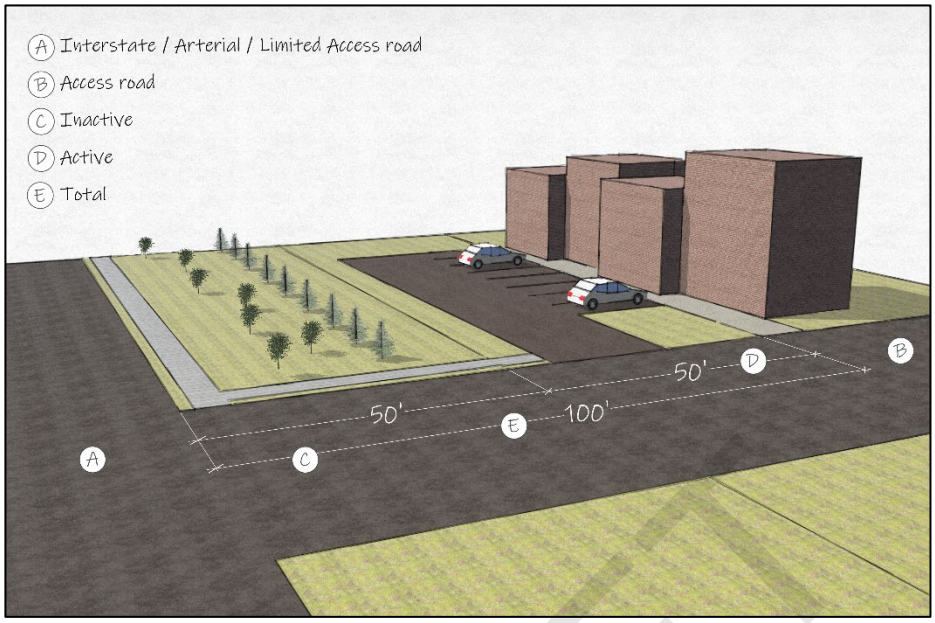
ii. Accessory structures may be located within the active portion of the road efficiency buffer, provided that the structures meet all applicable setback requirements.

Table VIII-10. Minimum Road Efficiency Buffer Required.

Road Classification		Screen Type	Inactive (Minimum) (feet)	Active (Maximum) (feet)	Total (feet)
Interstate / Arterial / Limited Access	*Full-Distance Buffer*	Landscape screen	50	50	*100*
	Reduced-Distance Buffer	Full screen	40	40	*80*
Major Collector	*Full-Distance Buffer*	Landscape screen	40	40	*80*
	Reduced-Distance Buffer	Full screen		10	*50*

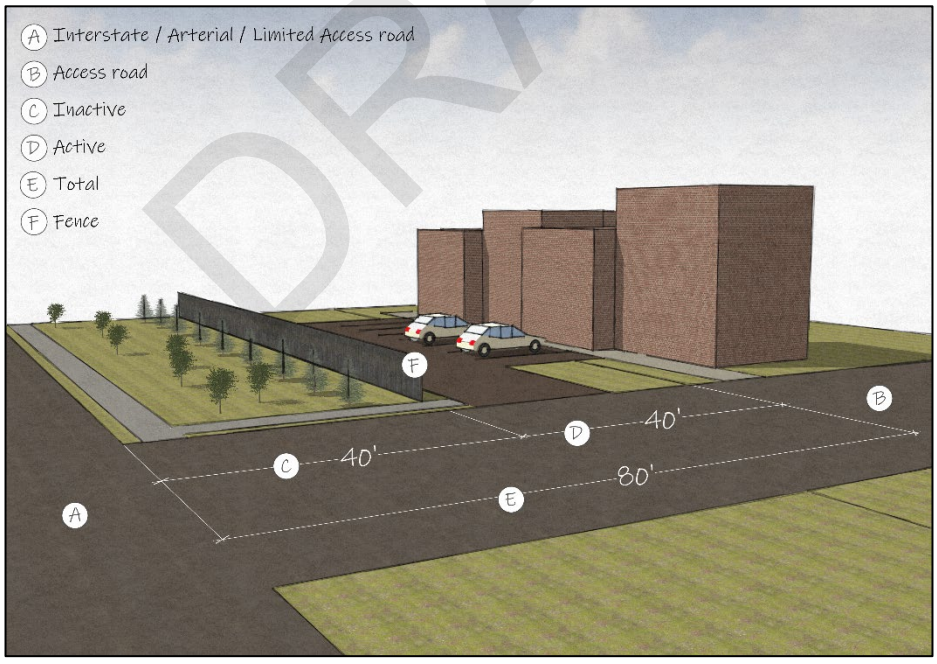
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Figure VIII-13. Example Road Efficiency Buffer – Full Distance.



Note: Depicts time of planting, not full maturity.

Figure VIII-14. Example Road Efficiency Buffer – Reduced Distance.



Note: Depicts time of planting, not full maturity.

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(5) **Waivers and Modifications**.

i. The Zoning Administrator may:

a. Allow alternative landscaping near entrance drives to ensure safe sight distances; or

b. Waive, reduce and/or modify the road efficiency buffer yard requirements 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.

ii. When existing mature woodland is located within the entire buffer area and meets the requirements of this Section, preservation of that woodland will be allowed to substitute for the required plant material and the opaque screening.

Part 803. Environmental Protection.

Section 165-803.01. Purpose and Intent.

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 Part that the disturbance of such areas by the development process be limited. It is also the intention of this Part that 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.

Section 165-803.02. Applicability.

The requirements of this Part shall apply to land in all zoning districts except EM, Extractive Manufacturing.

Section 165-803.03. General Requirements.

A. All developments which require a rezoning, MDP, 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 V, Part 503, of this Ordinance.

(2) **Lakes and Ponds**. Lakes, ponds, and impoundments shall remain undisturbed. The Zoning Administrator may allow the removal of a lake, pond, or impoundment if it serves no useful retention, environmental, or recreational purposes.

(3) **Riparian Buffers**.

i. Riparian buffers shall be areas of trees, shrubs, or other vegetation that permits inundation by water and 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.

ii. 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.

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(4) **Disturbance of Wetlands, Natural Waterways, and Riparian Buffers**.

i. 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.

ii. The disturbance of natural waterways and riparian buffers is prohibited, except when necessary for, and only in conformance with Article V, Overlay Districts, of this Ordinance, the following:

a. Public or private utilities;

b. Public facilities, access to a property or roads (only perpendicular riparian buffer crossings shall be permitted);

c. Riparian buffer restoration or enhancement projects;

d. Creation of wetlands;

e. Pedestrian, recreational and/or bicycle trails; and

f. The Zoning Administrator may allow for the disturbance of riparian buffers for the creation of park areas or for stormwater management purposes.

(5) **Sinkholes**. No disturbance of sinkholes is allowed other than filling with nonpolluting natural materials that will not contribute to groundwater pollution.

(6) **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 Zoning 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.

(7) **Steep Slopes**. No more than 35% of steep slopes, as defined by this Ordinance, shall be disturbed or regraded. The Zoning Administrator, through a written request made at time of Site Plan or subdivision design plan, may allow the disturbance of additional small areas where that disturbance will not significantly denigrate the overall environmental quality of the site.

B. In residential developments, the areas of undisturbed environmental features described in A., above, 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.

(1) 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.

C. In rural preservation subdivisions, the environmental features described in (A), above, along with agricultural or locally significant soils, shall be placed within the 40%-parcel, without undue

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detriment to other principles of quality subdivision design or significant loss of density, as determined by the Zoning Administrator.

D. In commercial and industrial developments, the areas of undisturbed environmental features described in (A), above, 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.

Part 804. Off-Street Parking, Loading, and Access.

Section 165-804.01. Purpose.

This Part is intended to ensure that parking is provided on the lots to be developed and to ensure that excess parking in public street ROWs does not interfere with traffic.

Section 165-804.02. Applicability.

A. Off-street parking shall be provided on every lot or parcel when:

(1) Any new structure or use is established;

(2) There is a change to a use which has a greater parking requirement than the previous use; or

(3) An existing structure and/or use is expanded or enlarged.

Section 165-804.03. Prohibited.

A. **General**.

(1) Within the RP, R5, and MH1 Zoning Districts, or any residential portion of an R4 or MS District, the parking of the following types of vehicles shall be prohibited:

i. Tractor truck or tractor truck trailer, or semitrailer;

ii. Garbage, refuse or recycling trucks;

iii. Towing and recovery vehicles;

iv. Cement trucks;

v. Construction equipment (as defined);

vi. Buses;

vii. Dump trucks;

viii. Trucks greater than 25 feet long;

ix. Any vehicle with three (3) or more axles; and

x. Any commercial vehicle.

(2) The provisions of this Section shall not apply to:

i. 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

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ii. Any commercial vehicles specifically permitted as part of a home or cottage occupation.

B. **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.

Section 165-804.04. Reduced and/or Shared Parking.

A. **Reduced Parking**.

(1) **General**. The Zoning Administrator may approve a reduction in required parking spaces in accordance with this Section. Applications for such a reduction shall be submitted to the Zoning Administrator in conjunction with a Site Plan and include the following:

i. A parking demand analysis which substantiates the basis for a reduced number of parking spaces;

ii. A plan showing how the parking spaces will be provided on the site; and

iii. 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, if the Zoning Administrator decides that the approved reduction be modified or revoked. Said covenant shall be:

a. Executed by the owner of said lot or parcel of land and the parties having beneficial use thereof;

b. Enforceable by the owner, the parties having beneficial use, and their heirs, successors and assigns, or both;

c. Enforceable against the owner, the parties having beneficial use, and their heirs, successors and assigns, or both: and

d. Recorded in the office of the Clerk of the Circuit Court.

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

(3) **Parking for Mixed Uses and Loading Facilities**. In the case of mixed principal uses or two (2) 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.

i. 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.

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B. **Off-Site 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. When shared parking is provided on abutting lots, the following shall apply:

i. The total spaces provided shall equal the sum of the number required for each use sharing the parking;

ii. Means of pedestrian access shall be provided between each use sharing the parking and the parking area; and

iii. 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.

Section 165-804.05. Parking Requirements.

A. Except as otherwise provided in this Ordinance, when any building or structure is hereafter erected or structurally altered, or any building or structure hereafter erected is converted, off-street parking space(s) shall be provided according to the requirements for individual uses in Table VIII-11, below.

B. Required parking spaces shall be provided with each allowed use, on the lot or within the development containing the use, unless reduced or shared parking occurs, in accordance with Section 165-804.04 of this Article.

C. When a use is not specifically listed in Table VIII-11, 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 and may use information provided by the applicant or other sources of information to determine the number of spaces required.

D. When the calculation of parking spaces results in a fraction of 0.5 or greater, the next greatest whole number shall be used.

E. When the required spaces are based on a number of employees, students, seats or other factors 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 (1) time.

F. Parking spaces based on floor area shall be determined based on the gross total floor area devoted to each separate use on the site.

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Table VIII-11. Minimum Off-Street Parking Required.	
Use	Required Off-Street Parking Spaces
Residential Uses	
Age-restricted multifamily housing	1.5 per unit
Nursing homes, personal care, adult care residences and assisted living care facilities	1 per 4 beds, plus 1 per employee on primary shift
Rooming houses, boardinghouses, tourist homes and bed-and-breakfasts	2 per single-family dwelling, plus 1 per guest room
Single-family dwellings , manufactured homes, multiplexes, garden apartments, multi-family residential	2 per unit
Townhouse dwellings	2.5 per unit
Public/Civic/Recreational Uses	
Campgrounds	1 per campsite
Churches and places of worship	1 for each 3 seats
Colleges and universities	No fewer than 1 per faculty and staff member and other full-time employees, plus 1 for every 10 students for maximum capacity at any one (1) time
Commercial cemeteries	25 minimum
Fraternal lodges, civic clubs and social centers	1 per 250 square feet of floor area, assembly area or recreation area
Indoor recreation	1 per 200 square feet of floor area
Libraries, museums or galleries	1 per 400 square feet of floor area; 10 minimum
Schools, elementary or middle/ intermediate	No fewer than 1 per faculty and staff member and other full-time employee, plus a minimum of 4 for visitors
Schools, high	No fewer than 1 per faculty and staff member and other full-time employees; minimum of 4 for visitors; 1 for each 10 students over driving age; 1 for each 4 seats for stadiums and/or auditoriums
Commercial Uses	
Automobile service and service stations	2 per service bay plus required spaces for retail or office areas
Day care	1 per 5 children plus 1 per employee
Fast-food or drive-in restaurants	1.4 per 100 square feet of seating floor area
Flea markets	1 per 400 square feet of enclosed floor area, plus 1 per 3,000 square feet of outdoor display area
Funeral homes	1 per 4 seats; 30 minimum
Furniture and carpet stores; retail nurseries; farm equipment and feed sales; boat, mobile home and motor vehicle sales	1 per 400 square feet of enclosed floor area, plus 1 per 3,000 square feet of out- side display area, plus 2 per service bay
General offices	1 per 250 square feet of office floor area
Hospitals	1.8 per bed
Medical, dental, veterinarian offices and clinics	1 per 250 square feet of office area
Motels, hotels and lodges	1 per room, plus appropriate spaces for restaurants and meeting rooms
Movie theaters	1 per 4 seats
Restaurants	1 per 100 square feet of seating floor area

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Table VIII-11. Minimum Off-Street Parking Required.	
Use	Required Off-Street Parking Spaces
Retail and personal services	1 per 200 square feet of retail floor area
Industrial Uses	
Mining uses	3 per 4 employees
Self-service storage facilities	3 at the office, plus 1 per employee
Wholesaling, warehouses, truck terminals and construction storage, manufacturing and other industrial uses	1.5 per employee, plus any required spaces for office or similar use, plus 1 for each company vehicle and equipment stored outdoors

Section 165-804.06. Parking Design Standards.

A. **Location**. In circumstances when no customer or public entrance or access is located at the side or rear of a structure, no more than 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.

B. **Applicability.** The provisions of C. through N., below, shall apply to all parking spaces:

(1) Shared by more than one (1) dwelling or use; or

(2) Required for any use in the business or industrial zoning district or required for any institutional, commercial or industrial use in any zoning district.

C. **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 County staff. 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.

D. **Surfacing**. In all districts except the EM, Extractive Manufacturing 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.

(1) **Alternative Materials**.

i. **Parcels Outside the SWSA**. The Zoning Administrator may allow for the use of other hard-surface materials for parcels located outside of the SWSA if the Site Plan provides 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.

ii. **Parcels Within the SWSA**. The Zoning Administrator may approve alternative surface materials for parking lots for parcels located inside of the SWSA when necessary to implement low-impact development design and where approved by the Director of Public Works; such materials may include but are not limited to permeable paving systems.

(2) **Grass and Gravel**. In the RA District, parking lots with 10 or fewer spaces shall be permitted to utilize gravel surfaces.

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(3) **Reinforced Grass**. Reinforced grass systems or other suitable materials may be used for overflow parking areas and low-volume accessways for agricultural uses in the RA District and all uses in all other zoning districts.

i. Parking areas utilizing these materials shall have defined travel aisles and designated parking bays.

ii. These materials shall only be utilized with approval of the Zoning Administrator and the Director of Public Works.

E. **Space Demarcation**.

(1) **Single-family Attached and Multifamily Developments**. Required off-street parking spaces shall be demarcated by four-inch durable white lines painted on the pavement or curb. Any other proposed color and size will require approval of the Zoning Administrator.

(2) **Commercial, Office, and Industrial Developments**. 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.

(3) **Other**. 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.

F. **Curbs and Gutters**.

(1) Concrete curbing and gutters shall be installed around the perimeter of all parking lots. All curbing shall be a minimum of six (6) inches in height.

(2) 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.

(3) All parking lots shall comply with the requirements of Chapter 143, Stormwater/Erosion and Sediment Control, of the County Code.

(4) In the B3, TM, M1, and M2 Districts, the use of header curb shall be permitted in areas where the use of gutters is not necessary for stormwater management purposes.

(5) The Zoning Administrator may allow for the use of concrete bumpers instead of curbing for parcels located outside of the SWSA if the Site Plan provides for effective stormwater management and efficient maintenance.

(6) The Zoning Administrator may allow for the elimination of curb and gutter for parcels located inside of the SWSA when necessary to implement low- impact development design. This shall only be permitted where practices such as bioretention, infiltration trenches, and rain gardens are used and only where it can be demonstrated that soil conditions are favorable, or if an adequate underdrain is included in the design and only when approved by the Director of Public Works.

G. **Setbacks**. All parking lots, loading spaces and travelways, except for single-family detached and manufactured home residential uses, shall be set back as follows:

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(1) At least 10 feet from any street or road ROW.

(2) At least five (5) feet from all other property lines, except in cases where more than one (1) lot shares the parking lot.

(3) In the M1 and M2 Districts, parking lots shall be located no closer than 10 feet to any minor or local street or road ROW and no closer than 25 feet to any collector or arterial street or road ROW.

H. **Handicapped Spaces**. Handicapped parking and building or sidewalk accessibility shall be provided in any parking lot in accordance with the current edition of the Virginia Uniform Statewide Building Code (USBC).

I. **Entrance Requirements**.

(1) In no case shall a parking lot be approved which requires that vehicles back from parking spaces onto public roads.

(2) All parking lots shall be provided access to a public road using an entrance which meets all requirements of the Frederick County Code and VDOT.

(3) The width of driveways serving the parking lot shall be a minimum of:

i. 20 feet for two-way traffic and fire lanes; and

ii. 12 feet for one-way traffic.

J. **Parking Space Size and Aisle Requirements**.

(1) All parking spaces and aisles shall be provided in accordance with Table VIII-12.

i. All parking spaces shall be a minimum of 180 sq. ft. in size.

(2) For other angles, the aisle width shall be the same as for the nearest angle in the above table.

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Table VIII-12. Minimum Parking Dimensions.					
	Angle of Parking (degrees)	Width of Stall (feet)	Depth of Stall (feet)	Width of Aisle (feet)	
				One-way	*Two-way*
General	30	9	20	12	20
		10	18		22
	45	9	20	15	20
		10	18		22
	60	9	20	18	20
		10	18		22
	90	9	20	22	22
		10	18		24
Parallel Parking	Direction of Traffic	Width of Stall (feet)	Depth of Stall (feet)	Width of Aisle (feet)	
	One-way aisle (one-side parking)	9.0	22.0	12.0	
	One-way aisle (two-side parking)			15.0	
	Two-way aisle (two-side parking)			22.0	

K. **Obstructions and Structures**.

(1) 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.

(2) Utility poles, light standards, trash containers and similar structures shall not be permitted within any aisle or parking space.

(3) 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 (3) feet.

L. **Drive-in Lanes**.

(1) 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 (9) feet and a minimum stacking distance of 90 feet.

(2) 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.

(3) All drive-in lanes shall be clearly separated from parking spaces, travel aisles, maneuvering areas and driveways.

(4) 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.

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M. **Pedestrian Access**. Sidewalks shall be provided as necessary within parking lots to protect pedestrians and promote the safe and efficient movement of pedestrians and vehicles. In large parking lots, pedestrian routes shall be marked by durable painted stripes and appropriate signs.

N. **Raised Islands**. Raised islands shall be installed at the ends of all parking bays abutting an aisle or driveway in all districts except the EM district. *See Figure VIII-9*.

(1) The raised islands shall be bordered by a six-inch concrete or rolled asphalt curb.

(2) All islands shall be at least nine (9) feet wide and shall extend the length of the parking space or bay.

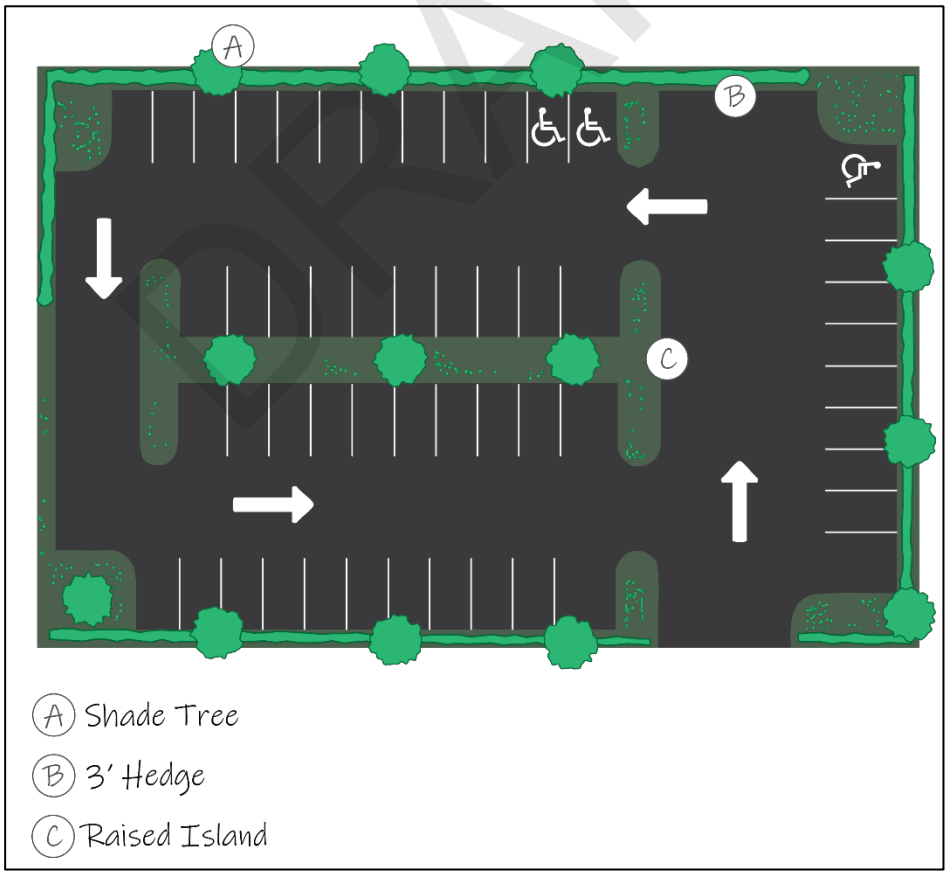
(3) The islands shall be landscaped with grass, shrubs, or other vegetative materials, in accordance with Part 802 of this Article.

(4) The Zoning Administrator may waive or modify requirements for raised islands for parcels located outside of the SWSA when:

i. Curb and gutter is not proposed; or

ii. Necessary to implement low-impact development design and where approved by the Director of Public Works.

Figure VIII-15. Example Parking Lot.



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Section 165-804.07. Loading Areas.

A. **Applicability**. Off-street loading spaces shall be required for the loading and unloading of trucks and vans in association with business and industrial uses, in accordance with Table VIII-13, below.

B. **Loading Area Requirements**.

(1) When a use is not specifically provided in Table VIII-13, the Zoning Administrator shall determine which of the categories to use to determine the spaces required, based on similarities between the characteristics of the uses and may use information provided by the applicant or other sources of information to determine the number of spaces required.

(2) In cases where one (1) or more uses share the same loading area, the loading spaces required shall equal the sum of the spaces required for the various uses.

Table VIII-13. Minimum Required Loading Spaces.

Uses	Loading Space 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
Hotels and motels, lodges, clubs, fraternal organizations and indoor recreation	1 for each 20,000 square feet of floor area
Manufacturing, wholesale, trucking, construction and industrial uses	1 for each 40,000 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
Retail and personal services	1 for first 10,000 square of floor area *plus* 1 for each additional 30,000 square feet
Schools, hospitals and nursing homes	1 for each structure with more than 100,000 square feet of floor area

C. **Design Standards**.

(1) **Dimensions**. Each required loading space shall be 12 feet wide and 45 feet long, with 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 VDOT.

(4) **Surface Materials and Curb and Gutter**. Loading areas shall meet the surface material and curb and gutter requirements for one (1) of the following categories:

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i. **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.

ii. **With 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.

iii. **Two (2) or Fewer Loading Spaces**. Loading areas may have a gravel surface if two (2) or less loading spaces are required, and if the loading area is separate from the parking lot. Curb and gutter shall be required for loading areas with two (2) 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.

iv. **Stormwater Management and Erosion Control Plans**. 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, in accordance with Chapter 143, Stormwater/Erosion and Sediment Control, of the Frederick County Code.

Part 805. Open Space.

Section 165-805.01. Applicability.

A. **General**. All new development within the following zoning districts in the County shall comply with the standards in this Part:

(1) RP, Residential Performance District;

(2) R4, Residential Planned Community District;

(3) R5, Residential Recreation Community District;

(4) MH1, Manufactured Home Community District; and

(5) MS, Medical Support District.

Section 165-805.02. Amount of Open Space Required.

A minimum percentage of the gross area of any proposed development shall be designated as common open space, in accordance with Table VIII-14. This open space shall be for purposes of environmental protection and for the common use of residents of the development.

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Table VIII-14. Minimum Required Open Space.		
Zoning District	Type of Development	Minimum Required Open Space
RP	*Only* single-family detached rural traditional housing	0%
	Only single-family traditional or detached urban housing	15%
	A minimum of 60% of the dwellings are single-family detached traditional housing mixed with any other housing types	20%
	Only single-family detached cluster or a mixture of single-family detached cluster and urban housing	25%
	Single-family small lot housing	30%
	All other residential developments	30%
	Nonresidential uses (minimum landscaped area)	15%
R4	Any development	30%
R5	Any development	35%
	Any development, with private streets	45%
MH1	Any manufactured home park or subdivision	**Whichever is greater:** 15% *or* 4,000 sq. ft., *with* a minimum of 50 sq. ft. per dwelling unit
MS	Any master-planned MS District that is to be developed as one (1) parcel.	20%
	Any MS District with individual parcels that are subdivided for support services	25%
	Any MS District with individual parcels that are subdivided for related residential land uses.	30%

Section 165-805.03. Development Standards.

A. **Limitations**. Within RP, R4, and R5 Districts, no more than 50% of the required open space shall be within the following environmental areas:

(1) Lakes and ponds;

(2) Floodplains;

(3) Wetlands; or

(4) Steep slopes.

B. **Landscaping.** All open space areas in all districts shall be landscaped to provide grass cover and vegetative elements.

Section 165-805.04. Waivers and Reductions.

A. **Steep Slopes**. Where the developer can demonstrate a viable plan to make steep slope areas useful, a larger amount of steep slopes may be utilized.

B. **RP District Waivers and Reductions.**

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(1) **Urban Housing**. 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 under the following conditions:

i. The required open space is less than one (1) acre; and

ii. Such waiver shall not include open space provided to meet environmental requirements of Part 803 of this Article.

(2) **Active Recreational Areas and Amenities**. The minimum required open space may be reduced for residential developments which provide active recreational areas and amenities, under the following conditions:

i. The active recreational area and amenity shall be:

a. Equivalent to the value of one (1) recreational unit for each 30 dwelling units;

b. In a configuration and location that is easily accessible to the dwelling units that they are designed to serve;

c. Approved by the Zoning Administrator in conjunction with the Director of Parks and Recreation; and

d. In addition to the minimum recreational facilities identified in Part 806 of this Article.

ii. The gross density requirements as required in Article IV, Primary Zoning Districts, of this Ordinance, shall not be exceeded through the reduction of open space.

iii. The required open space shall not be reduced by more than:

a. 75% for single-family detached housing types (excluding single-family small lot); and

b. 50% for all other residential housing types and mixtures.

iv. 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.

C. **Public Facilities**. Public libraries and public schools may be permitted within areas of required open space, provided that the proposed facilities are indicated on the original MDP for the residential development.

Part 806. Recreational Facilities.

Section 165-806.01. Applicability.

All new development within the RP, R4, R5, and MH1 zoning districts in the County shall comply with the standards in this Part.

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Section 165-806.02. Amount of Recreation Facilities Required.

A. Recreational facilities shall be provided in accordance with Table VIII-15, below.

B. In addition, developments within RP District containing single-family small-lot housing shall provide a community center that provides for the equivalent of three (3) age-appropriate recreational units, per 30 dwelling units.

(1) The Zoning Administrator may waive the community center requirement specified in B., above, in single-family small-lot subdivisions that contain less than 25 lots.

i. The applicant is required to demonstrate how an equivalent recreational value of three (3) 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.

Table VIII-15. Minimum Required Recreational Facilities.

Zoning District	Type of Development	Minimum Recreational Units	
		Developments with *less than 30* dwelling units	Developments with *30 or more* dwelling units:
RP	Single-family small lot	1	1 per 30 dwelling units
	Multiplex		
	Townhouse or back-to-back townhouse		
	Garden apartment		
	Multifamily building housing types		
R4	Any development		
R5			
MH1	Any manufactured home park or subdivision		

Section 165-806.03. Types of Recreational Facilities.

A. A recreational unit shall be as follows:

(1) A composite playground system for school-age children with a minimum of eight (8) play features and one (1) swing set; or

Table VIII-16. Recreational Units.

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

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(2) Any recreational facilities may include:

i. Swimming pools;

ii. Tennis, basketball or multipurpose courts;

iii. Multi-use trails;

iv. Athletic fields;

v. Picnic shelters, which shall include picnic tables, trash receptacles, and areas for outdoor cooking;

vi. Community center; and

vii. Other recreational facilities.

Section 165-806.04. Design Standards.

A. 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.

B. The design and amount of facilities shall be approved by the Zoning Administrator in conjunction with the Department of Parks and Recreation, in accordance with Section 165-806.02 A. and B., above.

C. The design of such facilities shall be approved at the time of MDP review.

Part 807. Outdoor Lighting Standards.

Section 165-807.01. Purpose.

The purpose and intent of this section is to establish outdoor lighting standards that reduce the impacts of glare, light trespass and over lighting; promote appearance, safety, productivity, enjoyment, commerce, and security; and encourage energy conservation to the greatest extent possible.

Section 165-807.02. Applicability.

A. **General**. Except as provided in B., below, these standards shall apply to the installation of new outdoor lighting fixtures or the replacement of existing fixtures.

(1) Replacement of a fixture shall mean a change of fixture type, change to the mounting height or location of the fixture, or a change that results in a higher footcandle output.

B. **Exemptions**. The following lighting is exempt from the requirements of this Part:

(1) Routine lighting fixture maintenance, such as changing lamps or light bulbs, ballast, starter, photo control, housing, lenses and other similar components.

(2) 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 streetlights within a public or private right-of-way (ROW);

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(3) 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;

(4) Lighting located on properties developed with residential or agricultural use, unless regulated by Section 165-807.05 (B) of this Article, including but not limited to residential security lighting controlled and activated by motion sensors or timing devices;

(5) Lighting for holiday decorative purposes; and

(6) Lighting for civic activities, fairs or carnivals, provided that the lighting is temporary.

Section 165-807.03. Photometric Plan Requirements.

A. A photometric lighting plan shall be submitted and approved in conjunction with any Site Plan required by this Ordinance, or Subdivision Design Plan as required by Chapter 144 of the Frederick County Code.

B. The submitted photometric lighting plan shall be current and prepared by either a Professional Engineer (PE), qualified member of the National Council on Qualifications for the Lighting Professions (NCQLP), the American Lighting Association (ALA), or accepted equivalent professional certification approved by the Zoning Administrator.

C. All such required plans shall include the following:

(1) Plans indicating the location on the premises of all free-standing and building-mounted 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;

(2) Description of all free-standing and building-mounted 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, correlated color temperature (CCT), glare-control devices, lamps, proposed placement of all fixtures, including engineering detail of fixtures, manufacturer, model and installation of same;

(3) Photometric data, such as that furnished by manufacturers or similar, showing the angle cut-off light emissions and glare-control devices;

(4) Mounting height of all free-standing and building-mounted fixtures; and

(5) Aiming angles and diagrams for recreational facilities lighting fixtures, including maximum angles for adjustable light sources.

Section 165-807.04. General Lighting Standards.

A. **General**.

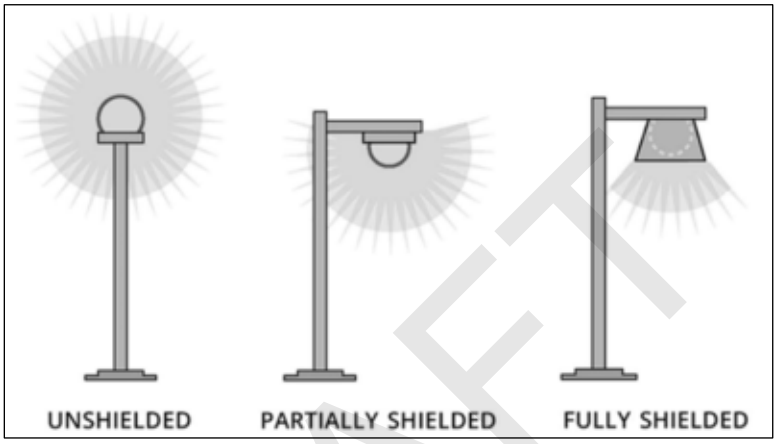
(1) All outdoor lighting fixtures shall be designed to be fully shielded, aimed, downcast (i.e., full-cutoff), located, and maintained to shield adjacent properties and to not produce or direct glare onto adjacent properties or road ROW.

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i. For purposes of this Part, shielding means that the outdoor lighting fixture is constructed so that all of the light emitted by the fixture is projected below the horizontal plane of the lowest point of the fixture. Any structural part of the luminaire providing this shielding shall be permanently affixed so that no light is able to be emitted above the horizontal plane.

ii. 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 ROW.

Figure VIII-16. Examples of Lighting Types.



(2) The following shall be full-cutoff fixtures:

i. Recreational facility lighting fixtures, with internal and/or external glare-control louvers; and

ii. 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-cutoff.

a. Alternatively, these lighting types may include 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.

B. **Prohibited**. The following shall be prohibited:

(1) Flashing, revolving, or intermittent exterior lighting visible from any property line or street; and

(2) Directional fixtures for advertisement purposes, such as but not limited to high-intensity beams, lasers, or strobe lights.

C. **Color Temperature.**

(1) For multifamily residential and residential parking lots, use of a warm toned or filtered Correlated Color Temperature (CCT) not to exceed 3000 Kelvin (K).

(2) For non-residential uses and high security areas, use of a neutral toned or filtered CCT not to exceed 4000 K.

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(3) All outdoor lighting fixtures shall meet the DarkSky International Approved Luminaries certification, Illuminating Engineering Society of North American (IESNA), or Zoning Administrator accepted equivalent certification for lighting products.

D. **Height**.

(1) Free-standing pole-mounted light fixtures, including mounting base, shall not be more than 20 feet in parking areas within or adjacent to agricultural or residential uses, and shall not be more than 25 feet in height above finished grade where adjoining all other uses.

i. On land in the B3, M1, M2, EM, and TM Zoning Districts that is contained within an approved MDP, the Zoning Administrator may allow free-standing pole-mounted 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.

ii. In no case shall light fixtures in the B3, M1, M2, EM and TM Districts exceed 45 feet in height.

(2) Building-mounted or wall-pack lighting fixtures shall not be mounted more than 20 feet above the finished grade of the building where the building face is adjacent to agricultural or residential uses and no more than 25 feet in height above finished grade where adjoining all other uses.

i. These fixtures shall also meet the standards of A(1) and C., above.

E. **Location**.

(1) Light fixtures shall be:

i. Placed outside of the paved areas of a site;

ii. Set back a minimum of 10 feet from adjoining property lines and roadways; and

iii. Placed within landscaped islands or in the perimeter green space of the site.

(2) 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 Part is met.

(3) Bollards shall be provided around the pole base where the fixture is sited outside of a landscaped island or perimeter green space.

Section 165-807.05. Lighting Standards for Use Types.

A. **Nonresidential Uses**.

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Table VIII-17. Nonresidential Lighting Standards.			
Location		Maximum Average Maintained Horizontal Lighting Level (Footcandles)	Additional Requirement(s)
General	Parking lots; pedestrian walkways; internal vehicle travel ways; loading areas	5.0	Light fixtures under fuel station canopies or any other canopy shall consist of full-cutoff lighting fixtures where the light source is either fully shielded or recessed within the underside of the canopy and utilize only flat lenses or windows. The portions of the canopy not included in the sign area shall not be illuminated.
	Building frontage		
	High security areas[1]	15.0	
Property Line Boundaries	Adjacent agricultural or residential use/district	0.2	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.
	Adjacent commercial or industrial use/district	1.0	*none*
	Right-of-way		
[1] *High security areas include automated teller machines (ATMs), motor vehicle display areas, vehicle fuel station canopies, outdoor storage areas, and loading docks, but do not include parking lots.*			

B. **Multifamily Uses and Residential Parking Lots**.

Table VIII-18. Lighting Standards for Multifamily Uses and Residential Parking Lots.			
Location			Maximum Average Maintained Horizontal Lighting Level (Footcandles)
General	Building entrances, walkways, and pathways		5.0
	Off-street residential parking lots.		2.0
	All other areas		0.5
Property Lines Boundaries	All Property Lines, *except as provided below:*		0.5
	Adjacent zoned, used, or planned for agricultural or residential purposes		0.2
	Right-of-way	Arterial Roadways	1.5
		Collector Roadways	1.0
		Local Streets	0.5

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C. **Recreational Facilities in all Zoning Districts**. Lighting standards for recreational facilities in all zoning districts shall conform to the following requirements:

(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) Lighted recreational facilities in all zoning districts shall be turned off within 30 minutes after the last event or 11:00PM, whichever is earlier. 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 to minimize light trespass on adjoining properties and roadways. Lighting designs must ensure that horizontal illuminance at a distance of 150 feet from the edge of the field does not exceed 0.5 footcandles when measured horizontally at ground level. Furthermore, all lighting systems shall comply with recommended International Commission of Illumination (CIE) "Guide on the Limitation of the Effects of Obtrusive Light from Outdoor Lighting Fixtures" Table 2.3 (Maximum Values for Intensity of Luminaires in Designated Directions) to control off-site luminous intensity. Specifically:

i. The luminous intensity from any luminaire at a height of 5 feet above ground level at a distance of 150 feet from the field perimeter shall not exceed the maximum values specified in CIE Table 2.3 to protect surrounding areas from excessive glare and light trespass.

ii. Lighting installations shall demonstrate compliance through a photometric report or equivalent modeling that references the maximum values referenced in F(3) above, ensuring that the design meets all applicable limits for glare and luminous intensity in all designated directions.

(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 not exceed the maximum height recommended by INESA for the specific recreation facility.

Part 808. Storage.

Section 165-808.01. Applicability.

A. **Outdoor Storage.**

(1) **General**. 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

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any other zoning district only if the outdoor storage is directly associated with the primary uses of the property.

(2) **Exemptions**. The regulations of this Part shall not apply to:

i. Common property lines when outdoor storage area(s) adjoin a property also utilized for outdoor storage;

ii. Motor vehicle parking and loading areas;

iii. Agricultural and forestry operations;

iv. The display of vehicles for sale by a vehicle dealer;

v. The display of nursery stock by a commercial nursery; or

vi. Other products for sale that are normally displayed outdoors.

Section 165-808.02. General Requirements.

(1) **General Requirements.**

i. When permitted, the outdoor storage or processing shall be completely screened from the view of road and street ROW and from surrounding properties by a six (6) foot tall opaque fence, wall, berm or evergreen screen.

ii. Outdoor storage surface areas shall consist of asphalt, concrete, stone, gravel or any other impervious surface approved by the Zoning Administrator.

iii. Outdoor storage and processing shall not be permitted in any required front setback yard.

iv. 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.

v. Landscaping shall not be required for impervious areas designated for outdoor storage.

B. **Trash Storage.**

(1) When stored outdoors, outside of a legal landfill or trash heap, all trash, rubbish or garbage shall be stored in watertight, vermin proof containers.

(2) All commercial and industrial developments shall be provided with outdoor trash containers or other means of trash disposal.

i. Means shall be provided to ensure that all trash generated by the development is properly disposed of to avoid litter, odor or other nuisances.

(3) Such trash containers shall not be located in the front yard areas of such uses and shall be located to avoid traffic conflicts with parked vehicles and general traffic.

(4) Such containers shall be properly screened or separated from dwellings to avoid odors and other impacts.

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(5) 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.

i. Chain-link fencing shall not be permitted for trash storage.

C. **Inoperable Motor Vehicles and Trailers.**

(1) The storage of inoperable motor vehicles and trailers outside of a completely enclosed building shall be prohibited in all zoning districts except for the RA Zoning District.

(2) Inoperable motor vehicles and trailers permitted to be stored outside of a totally enclosed building shall be completely screened from public roads or surrounding properties.

i. Permitted screening shall include opaque fences, opaque landscaping or opaque natural vegetation.

Part 809. Signs.

Section 165-809.01. Purpose.

A. Signs perform an important function in identifying and promoting properties, businesses, services, residences, events, and other matters of interest to the public. The intent of this Part is to regulate all signs within the County to ensure that they are appropriate for their respective uses, in keeping with the appearance of the affected property and surrounding environment, and protective of the public health, safety, and general welfare by:

(1) Setting standards and providing uniform, scientifically based controls that permit reasonable use of signs and preserve the character of Frederick County;

(2) Prohibiting the erection of signs in such numbers, sizes, designs, illumination, and locations as may create a hazard to pedestrians and motorists;

(3) Avoiding excessive conflicts from large or multiple signs, so that permitted signs provide adequate identification and direction while minimizing clutter, unsightliness, and confusion; and

(4) Establishing a process for the review and approval of sign permit applications.

Section 165-809.02. Applicability.

A. **General**. Any sign erected, altered, or maintained after the effective date of this Ordinance shall conform to the regulations of this Part.

B. **Prohibited**. The following signs are prohibited in all zoning districts:

(1) Signs that violate state or federal law; for example, unofficial traffic control devices as prohibited under Code of Virginia § 46.2-831;

(2) Signs with characteristics that create a safety hazard or are contrary to the general welfare;

(3) Animated or flashing signs;

(4) Signs painted directly onto the exterior of buildings;

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(5) Inflatable signs;

(6) Roof signs; and

(7) Snipe signs.

C. **Exempt**. The following signs are allowed without a sign permit and will not be included in the determination of the type, number, or area of permanent signs allowed within a zoning district, provided such signs comply with the regulations in this Part, if any:

(1) Address signs;

(2) Official traffic signs and private road/drive signs;

(3) Legal notices and other signs erected or required by a governmental agency;

(4) Temporary signs;

(5) Flag signs;

(6) Directional signs;

(7) Holiday and seasonal decorations;

(8) Security and warning signs; and

(9) Legal notices, such as posted service or notice of unfitness for habitation.

Section 165-809.03. General Sign Requirements.

A. **Sign Permits**. Before a sign may be constructed, reconstructed or altered, a sign permit shall be obtained from the Zoning Administrator and the Building Official.

(1) An application for a sign permit shall include:

i. A description of the sign indicating the number, size, shape, dimensions, and colors of the sign;

ii. A schematic drawing of the site showing the proposed location of the sign in relation to nearby buildings and streets; and

iii. The number of signs on the site.

B. **Sign Height and Size.**

(1) Unless otherwise specified in Section 165-809.04 of this Article, all sign types shall not exceed five (5) feet in height and four (4) square feet in sign area and shall be pole mounted.

(2) Sign height (except wall signs) shall be measured from the grade level of the adjacent street to which the land upon the sign is located.

C. **Sign Setbacks**.

(1) All freestanding signs shall be a minimum of 10 feet from lot lines or property boundary lines.

(2) Signs that are attached to buildings shall meet the required setbacks for that building.

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D. **Sign Spacing**. The minimum distance separating signs is 100 feet.

(1) The Zoning Administrator may allow two (2) signs to be separated by less than 100 feet in order to allow the signs to share an appropriate location.

(2) In such cases, the two (2) signs must be separated from other signs by a distance of 100 feet plus the distance by which the separation between the two (2) signs was reduced from the required 100 feet.

E. **Sign Illumination**. Signs may be illuminated, unless otherwise specified herein, subject to and consistent with the following standards:

(1) Lighting of temporary signs shall be prohibited.

(2) Light sources to illuminate signs shall not:

i. Be visible from any street ROW;

ii. Cause glare hazardous or distracting to pedestrians, vehicle drivers, or adjacent properties; or

iii. Include or cause flashing, revolving, scrolling or intermittent light visible from any property line or street.

(3) For electronic signs, when operating, displays shall be static for a minimum of 15 seconds, and must not be animated by scrolling, flashing or other similar nonstatic displays.

(4) Each sign shall have a light-sensing device that will automatically adjust the brightness of the display as the natural ambient light conditions change to comply with the limits established in this Article.

(5) Externally illuminated signs, where permitted, are subject to the following regulations:

i. The source of the light shall be concealed by translucent covers.

ii. External illumination shall be by a steady, stationary light source, shielded and directed solely at the sign. The light source shall be static in color.

(6) Internally illuminated signs, where permitted, including neon lighting, shall be static in intensity and color.

F. **Maintenance**.

(1) 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.

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

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Section 165-809.04. Regulations by Sign Type and District.

Table VIII-19. Sign Types Permitted by Zoning District			
	RA District	RP, R4, and R5 Districts	Business and Industrial Districts
Temporary signs	X	X	X
Monument signs	X	X	X
Multi-tenant complex signs			X
Wall-mounted signs	X	X	X
Electronic message signs	X	X	X
Off-premises signs	X	X	X

A. **Temporary Signs.** Temporary signs, as defined in Article XI, Definitions, of this Ordinance, and located on private property are exempt from standard sign permit requirements, and will not be included in the determination of the type, number, or area of signs allowed on a property.

(1) **Size**. Temporary signs may not exceed five (5) feet in height and 50 square feet (SF).

(2) **Location**. Temporary signs should comply with required setbacks as stipulated in Section 165-808.03 and shall not be placed in any public ROW.

(3) **Permission**. The party posting the temporary sign is solely responsible for obtaining permission of the property owner before posting their temporary sign.

(4) **Duration and Removal**. Temporary signs may be displayed up to 30 consecutive days, two (2) times per year.

B. **Monument Signs**.

(1) Other than the RA District, all monument signs shall be in accordance with Table VIII-20, below.

(2) A monument sign may include an electronic sign as a component of the sign, provided that, if a property is allowed more than one (1) sign, no more than one (1) of its signs may include an electronic sign.

Table VIII-20. Monument Sign Maximum Dimensions.			
	Number	Height (feet)	Area (square feet)
Arterial Roads	1 per property	25	150
Collector Roads		15	100
All Other Roads		12	50

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C. **Multi-tenant Complex Signs**. Multi-tenant complex signs shall only be permitted in business and industrial districts.

Table VIII-21. Multi-Tenant Complex Sign Maximum Dimensions.				
	Number		Height (feet)	Area (square feet)
	B1, B2, B3, HE, TM and EM	*M1 and M2*		
Arterial Roads	1 per 1,200 linear feet of road frontage	1 per property	25	150
Collector Roads			15	100
All Other Roads			12	50

D. **Wall-Mounted Signs**.

Table VIII-22. Wall-Mounted Sign Maximum Dimensions.			
	Height (feet)	Area (square feet)	Location
General office buildings in B2 and B3 Districts	60	1.5 square feet per linear foot of building frontage ***or*** 25 square feet, whichever is greater. Shall not exceed 200 square feet. For buildings with multiple tenants, each tenant shall be permitted a maximum area proportionate to their frontage, using the above calculations	Any wall face
Hotel and Motel buildings in B2 District			
All Other Uses	Shall not exceed maximum height for the zoning district		

E. **Off-premises Signs**.

(1) In all zoning districts, only monument signs and multi-tenant complex signs shall be allowed off-premises. No other types of signs shall be permitted off-premises.

(2) Such signs shall be allowed only if a Conditional Use Permit (CUP) for that sign has been granted. Conditions which may be placed on off-premises signs may include, but not be limited to, the following:

i. 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.

ii. 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 may exceed the size and height regulations set forth in this Part.

(3) Off-premises signs must be properly separated from each other to avoid clutter along road corridors, and in no case may be less than the regulations of Section 165-809.03.

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F. **RA, RP, MH1, R4, and R5 Districts**.

(1) **General**. For parcels within RA, RP, MH1, R4, and R5 Districts with an allowed by-right use (excluding residences) or an approved CUP, signs shall be in accordance with Table VIII-23.

Table VIII-23. Residential District Signs Maximum Dimensions.

	Number	Height (feet)	Area (square feet)	Type
RA	1 per property	8	50	Pole-mounted, hanging, or monument
RP, MH1, R4, and R5		4	25	Monument

(2) **Subdivision Identification Signs**. For residential developments, the maximum size and number of signs that the owner or owners of the residential development may erect and maintain at the entrances to the development are subject to the following requirements:

a. Subdivision identification signs shall be monument style signs;

b. One (1) subdivision identification sign shall be permitted per entrance; and

c. Subdivision identification signs shall not exceed eight (8) feet in height nor 32 square feet in sign area.

(3) **Cottage Occupations**. In areas with an approved CUP for cottage occupations, for each lot or parcel containing a residence, one (1) sign, in addition to any other sign permitted, shall be permitted for the cottage occupation, in accordance with the following:

i. The sign shall not exceed five (5) feet in height nor four (4) square feet in area;

ii. The sign may be pole-mounted, hanging, or monument style; and

iii. Illumination of such signs is prohibited.

Part 810. Walls and Fences.

Section 165-810.01. General.

A. **Chain-link Fencing**.

(1) **When Permitted**. Chain-link fencing with slats, with a privacy factor of 90% or greater, may be utilized to satisfy the opaque fence requirements when:

i. The adjoining properties are in the following districts; or:

a. B2, General Business;

b. B3, Industrial Transition;

c. M1, Light Industrial;

d. M2, Industrial General;

e. TM, Technology-Manufacturing;

f. EM, Extractive Manufacturing; and

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g. MS, Medical Support.

ii. Other zoning districts where the proposed use is also allowed.

(2) **Design**. Chain-link fencing with slats shall:

i. Consist of double-walled winged slats or equivalent if approved by the Zoning Administrator; and

ii. Only utilize the following colors: dark green, brown, black, or tan.

(3) **Prohibited**.

i. The use of wood slats or plastic slats without interlocking wings and double walls shall be prohibited.

ii. Chain-link fencing with slats shall not be permitted to be used as a screen along primary, arterial, or collector roadways, or as an enclosure for trash storage.

Part 811. Shopping Centers, Office Parks, and Industrial Parks.

Section 165-811.01. Purpose.

The intent of this section is to ensure that private restrictions are established in certain types of development.

Section 165-811.02. General Standards.

A. 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:

(1) A harmonious coordination of uses, architectural styles, signs, and landscaping shall be provided to ensure the aesthetic quality and value of the development.

i. Deed restrictions, dedications, agreements, contracts, guaranties, or other means shall be instituted to ensure that such coordination occurs.

(2) 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.

(3) Appropriate landscaping shall be provided or required through deed restrictions, dedications, agreements, contracts, guaranties, or other means throughout the development.

(4) Deed restrictions, dedications, agreements, contracts, guaranties, or other means used to ensure the above shall provide specific standards and means for enforcement.

i. The Zoning Administrator shall review such methods before any Site Plan is approved to ensure that:

a. They accomplish the intentions of this Section; and

b. Private controls are established to address the requirements of this Section.

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(5) The Zoning Administrator shall not control the particular designs, styles, or methods used as long as the requirements of this Ordinance have been met.

Part 812. Temporary Trailers.

Section 165-812.01. Applicability.

Temporary trailers shall be allowed as a part of construction projects.

Section 165-812.02. Permits.

Permits for temporary trailers will be for a maximum of one (1) year. Applicants for such permits shall furnish an affidavit to the Zoning Administrator, stating that the use shall be limited as required.

Section 165-812.03. General Standards.

A. All temporary trailers shall meet all applicable requirements of the Frederick County Code.

B. In general, temporary trailers shall remain only where specifically allowed by this Ordinance and only if all applicable requirements are met.

C. Temporary trailers shall be removed before a final Certificate of Occupancy (CO) is issued for the use under construction.

D. Temporary trailers are prohibited for residential purposes unless located in the RA Zoning District.

(1) Such temporary manufactured 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 manufactured home will be removed before a final CO is issued for the single-family home.

(2) In such cases, a permit shall be obtained for the manufactured home and the manufactured home shall meet all requirements of the Frederick County Code.

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Article IX. Nonconformities.

Part 901. General.

Section 165-901.01. Intent.

Pursuant to Code of Virginia § 15.2-2307, any lot, use, structure, or sign which subsequently becomes nonconforming as a result of adoption or amendments to this Ordinance may continue as it was at the time of the adoption or amendment, as long as it remains otherwise lawful. Such nonconforming lots, uses, structures, and signs shall conform to all laws in effect at the time when the use, structure, or sign was established.

Section 165-901.02. General.

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 unless otherwise provided in a Conditional Use Permit (CUP), proffer, or variance related to the property.

Part 902. Nonconformities.

Section 165-902.01. Nonconforming Uses.

A. Any legally established use which does not conform to the requirements of this Ordinance at 12:01 a.m. on May 14, 2026 may be continued so long as it remains otherwise lawful. Seasonal legally nonconforming uses or uses that are, by their nature, used on a regularly recurring but not constant basis, that have been in continuous operation for a period of two (2) years or more prior to the adoption of this Chapter may be continued.

B. 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.

C. A nonconforming use may not be moved on the same lot or to any other lot which is not properly zoned to permit such use.

D. In accordance with Code of Virginia § 15.2-2307(C), if a use does not conform to the zoning prescribed for the district in which such use is situated, the owner, lessee, or contract purchaser of such building, structure, or use may apply for a rezoning or CUP without charge by the County or any agency thereof for fees associated with such filing, provided that:

(1) A business license was issued by the County for such use;

(2) The holder of such business license has operated continuously in the same location for at least 15 years; and

(3) All relevant local, state, and federal taxes or delinquent charges related to such use have been paid.

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E. If any legally nonconforming use or sign is discontinued for a period exceeding two years after the enactment of this chapter, it shall be deemed abandoned, and any use or sign thereafter shall conform to the requirements of this Ordinance.

F. Pursuant to Code of Virginia § 15.2-2307(D), the illegal use of land or buildings shall not be sufficient to establish the existence of a nonconforming use, and the existence of a nonconforming use on a part of a lot or tract shall not be construed to establish a nonconforming use on the entire lot or tract.

Section 165-902.02. Nonconforming Lots of Record.

A. Any lot of record at the time of the adoption or amendment of this Ordinance, which has less area or frontage than required by this Ordinance, may be used for uses allowed by this Ordinance when the dimensional requirements of the underlying zoning district are satisfied.

B. 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.

Section 165-902.03. Nonconforming Structures, Buildings, and Improvements.

A. Structures and land may continue to be used as they were on the effective date of this Ordinance so long as they remain otherwise lawful.

B. A nonconforming structure or building may not be moved or expanded on the same lot or to any other lot which is not properly zoned to permit such use.

C. The Board of Supervisors may allow the expansion of legally nonconforming structures and the construction of new structures with the same setback as the existing legally nonconforming structure, provided that all other conditions of this Ordinance are met.

D. Pursuant to Code of Virginia § 15.2-2307(D), a nonconforming building, structure, or improvement shall include those circumstances where:

(1) A building permit or other permit authorizing construction has been issued, and the building or structure was constructed in accordance with the building permit, and upon completion, a Certificate of Occupancy was issued;

(2) A property owner, relying in good faith on the issuance of a building permit, incurs extensive obligations or substantial expenses in diligent pursuit or a building project in conformance with the issued Building Permit and the Uniform Statewide Building Code; or

(3) The owner of the building or structure has paid real estate taxes to the County for such building or structure for a period of more than the previous 15 years.

Section 165-902.04. Expansion of Nonconforming Uses and Structures.

A. Legally nonconforming uses and structures may expand in accordance with the provisions of this Section. Measurements shall be based on gross floor area for structures and total land area for uses.

B. 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.

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(1) Landfills.

(2) Junkyards.

(3) Signs.

C. Legally nonconforming uses listed below may be expanded or modified one (1) time if the expansion or modification does not increase the degree of nonconformity and does not expand the area of the structure more than 3,500 square feet or 50% of the area covered by the structure prior to the expansion or modification, whichever is less.

(1) Parking lots.

(2) Loading areas.

(3) Outdoor storage and processing areas.

(4) Outdoor display areas.

D. All legally nonconforming uses and structures not specified in B. or C., above, may be expanded or modified one (1) time if the expansion or modification does not increase the degree of nonconformity and:

(1) Does not result in an overall expansion of the areas of the structure by more than 2,000 square feet or 50% of the area covered by the structure prior to the expansion or modification; and

(2) Meets all conditions established in Section 165-503.16 of this Ordinance, if the use or structure is located within the floodplain districts.

E. The size of legally nonconforming residential structures may be expanded beyond 2,000 square feet or 50% of the area covered by the structure prior to the expansion, whichever is less, if the expansion or modification does not increase the degree of nonconformity.

Section 165-902.05. Repairs and Maintenance.

A. 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 (6) months from the date the legally nonconforming sign was destroyed or damaged.

B. In accordance with Code of Virginia § 15.2-2307(E), if 50% or more of a nonconforming residential or commercial building or structure is damaged or destroyed by accidental fire, natural disaster, or other Act of God, such building or structure may be repaired, rebuilt, or replaced without need of a variance, if:

(1) The nonconforming features are eliminated or reduced to the extent possible;

(2) The owner applies for a building permit and any work done to repair, rebuild or replace such building or structure complies with the provisions of the Uniform Statewide Building Code;

(3) All applicable requirements of the Floodplain Overlay District of this Ordinance are met; and

(4) The work is done within two (2) years, unless the building is in an area under a federal disaster declaration and was damaged or destroyed as a direct result of the disaster, in which case the time period shall be extended up to two (2) additional years, not to exceed four (4) years total.

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C. Owners of property damaged by an accidental fire have the same rights to rebuild such property as if it were damaged by an Act of God. Nothing herein shall be construed to enable the property owner to commit arson and obtain vested rights under this Section.

D. For purposes of this Section, "Act of God" shall include any natural disaster or phenomena including a hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake, or fire caused by lightning or wildfire.

E. Pursuant to Code of Virginia § 15.2-2307(F), a property owner may replace an existing on-site sewage system for any existing building in the same general location on the property, even if a new on-site sewage system would not otherwise be permitted in that location, unless access to a public sanitary sewer is available to the property, subject to the following conditions:

(1) If access to a sanitary sewer system is available, then connection to such system is required.

(2) Any new on-site system shall be installed in compliance with applicable regulations of the Virginia Department of Health in effect at the time of the installation.

F. Pursuant to Code of Virginia § 15.2-2307(H), if a nonconforming manufactured home is removed other than by natural disaster or public action, it may not be replaced except as provided below, unless it complies with regulations within the Ordinance. Any such replacement home shall retain the valid nonconforming status of the prior home.

(1) Nothing in this Article shall be construed to prevent the landowner or homeowner from removing a lawfully nonconforming manufactured home from a mobile or manufactured home park and replacing that home with another comparable manufactured home that meets the current HUD manufactured housing code. In such mobile or manufactured home park, a single-section home may replace a single-section home and a multi-section home may replace a multi-section home.

(2) The owner of a lawfully nonconforming mobile or manufactured home not located in a mobile or manufactured home park may replace that home with a newer manufactured home, either single- or multi-section, that meets the current HUD manufactured housing code.

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Article X. Transfer of Development Rights Program.

Part 1001. Establishment and Purpose.

Section 165-1001.01. Purpose.

A. **Purpose.** Pursuant to the authority granted by Code of Virginia §§ 15.2-2316.1 and 15.2-2316.2, 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.

B. **Intent.** 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:

(1) Providing an effective and predictable incentive process for property owners of rural and agricultural land to preserve lands with a public benefit;

(2) Implementing the Comprehensive Plan by directing residential land uses to the Urban Development Area (UDA); and

(3) 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.

Section 165-1001.02. Applicability.

A. The procedures and regulations established in this Article 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; see Sections 165-1002.01 and 165-1002.02, below.

B. In applicable receiving areas, land utilizing transferred development rights may be subdivided at an increased density above the base density as specified in Tables X-1 to X-3 in Section 165-1002.03.

C. All development utilizing transferred development rights shall conform to the guidelines contained in the Comprehensive Plan.

Section 165-1001.03. Right to Transfer Development Rights; General Provisions.

A. **Covenant Required.** 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 their designee.

(1) The covenant shall limit:

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i. 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 Ordinance;

ii. Any development rights previously extinguished or limited as a result of a recorded covenant against the property;

iii. The number of development rights to be transferred by the proposed transaction; and

iv. The number of existing single-family detached dwellings on the sending property.

a. If a sending property contains no dwelling units, a development right equal to that for one (1) single-family dwelling must be maintained for the property, except that for properties larger than 100 acres, one (1) development right equal to that for one (1) single-family dwelling must be maintained for each multiple of 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 Section 165-1001.01 so long as the conditions of A., above, are met.

C. Any TDR pursuant to this Article 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. The monetary value of transferred development rights is completely determined between the seller and buyer.

Part 1002. Sending and Receiving Properties.

Section 165-1002.01. Sending Properties.

A. For the purposes of this Article, a sending property must be an entire tax parcel or lot qualified under B., below. A sending property shall be maintained in a condition that is consistent with the criteria in this Part under which the sending was qualified.

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:

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(1) Designated in the Comprehensive Plan as Rural Area;

(2) Designated on the Zoning Maps of Frederick County as being zoned RA (Rural Areas) and 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 20 acres in size; and

(5) Qualified for subdivision in accordance with Chapter 144 of the County Code, including, but not limited to, meeting all state road and access requirements.

i. For TDR purposes, if the sending property consists of more than one (1) parcel of land, at least one (1) lot must meet all requirements of Chapter 144 of the County Code; this lot shall be deemed the primary lot.

ii. Additional parcels that do not meet the subdivision requirements but are contiguous to the primary lot may be added to the sending property, if they are all under common ownership.

iii. For purposes of this section, lots divided by a street are considered contiguous if the lots would share a common lot line if the street was removed.

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 TDR program.

Section 165-1002.02. Receiving Properties.

A. Except as provided in B., below, in order to be eligible as a receiving property, a property must be:

(1) Located in the RA, RP, or R4 Zoning Districts;

(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 this Ordinance or Chapter 144 of the County Code;

(5) Located within the UDA or a designated and defined Rural Community Center as identified in the Comprehensive Plan; and

(6) Identified in the Frederick County Comprehensive Plan as a future land use that is solely residential in nature.

B. A property is not eligible as a receiving property if:

(1) The TDR to the property would adversely impact regionally or locally significant historical resources or naturally sensitive areas as specified in the Comprehensive Plan; or

(2) The property is located within the airport support area as identified by the Comprehensive Plan.

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C. 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 TDR program.

D. A receiving property may accept development rights from one (1) or more sending properties, up to a maximum density specified in Tables X-1 to X-3 in Section 165-1002.03.

Section 165-1002.03. 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 C., below, to the area of the sending property after deducting all the following:

(1) Development rights previously transferred in accordance with this Ordinance;

(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 (1) 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 165-1001.03. A.

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.

D. For the purposes of the TDR program only, sending sites zoned RA shall have a base density of one (1) dwelling unit per five (5) acres for transfer purposes.

E. Any fractions of development rights that result from the calculations in A., above, shall not be included in the final determination of total development rights available for transfer.

F. Development rights from one (1) sending property may be allocated to more than one (1) receiving property and/or transferee and one (1) receiving property and/or transferee may accept development rights from more than one (1) 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 TDR certificate issued by the Director of Planning and Development or

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their designee, pursuant to the provisions of Section 165-1002.05, and shall be considered a final determination, not subject to revision.

(1) Such a determination shall be valid only for purposes of the TDR program and for no other purpose.

(2) 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 Table X-1.

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 Table X-2.

(1) Allowable sending area bonus density remains subject to the maximum density provisions outlined in Table X-1.

(2) If properties located in Sending Area No. 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.

(3) When TDR density rights are applied to a receiving property, the density right to housing type conversion rate shall be outlined in Table X-3. Such density conversions shall be demonstrated on the Master Development Plan for the receiving property.

Table X-1. Maximum Density Allowed in Zoning Districts Through Transfer of Development Rights (TDR) Program.

Zoning District and Land Use		Property Size (acres)	Maximum Density in Dwelling Units per Acre Without TDRs	Maximum Density for Dwelling Units per Acre with TDR Transfers
RA (Rural Areas)		RA receiving property	1 unit per 5 acres	Density for qualified RA receiving properties in the UDA shall be consistent with the allowable RP density utilizing TDRs (see below)
RA (Rural Areas)*		RA receiving property	1 unit per 5 acres	1 unit per acre in designated rural community centers served by community septic systems
RP (Residential Performance)	*Multifamily residential buildings and Age-Restricted multifamily*	N/A	20	24
	Garden apartments and Townhouse (single- family attached)		10	15

Table X-1. Maximum Density Allowed in Zoning Districts Through Transfer of Development Rights (TDR) Program.				
Zoning District and Land Use		Property Size (acres)	Maximum Density in Dwelling Units per Acre Without TDRs	Maximum Density for Dwelling Units per Acre with TDR Transfers
	*Density by parcel size for all other housing types and developments with mixed housing types***	0 to 10	10	15
		10.1 to 25	6	10
		25.1 to 50	6	10
		50.1+	6	10
R4 (Residential Planned Community)		>100	4	10
* *For designated rural community centers.* ** *See § 165-405.01 for maximum percentage of multifamily housing.*				

Table X-2. Sending Area Conversions.	
Designated Sending Area	Each Transferred Density Right May Be Converted to This Bonus Density in the Receiving Area
Sending Area No. 1	1 density right = 2 dwelling units
Sending Area No. 2	1 density right = 1.5 dwelling units
Sending Area No. 3	1 density right = 1 dwelling unit

Table X-3. TDR Density Right Conversion Rate.	
Housing Type	Conversion Rate*
Single-family	1 TDR density right = 1 dwelling unit
Single-family attached	1 TDR density right = 1.5 dwelling units*
Multifamily	1 TDR density right = 1.75 dwelling units*
**All fractions must be rounded down to the nearest whole number.*	

Section 165-1002.04. TDR Sending Property Development Limitations.

A. Following the transfer of residential development rights, a sending property that has retained part of its development rights may subsequently accommodate remaining residential dwelling units on the sending property consistent with the requirements of the RA 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 TDR program.

B. On sending properties with environmental features as outlined in Section 165-1002.03 A., 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.

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C. The limitations in this Section shall be included in a deed covenant applicable to the sending property.

Section 165-1002.05. 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 Section 165-1002.01.

(1) The Director of Planning and Development or his designee shall render a determination or denial within 60 days of the date of submittal of a completed sending property determination application.

(2) If the determination is that a property meets the qualifications, the Director of Planning and Development or his designee shall issue the determination in the form of a letter of intent to issue a TDR certificate.

(3) A TDR letter of intent issued by the Director of Planning and Development or his designee shall state the following information:

i. The name of the transferor;

ii. The name of the transferee, if then known;

iii. A legal description of the sending property on which the calculation of development rights is based;

iv. A statement of the size, in acres, of the sending property on which the calculation of development rights is based;

v. A statement of the number of development rights, stated in terms of number of dwelling units, eligible for transfer;

vi. If only a portion of the total development rights is 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;

vii. The date of issuance;

viii. The signature of the Director of Planning and Development or his designee; and

ix. A serial number assigned by the Director of Planning and Development or his designee.

B. A letter of intent issued under this Section 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.

C. Determinations of sending property qualifications under A., above, are appealable to the Board of Supervisors by filing a notice of appeal with the Director of Planning and Development or his designee within 30 days of the date of the determination.

D. The Director of Planning and Development shall be responsible for maintaining permanent records of action taken pursuant to the TDR program, 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.

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E. Responsibility for preparing a completed application for a determination that a proposed sending property meets the qualifications of Section 165-1002.01 rests exclusively with the applicant/property owner. An application for a transfer of development rights to issue a TDR 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 (5) 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.

F. No transfer of development rights under this Article shall be recognized by Frederick County as valid unless the instrument of transfer contains the transfer of development rights certificate issued under this Section.

Section 165-1002.06. 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.

B. 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 Section 165-1002.03 G.;

(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;

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(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

(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.

C. An instrument of transfer of development rights shall be recorded prior to release of development permits, including building permits, for the receiving property.

Part 1003. Transfer Process and Development Procedures.

Section 165-1003.01. Transfer Process.

A. Development rights shall be transferred using the following process:

(1) Following approval of the sending property determination application and issuance of the letter of intent as described in Section 165-1002.05, 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.

(2) If a sending property with a TDR 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.

(3) In applying for receiving property or receiving person approval, the applicant shall provide the Department of Planning and Development with one (1) of the following:

i. A TDR certificate issued in the name of the applicant;

ii. A TDR certificate issued in the name of another person or persons and a signed option to purchase those TDR sending property development rights; or

iii. A transfer TDR 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.

(4) The receiving property applicant and/or transferee may elect to submit an MDP and receive approval of the same, if compliant with County Code, contingent upon the final transfer of development rights.

(5) The receiving property applicant and/or transferee shall deliver the documentation outlined in A. (3), above, for the number of TDR development rights being severed or transferred and the TDR extinguishment document to the County.

(6) 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.

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Section 165-1003.02. Development Approval Procedures.

A. A request to utilize transferred development rights on an eligible receiving property must be in the form of an MDP and a Subdivision Design Plan submitted to the Department of Planning and Development in accordance with the Zoning and Subdivision of Land regulations contained in this Ordinance and Chapter 144, Subdivision of Land, of the County Code.

B. Any proposed development utilizing transferred development rights will comply with the standards contained within the County's Area Plans as adopted in the Frederick County Comprehensive Plan for the receiving area in which the development shall occur. This may include but is not limited to the dedication of rights of way for future planned roads and trail systems, or their construction if warranted via the TIA. 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 Section 144-31 of the 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 Section 165-1002.06.

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Article XI. Definitions.

Part 1101. Word Usage.

Section 165-1101.01. General.

A. Words and terms set forth in this Article shall have the meanings ascribed to them whenever used in this Ordinance. Any word, term(s) or phrase used in this Zoning Ordinance not defined herein has 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.

B. For the purposes of this Ordinance, certain words or terms will be defined as follows:

(1) Words used in the present tense include the future. Words in the singular include the plural, and the plural includes the singular.

(2) Use of the masculine gender also includes the feminine and neuter, and vice versa.

(3) The word "shall" or "must" is always mandatory; the word "may" is permissive.

(4) The words "may not" indicate a prohibition.

(5) The words "used for" include "designed for," "arranged for," or "occupied for".

(6) The word "building" includes "structures" and must be construed as if followed by the phrase "or part thereof."

(7) The word "person" includes "individual," "partnership," "company," "profit or nonprofit corporation," "organization," or other similar entities, as set forth in Code of Virginia §§ 1-230 and 1-231.

(8) The word "erected" will be deemed also to include "constructed, reconstructed, altered, placed, or moved."

(9) The word "State" means the Commonwealth of Virginia.

(10) The word "County" means Frederick County, Virginia.

(11) The terms "land use" and "use of land" also include "building use" and "use of building".

(12) The term "Code of Virginia" will be deemed also to include "as amended".

(13) Unless otherwise specified, the term "day" means a calendar day.

(14) The terms "architect," "engineer," "landscape architect," and "surveyor," or other profession listed, refer to those professionals who are registered with the Virginia Department of Professional and Occupational Regulation to practice those professions.

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Part 1102. General Terms.

Section 165-1102.01. General.

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.

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.

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, as amended.

AISLE — The traveled way by which vehicles enter and depart parking spaces within a parking lot.

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

ARTERIAL HIGHWAY — A street so classified by the Virginia Department of Transportation (VDOT) or by the standards of Frederick County, which collects and distributes traffic to and from collector streets.

AUTOMOBILE GRAVEYARD — Pursuant to Code of Virginia § 33.2-804, any lot or place that is exposed to the weather and upon which more than five (5) motor vehicles of any kind that are incapable of being operated and which it would not be economically practical to make operative are placed, located, or found.

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.

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.

BUFFER — An open area used to separate one (1) use from another.

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.

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BUILDING OFFICIAL — The Director of the Frederick County Building Inspections Department.

CALIPER — The diameter of a tree as defined by the American Standard for Nursery Stock (ANSI Z60.1).

CAPITAL IMPROVEMENTS PLAN or **PROGRAM** — A plan or program adopted by the Frederick County Board of Supervisors according to the provisions of the Code of Virginia, which recommends capital outlays by the County for a five (5)-year period.

CAREGIVER — Pursuant to Code of Virginia § 15.2-2292.1., an adult who provides for a mentally or physically impaired person within the Commonwealth. For purposes of the placement of a temporary family health care structure, a caregiver shall be either related by blood, marriage, or adoption to or the legally appointed guardian of the mentally or physically impaired person for whom they are providing care.

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.

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

CODE OF ORDINANCES — The laws which govern the territory of Frederick County, Virginia. May also be referred to in this Ordinance as "County Code" or "County Code of Ordinances".

CODE OF VIRGINIA — The statute laws of the Commonwealth of Virginia, as codified. References to the Code of Virginia shall be construed to incorporate amendments thereof pursuant to Code of Virginia § 1-220, and any regulations promulgated pursuant the section incorporated.

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 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 Ordinance, 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 or a property owners association for use and maintenance, and is protected to ensure that it remains in such uses, unless utilized under the provisions of Section 165-402.07.A. of this Ordinance.

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 as required by the provisions of the Code of Virginia § 15.2-2223.

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

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CONDITIONAL ZONING – As defined in Code of Virginia §§ 15.2-2201 and 15.2-2298, the allowing of reasonable conditions governing the use of such property, such conditions being in addition to, or modification of the regulations provided for a particular zoning district or zone by this Ordinance.

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, hoists, pavers, power shovels, road construction and maintenance machinery, scaffolds, tank trucks, trenching machines, and water well drilling machinery.

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

DECOMMISSIONING — The removal and proper disposal of solar energy equipment, facilities, or devices on real property that has been determined by the County to be subject to § 15.2-2232 of the Code of Virginia and therefore subject to § 15.2-2241.2 of the Code of Virginia. "Decommission" includes the reasonable restoration of the real property upon which such solar equipment, facilities, or devices are located, including (i) soil stabilization and (ii) revegetation of the ground cover of the real property disturbed by the installation of such equipment, facilities, or devices.

DEDICATE — The transfer of property by the owner to another party, typically a public entity, without monetary consideration.

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.

DESIGNATED AGENT – Pursuant to the Code of Virginia § 15.2-2201, any agent employed or authorized by a locality and designated by the governing body to review and act on subdivision plats, site plans, and plans of development. The designated agent is either the Zoning Administrator or the Director of Planning and Development, as set forth more specifically throughout this Ordinance.

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 construction of buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

DIRECTOR OF PLANNING AND DEVELOPMENT — The Director of the Frederick County Department of Planning and 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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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.

INACTIVE DISTANCE BUFFER — The portion of a buffer area which permits no activity except the necessary utility functions provided by transmission lines, underground conduits, stormwater management, sidewalks, trails, etc.

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.

ROAD EFFICIENCY ACTIVE PORTION — A distance buffer located within a residential lot that may contain accessory structures.

ROAD EFFICIENCY INACTIVE PORTION — A distance buffer 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.

DISTRICT — A zoning district established by this Ordinance.

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

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.

EASEMENT — A grant of one (1) 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.

ENVIRONMENTAL EASEMENT — An easement established to protect and maintain particular environmental features according to the environmental protection requirements of this Ordinance.

FIRE CODE — The fire protection regulations adopted by the Frederick County Board of Supervisors; see Chapter 90 of the Frederick County Code of Ordinances.

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 (2) buildings.

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

FOOTCANDLE — A measure of light falling on a surface. One (1) footcandle is equal to the amount of light generated by one (1) candle shining on one (1) square foot surface located one (1) foot away.

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Footcandle measurements shall be made with a photometric light meter with a specified horizontal orientation.

FOOTCANDLE (AVERAGE MAINTAINED) — The average of a number of points of footcandle calculations or footcandle readings in a given area which have been adjusted to account for maintenance, which includes luminaire dirt depreciation and lamp lumen depreciation.

FULL SCREEN — Elements of landscape screen plus a six (6)-foot in height opaque fence, hedge, wall, mound or berm.

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

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 the brightness level to which the eyes are adapted.

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.

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.

ILLUSTRATIVE SKETCH PLAN — An illustrative plan that accurately depicts the development of a parcel or use meeting the requirements of this Ordinance. Illustrative site plans may be required for agricultural uses or as part of a conditional use permit.

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.

INOPERABLE MOTOR VEHICLE— Pursuant to the Code of Virginia § 15.2-904:

(i) Any motor vehicle which is not in operating condition;

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(ii) any motor vehicle which for a period of 60 days or longer 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

(iii) any motor vehicle on which there are displayed neither valid license plates nor a valid inspection decal, if located on a property for which a use permitted in the RA District is allowed, it either displays a farm use tag or is a vehicle, trailer, camping trailer, or semitrailer, primarily used for agricultural purposes.

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.

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.

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

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 any 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 plane located at the bottom of a fixture. Such fixtures may 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-CUTOFF — A lighting fixture from which 0% of its light output is emitted at or above 90° from horizontal (a horizontal plane drawn through the bottom of the light fixture) and no more than 10% above 80° from the horizontal.

LIGHTING 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.

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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, CORNER — A lot abutting two (2) or more streets at their intersection.

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 AREA — The total area within the lot lines of a lot.

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 Circuit Court.

LOT WIDTH — The horizontal distance between side lot lines.

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 fixture components. For the purpose of this Ordinance, the maintained lighting level shall represent an average footcandle 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.

MASTER DEVELOPMENT PLAN — A general plan of development for new developments in certain zoning districts before subdivision or site plan approval, according to the requirements of this Ordinance.

MENTALLY OR PHYSICALLY IMPAIRED PERSON — A person who is a resident of Virginia and who requires assistance with two (2) or more activities of daily living, as defined in Code of Virginia § 63.2-2200, as certified in a writing provided by a physician licensed by the Commonwealth.

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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.

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.

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

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.

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.

OPAQUE — Not transparent or translucent.

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.

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.

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

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

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.

RECREATIONAL VEHICLE — A vehicle which is:

A. Built on a single chassis;

B. Four hundred (400) 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.

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.

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

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.

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 (1) property.

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

SCREENING — A method of visually shielding or obscuring one (1) 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 (3) months in a year.

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.

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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 (2) uses or dwellings.

SIGN — Any object, device, display, structure, fixture, painting, emblem, or visual, or part thereof, that is designed to use words, designs, figures, graphics, colors, illumination or projected images, fixtures, symbols, numbers, or letters for the purpose of communicating a message.

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.

SIGN, COTTAGE OCCUPATION — Any additional signage permitted on a parcel as a result of the County approving a conditional use permit for a cottage occupation on the parcel.

SIGN, ELECTRONIC — Any sign with fixed or changing graphics composed of a series of lights or light-emitting devices that may be changed through electric or electronic means.

SIGN, FLAG — Any piece of cloth or bunting, with distinctive colors, patterns, or symbolic devices, that may constitute, among other things, a governmental or organizational symbol, or that may be decorative.

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

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

SIGN, INCIDENTAL WINDOW — Any sign displayed in a window.

SIGN, INFLATABLE — Any sign that is an air-inflated object, which may be of various shapes, made of flexible fabric, resting on the ground or structure, and equipped with a portable blower motor that provides a constant flow of air into the device.

SIGN, INTERSTATE OVERLAY — Any on-premises business sign located within the Interstate Area Overlay District meeting all requirements of Article V, Part 505 of this Ordinance.

SIGN, MONUMENT — Any 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.

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SIGN, ON-PREMISES MULTI-TENANT COMPLEX — Any sign relating to more than one (1) business, profession, produce, service, event, or other commercial or noncommercial activity sold, offered, or conducted on the same parcel of land where the sign is located.

SIGN, OFF-PREMISES — Any sign relating to a business, profession, product, service, event, or other commercial or noncommercial activity not sold, offered, or conducted on the same parcel of land where the sign is located.

SIGN, ON-PREMISES — Any sign relating to a business, profession, product, service, event, or other commercial or noncommercial activity sold, offered, or conducted on the same parcel of land where the sign is located.

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

SIGN, ROOF — Any 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.

SIGN, SNIPE — Any sign tacked, nailed, posted, pasted, glued, or otherwise attached to trees, poles, stakes, fences, public benches, streetlights, or other objects, or placed on any public property or in the public right-of-way or on any private property without the permission of the property owner.

SIGN, TEMPORARY — Any sign designed or intended to be moved easily that is not permanently attached to the ground or affixed to a building or other structure. May also include banner signs.

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

SIGN AREA — The sign area will 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 words, designs, figures, graphics, colors, illumination or projected images, fixtures, symbols, numbers, or letters or 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 (1) display face will be used in calculating the area.

SINGLE-FAMILY — A single person, or two (2) or more persons related by blood or marriage occupying a dwelling, living together and maintaining a household, which may include not more than one (1) unrelated person; however, not more than four (4) 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 plan of development which contains detailed engineering drawings of the proposed uses and improvements required in the development of a given parcel or use meeting the requirements

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of this Ordinance. In all Articles of this Ordinance, where the term "site plan" is used, it also includes the term "minor site plan."

STEEP SLOPES — Land areas where the slope exceeds 35%.

STORMWATER MANAGEMENT FACILITY — A facility designed to Virginia Erosion and Stormwater Management Act (VESMA) standards that is intended for the control and management of stormwater to minimize the detrimental effects of surface water runoff.

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 (1) 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 (2) 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. For floodplain management purposes, see Section 165.1003.02 of this Article.

TEMPORARY TRAILER — A manufactured 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.

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.

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.

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 — Pursuant to Code of Virginia § 15.2-2201, a reasonable deviation from those provisions regulating the shape, size or area of a lot or parcel of land, or the size, height, area, bulk or location of a building or structure when the strict application of this Ordinance would unreasonably restrict the utilization of the property, and such need for a variance would not be shared generally by other properties, and provided that such variance is not contrary to the purpose of this Ordinance.

VESTED RIGHT - Any written order, requirement, decision, or determination regarding the permissibility of a specific use, structure, or density of a landowner's property that constitutes a significant affirmative governmental act pursuant to Code of Virginia § 15.2-2307 and is issued in strict accordance with the requirements of this Ordinance.

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.

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 Ordinance.

ZONING MAP – The official zoning map of Frederick County, Virginia.

Part 1103. Overlay District Terms.

Section 165-1103.01. Airport District.

AIRPORT —Winchester Regional Airport.

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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.

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.

CONICAL SURFACE — A surface extending horizontally 20 feet for every one (1) foot vertically from the periphery of the horizontal surface.

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.

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.

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

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.

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

TRANSITIONAL SURFACE — Surface which extends outward perpendicular to the runway center line extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces.

Section 165-1103.02. Floodplain Districts.

APPURTENANT OR ACCESSORY STRUCTURE — For floodplain management purposes, a nonresidential structure which is on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures within the SFHA are not to exceed 600 square feet.

BASE FLOOD — The flood having a one-percent (1%) chance of being equaled or exceeded in any given year.

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BASE FLOOD ELEVATION (BFE) — The water surface elevations of the base flood, that is, the flood level that has a one-percent (1%) or greater chance of occurrence in any given year. The water surface elevation of the base flood in relation to the datum specified on the County's Flood Insurance Rate Map. For the purposes of this Ordinance, the base flood is the one-percent (1%) annual chance flood.

BASEMENT — Any area of the building having its floor subgrade (below ground level) on all sides.

ELEVATED BUILDING — A nonbasement 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.

EXISTING CONSTRUCTION — Structures for which the start of construction commenced before the effective date of the FIRM or before July 17, 1978, for FIRMs effective before that date. Existing construction may also be referred to as "existing structures" and "pre-FIRM."

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 the County.

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 manufactured 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).

FLOOD INSURANCE RATE MAP (FIRM) — An official map of the County on which the Federal Emergency Management Agency has delineated both the special hazard areas and the risk-premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

FLOOD INSURANCE STUDY (FIS) — A report by FEMA that examines, evaluates and determines flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow and/or flood-related erosion hazards.

FLOOD or FLOODING —

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

   (1) The overflow of inland or tidal waters;

   (2) The unusual and rapid accumulation or runoff of surface waters from any source;

   (3) Mudflows which are proximately caused by flooding as defined in Subsection A(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.

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B. 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 A (1) of this definition any source.

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

FLOODPROOFING — Any combination of structural and nonstructural 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 one (1) foot at any point within the community.

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.

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

HYDROLOGIC AND HYDRAULIC ENGINEERING ANALYSIS — Analyses performed by a licensed professional engineer, in accordance with standard engineering practices that are accepted by the Virginia Department of Conservation and Recreation and FEMA, used to determine the base flood, other frequency floods, flood elevations, floodway information and boundaries, and flood profiles.

LETTERS OF MAP CHANGE (LOMC) — A Letter of Map Change is an official FEMA determination, by letter, that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

A. **LETTER OF MAP AMENDMENT (LOMA)** — An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a land as defined by metes and bounds or structure is not located in a special flood hazard area.

B. **LETTER OF MAP REVISION (LOMR)** — A revision based on technical data that may show changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. A Letter of Map Revision Based on Fill (LOMR-F) is a determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer exposed to flooding associated with the base flood. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the County's floodplain management regulations.

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C. **CONDITIONAL LETTER OF MAP REVISION (CLOMR)** — A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study.

LOWEST ADJACENT GRADE — The lowest natural elevation of the ground surface next to the walls of a structure.

LOWEST FLOOR — The lowest floor of the lowest enclosed area (including basement). An unfinished or 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 nonelevation design requirements of Federal Code 44 CFR 60.3.

MEAN SEA LEVEL — For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or the North American Vertical Datum (NAVD) of 1988 to which base flood elevations shown on a community's FIRM are referenced.

MANUFACTURED HOME —For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

NEW CONSTRUCTION — For the purposes of determining insurance rates, structures for which the start of construction commenced on or after July 17, 1978, 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 the County and includes any subsequent improvements to such structures.

NEW MANUFACTURED (MOBILE) 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 the floodplain management regulations adopted by the county.

POST-FIRM STRUCTURE — A structure for which construction or substantial improvement occurred on or after July 17, 1978.

PRE-FIRM STRUCTURE — A structure for which construction or substantial improvement occurred before July 17, 1978.

REPETITIVE LOSS STRUCTURE — A building covered by a contract for flood insurance that has incurred flood-related damages on two (2) occasions in a 10-year period in which the cost of the repair, on the average, equaled or exceeded 25% of the market value of the structure at the time of each such flood event; and, at the time of the second incidence of flood-related damage, the contract for flood insurance contains increased cost of compliance coverage.

SEVERE REPETITIVE LOSS STRUCTURE — A structure that:

A. Is covered under a contract for flood insurance made available under the NFIP; and

B. Has incurred flood-related damage:

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(1) For which four (4) or more separate claims payments have been made under flood insurance coverage with the amount of each such claim exceeding $5,000, and with the cumulative amount of such claims payments exceeding $20,000; or

(2) For which at least two (2) separate claims payments have been made under such coverage, with the cumulative amount of such claims exceeding the market value of the insured structure.

SHALLOW FLOODING AREA — A special flood hazard area with base flood depths from one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

SPECIAL FLOOD HAZARD AREA — The land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year as determined in Section 165-502.11 of this Ordinance.

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.

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.

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 —

A. 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. The term does not, however, include either:

(1) 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

(2) Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

B. Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement, as defined above, must comply with all ordinance requirements that do not preclude

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the structure's continued designation as an historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic Places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.

VIOLATION — For floodplain management purposes, violation includes the failure of a structure or other development to be fully compliant with the County's floodplain 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.

Section 165-1103.03. Historic Area Overlay Zone.

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.

HISTORIC AREA – Pursuant to the Code of Virginia § 15.2-2201, an area containing one (1) or more buildings or places in which historic events occurred or having special public value because of notable architectural, archaeological or other features relating to the cultural or artistic heritage of the community, of such significance as to warrant conservation and preservation.

HISTORIC STRUCTURE — Any structure that is:

A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

B. 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;

C. 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

D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

   (1) By an approved state program as determined by the Secretary of the Interior; or

   (2) Directly by the Secretary of the Interior in states without approved programs.

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

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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.

Part 1104. Transfer of Development Rights Terms.

Section 165-1104.01. Transfer of Development Rights Program.

DEVELOPMENT RIGHTS—The permitted uses and 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. For purposes of this Ordinance, "transferable development rights" are included in this definition.

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 Article X of this Ordinance.

RECEIVING AREA — One (1) or more areas identified in this Ordinance 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.

SENDING AREA — One (1) or more areas identified in this Ordinance 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 — One (1) or more areas identified by an ordinance and designated by the Comprehensive Plan as an area from which development rights are authorized to be severed and transferred to a receiving area.

SEVERANCE OF DEVELOPMENT RIGHTS – The process by which development rights from a sending property are severed pursuant to the provisions of this Ordinance.

TRANSFER OF DEVELOPMENT RIGHTS — The procedure prescribed by Article X of 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.

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.

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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.

Part 1105. Use Terms.

Section 165-1105.01. Agricultural.

AGRICULTURAL SUPPLY COOPERATIVES — An agricultural cooperative association, organized under Article 2 of Chapter 3 of Title 13.1 of the Code of Virginia, that is primarily engaged in the retail or wholesale distribution of livestock and animal feed, fertilizers, agricultural chemicals, pesticides, seeds, and other agricultural products or services.

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.

AGRITOURISM — Pursuant to Code of Virginia § 3.2-6400, any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, wineries, ranching, historical, cultural, harvest-your-own activities, or natural activities and attractions. An activity is an agritourism activity whether or not the participant paid to participate in the activity.

CHICKEN COOP – A fully enclosed and covered structure, permanent or transportable, that provides a living area for chickens with adequate protection from the elements and predators. Chicken coops may include an outdoor running space (pen).

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

FARM BREWERY — A brewery licensed as a limited brewery under Subsection 4 of § 4.1-206.1 of the Code of Virginia.

FARM DISTILLERY — A distillery licensed as a limited distillery under Subsection 2 of § 4.1-206.1 of the Code of Virginia.

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FARMER'S MARKET — Retail sale of fresh fruit and vegetables, and other food and related items, horticultural products and livestock at a facility with space occupied by one (1) 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 STAY — Any guest accommodation on a working farm. In addition to overnight accommodations on site, guests may participate in rural activities, including farming, animal husbandry, ranching, harvest-your-own activities, natural activities and attractions.

FARM WINERY — A winery licensed as a farm winery under Subsection 6 of § 4.1-206.1 of the Code of Virginia.

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

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.

SLAUGHTERHOUSES — Establishments primarily engaged in the slaughtering or processing of meats for human consumption or other related products. The word "slaughterhouse," as used in this definition, 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.

STABLE, COMMERCIAL — A building, group of buildings, or use of land, or any combination thereof, where, for compensation, whether monetary or goods, provision is made for horses or ponies for hire or instruction in riding.

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.

Section 165-1105.02. Residential.

ADULT CARE RESIDENCES — A public or private establishment operated or maintained for the maintenance or care of four (4) 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 Virginia Department of Behavioral Health and Developmental Services; and the home or residence of an individual who cares for or maintains only 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.

AGE-RESTRICTED — Pursuant to Code of Virginia § 36-96.7, housing intended for and occupied by older persons. 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.

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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 (24) hour supervision, and various types of assistance (scheduled and unscheduled) in daily living and meeting the requirements of Code of Virginia § 63.2-1800 et seq.

BED-AND-BREAKFAST — An owner- or operator-occupied single-family detached dwelling unit which contains no more than one (1) kitchen and 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.

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

CONTINUING-CARE RETIREMENT COMMUNITY (CCRC) — Pursuant to Code of Virginia § 36-96.7, a housing development on one (1) parcel of land that meets the requirements for housing for older persons 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 (1) 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 (1) parcel that is owned and operated by one (1) entity that offers rental options for the residential units.

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.

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.

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

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

DWELLING, DETACHED — A dwelling that is not attached to any other dwelling by any means.

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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.

DWELLING, SEMIDETACHED — A dwelling attached to one (1) or more dwellings by a common vertical wall, with each dwelling located on a separate lot.

DWELLING, SINGLE-FAMILY — A structure, not including manufactured homes, arranged or designed to be occupied by one (1) household.

DWELLING, SINGLE-FAMILY DETACHED CLUSTER – A fully detached, single-family residence on an individual lot, with private yards on all four (4) sides.

DWELLING, SINGLE-FAMILY DETACHED RURAL TRADITIONAL – A fully detached, large lot single family residence on an individual lot with private yards on all four (4) sides, without public water and sewer.

DWELLING, SINGLE-FAMILY DETACHED TRADITIONAL – A fully detached, large-lot single-family residence with private yards on all four (4) sides without required common open space.

DWELLING, SINGLE-FAMILY DETACHED URBAN – A fully detached, single-family residence on an individual lot with private yards on all four (4) sides.

DWELLING, SINGLE-FAMILY DETACHED ZERO LOT LINE – A fully detached, single-family residence on an individual lot, where the structure is set on one (1) of the side property lines, with a maintenance easement on the adjoining lot.

DWELLING, SINGLE-FAMILY SMALL LOT – A single-family detached or attached residence on an individual lot, with no more than two (2) units attached together.

FAMILY DAY HOME (1-4 children) – A child day program, as defined under Code of Virginia § 22.1-289.02, for children offered in the residence of the provider for up to four (4) children at any one (1) time, exclusive of the provider's own children and any children who reside in the home, when at least one (1) child receives care for compensation.

FAMILY DAY HOME (5-12 children) – A child day program, as defined under Code of Virginia § 22.1-289.02, for children offered in the residence of the provider for five (5) through 12 children at any one (1) time, exclusive of the provider's own children and any children who reside in the home, when at least one (1) child receives care for compensation.

GARDEN APARTMENT – Buildings at least two (2) stories high but no more than four (4) stories in height 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.

GROUP HOME — As provided by Code of Virginia § 15.2-2291, a licensed residential facility in which no more than eight (8) mentally ill, intellectually disabled, or developmentally disabled persons or no more than eight (8) aged, infirmed, or disabled persons reside, with one (1) or more resident counselors or other resident or nonresident staff persons, shall be considered a residential occupancy by a single family. Mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance as defined in Code of Virginia §54.1-3401. Such facility shall be

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licensed by the Virginia Department of Behavioral Health and Developmental Services (Code of Virginia §15.2-2291).

COMMUNITY CORRECTIONAL FACILITY — Pursuant to Code of Virginia § 53.1-1., any group home, halfway house, or other physically unrestricting facility used for the housing, treatment or care of adult offenders established or operated with funds appropriated to the Department of Corrections from the state treasury and maintained or operated by any political subdivision, combination of political subdivisions or privately operated agency within the Commonwealth.

HOME OCCUPATION — An occupation or profession customarily carried on in a dwelling unit.

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 Code of Virginia § 36-96.7).

MANUFACTURED HOME — A "single-wide," "double-wide," or "triple-wide" structure that is transportable in one (1) or more sections, is eight (8) feet or more in width and forty (40) feet or more in length in the traveling mode, is built on a permanent chassis and is designed for use as a dwelling unit with or without a permanent foundation when connected to the required utilities. For purposes of this Ordinance, a Manufactured Home must meet the standards promulgated by the United States Department of Housing and Urban Development (HUD), published at 24 CFR Part 3280, including the ANSI standards incorporated therein by reference. For purposes of this Ordinance, a Manufactured Home must bear a data plate declaring that it meets HUD standards. For floodplain management purposes see Section 165.1003.02 of this Article.

MANUFACTURED HOME PARK OR SUBDIVISION — A parcel (or contiguous parcels) of land or a subdivision divided into two (2) or more manufactured home lots for rent or sale.

MULTIPLEX - An attached residence containing three (3) to four (4) 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.

SHORT-TERM LODGING (STL) — Any occupancy of all or part of a dwelling or manufactured home for a period of 30 days or less.

TEMPORARY FAMILY HEALTH CARE STRUCTURE — Pursuant to the Code of Virginia § 15.2-2292.1., a transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, that i) is primarily assembled at a location other than its site of installation; ii) is limited to one (1) occupant who shall be the mentally or physically impaired person, or, in the case of a married couple, two (2) occupants, one (1) of whom is a mentally or physically impaired person, and the other requires assistance with one (1) or more activities of daily living as defined in Code of Virginia § 63.2-2200, as certified in writing by a physician licensed in the commonwealth; iii) has no more than 300 gross square feet; and iv) complies with applicable provisions of the Industrialized Building Safety Law (§ 36-70 et seq.) and the Uniform

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Statewide Building Code (§ 36-97 et seq.). Placing the temporary family health care structure on a permanent foundation shall not be required or permitted.

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

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 16 dwelling units in a group.

TREATMENT HOME — A residential facility for persons of all ages recovering from alcohol and/or drug addiction where supervision, rehabilitation and counseling are provided to the residents.

Section 165-1105.03. Public/Civic/Institutional.

ADMINISTRATIVE REVIEW ELIGIBLE PROJECT — Any project meeting the criteria of Code of Virginia § 15.2-2316.3.

AMATEUR RADIO ANTENNA – A freestanding or building mounted structure, including any base, tower or pole, and appurtenances, intended for airway communication purposes by a person holding a valid amateur radio (HAM) license issued by the Federal Communications Commission, and permitted pursuant to Code of Virginia § 15.2-2293.1.

CAMPGROUND — A lot or parcel upon which two (2) or more campsites are located, established or maintained for occupancy by the general public as temporary living quarters for recreation, education or vacation purposes.

CEMETERY – Pursuant to Code of Virginia § 54.1-2310, any land or structure used or intended to be used for the interment of human remains. The sprinkling of ashes or their burial in a biodegradable container on church grounds or their placement in a columbarium on church property shall not constitute the creation of a cemetery.

CHURCHES and PLACES OF WORSHIP — Buildings or structures primarily intended for the conduct of organized religious services and associated accessory uses.

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

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.

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.

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

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stations, transformer substations, and water supply stations either located within a structure or freestanding.

PUBLIC BUILDING — Any area, building or structure used or controlled for government purposes, that is owned, held, or operated by any department, branch or unit of the federal government, the Commonwealth of Virginia or one (1) or more of its local governments, political subdivisions or municipal corporations.

PUBLIC UTILITIES, DISTRIBUTION VOLTAGE ELECTRICAL SUBSTATION — Electrical substation intended for delivery of retail electrical power. Such facilities may be owned by public utilities, public agencies, those operators with a certificate of public convenience, or those that are operating under a permit-by-rule (PBR).

PUBLIC UTILITIES, POWER-GENERATING FACILITIES — Generation of power via coal, natural gas, solar, wind, nuclear, biomass, hydroelectric or other methods Such facilities may be owned by public utilities, public agencies, those operators with a certificate of public convenience, or those that are operating under a permit-by-rule (PBR).

PUBLIC UTILITIES, TRANSMISSION AND DISTRIBUTION FACILITIES — Booster or relay stations, transformer substations, transmission lines and towers, pipes, meters and other facilities, and sewer and water treatment facilities, including sewer and water transmissions lines. Such facilities may be owned by public utilities, public agencies, those operators with a certificate of public convenience, or those that are operation under a permit-by-rule (PBR).

PUBLIC UTILITIES, TRANSMISSION VOLTAGE ELECTRICAL SUBSTATION — Electrical substation intended for long range delivery of wholesale electrical power with typical voltages of 500KV and higher. Such facilities may be owned by public utilities, public agencies, those operators with a certificate of public convenience, or those that are operating under a permit-by-rule (PBR).

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

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.

SCHOOL —

(1) 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.

(2) 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.

TELECOMMUNICATION FACILITY, COMMERCIAL — Infrastructure, including towers, antennas, panels, microwave dishes, receiving dishes, equipment building, other transmitting and receiving components and other accessory structures, used for the wireless electromagnetic

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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.

TELECOMMUNICATION FACILITY, SMALL – Included in this use type are small facilities such as those defined in Code of Virginia §15.2-2316.3.

Section 165-1105.04. Commercial.

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.

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.

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.

BOAT REPAIR SHOP — A structure, or portion thereof, designed for or used for servicing, repair, or equipping boats, but not including boat sales.

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

COMMERCIAL RECREATION, INDOOR — A sports or activity facility either open to the general public for a fee or for members and their guests, located in an enclosed building or structure designed to accommodate gatherings for athletic, training, recreational or park purposes, games, cultural activities, martial arts, archery, and the like.

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.

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.

COUNTRY CLUB — A land area and buildings containing recreational facilities, clubhouse 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, without accessory fuel sales, not to exceed 3,500 square feet gross retail floor area, allowed where specified in the rural zoning districts which sells groceries along with a variety of other retail goods.

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DAY-CARE FACILITY — A facility in which more than five (5) children and/or adults, not including persons 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 (24)-hour day.

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.

FLEA MARKET — An occasional or periodic sales activity, held within a building, structure or outdoors 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 not be 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 edible 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.

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.

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 service stations or vehicle sales.

GENERAL BUSINESS OFFICE — A room or building used for conducting the affairs of a business, professional, service, industry, or other enterprise.

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

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.

KENNEL — A place prepared to house, board, breed, handle, or otherwise care for dogs for sale or in return for compensation. One (1) litter of dogs breeding for compensation per household per year shall not be defined as a kennel and will be considered as a home occupation.

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

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

OFFICE PARK — A development primarily devoted to office uses, containing two (2) or more uses within a single master development or site plan.

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

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PARKING GARAGE — A building or structure consisting of more than one (1) level designed and used for public or private parking of motor vehicles.

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.

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.

SPECIAL EVENT FACILITY — A facility or site utilized for events that are typically conducted on a single day but which may be conducted for up to three (3) consecutive days, for which attendance is permitted only by invitation or reservation; special events include, but are not limited to, meetings, conferences, banquets, dinners, weddings, and private parties.

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

Section 165-1105.05. Industrial.

DATA CENTERS — A premises in which the majority of the use is occupied by computers and/ or telecommunications and related equipment for processing, storing, or transferring information. Infrastructure such as utility substations, power generators, and other supporting equipment may also be included.

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.

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.

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

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

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.

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.

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.

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

Section 165-1105.06. Miscellaneous.

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 permitted use.

UTILITY-SCALE SOLAR POWER GENERATING FACILITIES — Any personal property designed and used primarily for the purpose of collecting, generating, or transferring electric energy from sunlight. Any such facility primarily designed or intended to offset personal energy consumption by the owner of the facility does not constitute a utility-scale solar power generating facility.

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Zoning Ordinance Crosswalk					NEW
Article	Part	Part Content	Section Number	Section Content	Ordinance Location
Article I - General Provisions; Amendments; and Conditional Use Permits					
Article I - General Provisions; Amendments; and Conditional Use Permits	101	General Provisions	165-101.01	Intent; purpose.	165-101.03
			165-101.02	Definitions and word usage.	Article XI
			165.101.03	Headlines of sections.	***Removed***
			165-101.04	Scope; applicability.	165-104.03 165-102.01
			165-101.05	Zoning districts and Zoning Map.	Article I, Part 103 (various)
			165-101.06	Administration and interpretation.	165-201.01
			165-101.07	Compliance required; required permits.	165-101.05 165-309.01 165-309.02
			165-101.08	Violations and penalties; enforcement.	165-204.01 165-204.02 165-204.03 165-204.04
			165-101.09	Disclosure of ownership.	165-301.04
	102	Amendments	165-102.01	Initiation.	165-302.01 165-302.02
			165-102.02	Applications.	165-301.02 165-301.03 165-302.02 C. 165-312.01
			165-102.03	Planning Commission public hearing.	165-302.02 C. 165-312.01
			165-102.04	Board of Supervisors public hearing.	165-302.02 C. 165-312.01
			165-102.05	Impact analysis.	165-302.02 B.
			165-102.06	Conditional rezoning.	165-303.02 165-303.03 165-303.04 165-303.05 165-303.06
			--	REZONING FLOW DIAGRAM	Figure 3.1
	103	Conditional Use Permits	165-103.01	Consideration; approval or disapproval.	165-304.01
			165-103.02	Standards.	165-304.02 A.
			165-103.03	Conditions.	165-304.02 C.
			165-103.04	Application and approval procedures.	165-304.02 B.
			165-103.05	Fees.	165-301.03
			165-103.06	Site plans.	165-304.02 B.
			165-103.07	Changes in use.	165-304.03 A.
			165-103.08	Revocation	165-304.03 C. 165-304.04
			--	CONDITIONAL USE PERMIT FLOW DIAGRAM	Figure 3.2
Article II - Supplementary Use Regulations; Parking; Buffers; and Regulations for Specific Uses					
	201	Supplementary Use Regulations	165-201.01	Scope.	165-402.01
			165-201.02	Setback requirements. *(Includes "Corner Lot Setbacks" illustration)*	165-402.03
			165-201.03	Height limitations; exceptions.	165-403.03
			165-201.04	Lot requirements.	165-402.03
			165-201.05	Secondary or accessory uses.	165-603.01 165-706.01 165-706.02
			165-201.06	Signs.	Article VIII, Part 809, all sections
			165-201.07	Outdoor lighting standards.	Article VIII, Part 807, all sections
			165-201.08	Protection of environmental features.	Article VIII, Part 803, all sections
			165-201.09	Stormwater management.	***Removed***
			165-201.10	Outdoor storage and processing.	165-808.01 165-808.02
			165-201.11	Property owners' associations.	144-302.14 (SO)
			165-201.12	Nuisances.	165-801.01

Zoning Ordinance Crosswalk					NEW
Article	Part	Part Content	Section Number	Section Content	Ordinance Location
Article II - Supplementary Use Regulations; Parking; Buffers; and Regulations for Specific Uses	202	Off-Street Parking, Loading and Access	165-202.01	Off-street parking; parking lots. *(includes "Example Parking Lot" illustration)*	165-804.02 165-804.02 165-804.03 165-804.04 165-804.05 165-804.06
			165-202.02	Loading areas.	165-804.07
			165-202.03	Motor vehicle access.	144-302.06 (SO)
			165-202.04	Streets: Inter-parcel connectors.	144-302.07 (SO)
	203	Buffers and Landscaping	165-203.01	Landscaping requirements.	Article VIII, Part 802, all sections
			165-203.02	Buffer and screening requirements.	Article VIII, Part 802, all sections
	204	Additional Regulations for Specific Uses	165-204.01	Adult care residences, assisted living care facilities and convalescent or nursing homes.	165-702.01
			165-204.02	Batting cages, commercial, operated outdoors.	165-704.05
			165-204.03	Campgrounds and tourist camps.	165-703.02
			165-204.04	Car washes.	165-704.04
			165-204.05	Electrical, hardware, plumbing and heating equipment businesses.	165-704.12
			165-204.06	Flex-tech uses.	165-704.09
			165-204.07	Government services office.	165-703.06
			165-204.08	Grocery and food stores.	165-704.10
			165-204.09	Humanitarian aid organizational office.	165-703.04
			165-204.10	Kennels.	165-704.13
			165-204.11	Landfills, junkyards, trash disposal and inoperable vehicles and trailers.	165-703.03 165-705.02 165-808.02
			165-204.12	Motor vehicle service uses, automotive repair shops and public garages.	165-704.02
			165-204.13	Restaurants.	165-704.11
			165-204.14	Sewage treatment facilities.	165-703.07
			165-204.15	Commercial shoooting and archery ranges, outdoor.	165-704.06
			165-204.16	Shopping centers, office parks, and industrial parks.	165-811.01 165-811.02
			165-204.17	Slaughterhouses and rendering plants.	165-701.05
			165-204.18	Storage facilities, self-service.	165-705.05
			165-204.19	Telecommunications facilities, commercial.	165-703.01 165-703.08
			165-204.20	Trailers, temporary.	165-812.01 165-812.02 165-812.03
			165-204.21	Truck or fleet maintenance facilities and truck rental and leasing facilities, without drivers.	165-705.07
			165-204.22	Farm wineries, farm breweries, and farm distilleries.	165-701.03
			165-204.23	Welding repair.	165-704.18
			165-204.24	Tractor truck and tractor truck trailer parking.	165-705.06
			165-204.25	Flea markets.	165-704.08
			165-204.26	Public utilities.	165-703.07 165-703.09
			165-204.27	Temporary family health care structures.	165-702.09
			165-204.28	Height waivers in B3 (Industrial Transition), TM (Technology Manufacturing Park), EM (Extractive Manufacturing), M1 (Light Industrial), and M2 (Industrial General) Districts.	165-402.03 C.
			165-204.29	Commercial recreation, indoor.	165-704.05
			165-204.30	Special event facilities.	165-704.17
			165-204.31	Doctors of medicine, dentists, and other health practitioners in RP District and RA District.	165-704.15
			165-204.32	Country general store without fuel sales.	165-704.07
			165-204.33	Boat repair shop.	165-704.03
			165-204.34	Agricultural supply cooperatives.	165-701.01
			165-204.35	Short-term lodging.	165-702.08
			165-204.36	Adult retail.	165-704.01
			165-204.37	Home occupations.	165-702.05
			165-204.38	Cottage occupations.	165-702.03
			165-204.39	Retail stores (drug, health, and personal care)	165-704.16
			165-204.40	Nationally chartered fraternal lodges or civic clubs, social centers and their related club facilities.	165-703.05
			165-204.41	Data Centers	165-705.01

Zoning Ordinance Crosswalk					NEW
Article	Part	Part Content	Section Number	Section Content	Ordinance Location
Article III - Transfer of Development Rights (TDR) Program					
Article III - Transfer of Development Rights (TDR) Program	301	Establishment and Purpose	165-301.01	Purpose.	165-1001.01
			165-301.02	Applicability.	165-1001.02
			165-301.03	Right to transfer development rights; general provisions.	165-1001.03
	302	Sending and Receiving Properties	165-302.01	Sending properties.	165-1002.01
			165-302.02	Receiving properties.	165-1002.02
			165-302.03	Calculation of development rights.	165-1002.03
			165-302.04	TDR sending property development limitations.	165-1002.04
			165-302.05	Sending property certification.	165-1002.05
			165-302.06	Instruments of transfer.	165-1002.06
	303	Transfer Process and	165-303.01	Transfer process.	165-1003.01
			165-303.02	Development approval procedures.	165-1003.02
Article IV - Agricultural and Residential Districts					
Article IV - Agricultural and Residential Districts	401	RA Rural Areas Distrct	165-401.01	Purpose and intent.	165-401.02 A.
			165-401.02	Permitted uses.	Article VI, Table 1 (Use Matrix)
			165-401.03	Conditional uses.	Article VI, Table 1 (Use Matrix)
			165-401.04	Permitted residential density; exception.	165-404.01
			165-401.05	Minimum lot size.	165-404.01
			165-401.06	Permitted lot sizes.	165-404.01
			165-401.07	Setback requirements.	165-404.01
			165-401.08	Minimum width; maximum depth.	165-404.01
			165-401.09	Height restrictions.	165-404.01
	402	RP Residential Performance District	165-402.01	Intent.	165-401.02 B.
			165-402.02	Permitted uses.	Article VI, Table 1 (Use Matrix)
			165-402.03	Conditional uses.	Article VI, Table 1 (Use Matrix)
			165-402.04	Number of uses restricted.	165-405.01 B.
			165-402.05	Gross density and multifamily housing.	165-405.01 A.
			165-402.06	Phased development.	165-405.01 B.
			165-402.07	Open space requirements.	Article VIII, Part 805, all sections
			165-402.08	Recreation facilities.	Article VIII, Part 806, all sections
			165-402.09	Dimensional requirements.	154-405.01 165-702.04
	403	MH1 Mobile Home Community District	165-403.01	Intent.	165-401.02 B.
			165-403.02	Permitted Uses.	Article VI, Table 1 (Use Matrix)
			165-403.03	Conditional Uses.	Article VI, Table 1 (Use Matrix)
			165-403.04	Mobile home parks and subdivisions.	165-405.02 165-702.06
Article V - Planned Development Districts					
Article V - Planned Development Districts	501	R4 Residential Planned Community District	165-501.01	Intent.	165-401.02 E.
			165-501.02	Rezoning procedure.	165-302.02 D.
			165-501.03	Permitted uses.	Article VI, Table 1 (Use Matrix)
			165-501.04	Conditional uses.	Article VI, Table 1 (Use Matrix)
			165-501.05	Mixture of housing types required.	165-408.01 B.
			165-501.06	Design requirements.	165-408.01 B. Article VIII, Various
	502	R5 Residential Recreational Community District	165-502.01	Intent.	165-401.02 E.
			165-502.02	Master development plan.	165-306.01 165-306.02
			165-502.03	Rezoning procedure.	165-302.02 D.
			165-502.04	Permitted uses.	Article VI, Table 1 (Use Matrix)
			165-502.05	Conditional uses.	Article VI, Table 1 (Use Matrix)
			165-502.06	Design requirements.	165-408.02 B. Article VIII, Various
	503	--	--	Reserved.	***Removed***
	504	MS (Medical Support) District	165-504.01	Intent.	165-401.02 E.
			165-504.02	Permitted uses.	Article VI, Table 1 (Use Matrix) 165-702.01
			165-504.03	District area, floor-to-area ratios and residential gross densities.	165-408.04
			165-504.04	Access regulations.	165-408.04
			165-504.05	Structure and parking lot setback regulations.	165-408.04
			165-504.06	Height regulations.	165-408.04
			165-504.07	Open space, landscaped area, and buffer and screening regulations.	Article VIII, Various
Article VI - Business and Industrial Zoning Districts					
		Dimensional	165-601.01	Intent.	165-401.02 C.

Zoning Ordinance Crosswalk					NEW Ordinance Location
Article	Part	Part Content	Section Number	Section Content	
Article VI - Business and Industrial Zoning Districts	601	Dimensional and Intensity Requirements.	165-601.02	Dimensional and intensity requirements.	165-406.01 165-407.01
			165-601.03	Minimum landscaped area.	165-406.01
	602	B1 Neighborhood	165-602.01	Intent.	165-401.02 C.
			165-602.02	Allowed uses.	Article VI, Table 1 (Use Matrix)
	603	B2 General Business District	165-603.01	Intent.	165-401.02 C.
			165-603.02	Allowed uses.	Article VI, Table 1 (Use Matrix)
	604	B3 Industrial Transition District	165-604.01	Intent.	165-401.02 C.
			165-604.02	Allowed uses.	Article VI, Table 1 (Use Matrix)
			165-604.03	Conditional uses.	Article VI, Table 1 (Use Matrix)
	605	TM Technology Manufacturing Park District	165-605.01	Intent.	165-401.02 D.
			165-605.02	Allowed uses.	Article VI, Table 1 (Use Matrix)
			165-605.03	Secondary or accessory uses.	Article VI, Table 1 (Use Matrix)
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Article	Part	Part Content	Section Number	Section Content	Ordinance Location
	703	HA Historic Area Overlay District	165-703.04	General regulations.	165-308.02 165-308.03 165-504.04
			165-703.05	Guidelines for new construction or alterations.	165-504.05
			165-703.06	Administration.	165-301.03 A. 165-301.06 A. 165-308.03

Zoning Ordinance Crosswalk					NEW
Article	Part	Part Content	Section Number	Section Content	Ordinance Location
	704	IA Interstate Area Overlay District	165-704.01	Intent.	165-505.01
			165-704.02	District boundaries.	165-505.02
			165-704.03	Establishment of districts.	165-505.03
			165-704.04	(Reserved)	***Removed***
			165-704.05	District Regulations.	165-505.04
	705	TNDB Traditional Neighborhood Design Business Overlay District	165-705.01	Intent.	165-506.01
			165-705.02	District boundaries.	165-506.02
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			165-705.06	Design Standards.	165-506.06
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			165-801.08	Changes to approved master development plans.	165-306.07
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			165-1001.02	Powers and duties.	165-203.02 165-203.03 165-301.03 165-305.02 165-305.03 A. 165-311.01 165-311.02 165-311.04
			--	APPEALS AND VARIANCES FLOW DIAGRAM	Figure 3.3 Figure 3.6

ORDINANCE

Action:		
PLANNING COMMISSION:	April 15, 2026	Recommended Approval
BOARD OF SUPERVISORS:	May 13, 2026	Pending

TO AMEND CHAPTER 165

WHEREAS, a proposal to amend Chapter 165 – Zoning Ordinance to reorganize the chapter, to remove any redundant and conflicting language, and to convert narrative standards into tables and graphics, and where appropriate to add or modify provisions and references from Chapter 22 of Title 15.2 of the Code of Virginia that are not codified in the current Zoning Ordinance; and

WHEREAS, the Development Review and Regulations Committee (DRRC) met and discussed the proposed amendment at their March 26, 2026, regular meeting; and

WHEREAS, the Planning Commission held a public hearing on the proposed ordinance amendment on April 15, 2026, and recommended approval of the ordinance amendment; and

WHEREAS, the Frederick County Board of Supervisors held a public hearing on this proposed ordinance amendment on May 13, 2026;

NOW, THEREFORE, BE IT ORDAINED by the Frederick County Board of Supervisors, that in the interest of public health, safety, general welfare, and good zoning practice, the amendment to Chapter 165 – Zoning Ordinance to reorganize the chapter, to remove any redundant and conflicting language, and to convert narrative standards into tables and graphics, and where appropriate to add or modify provisions and references from Chapter 22 of Title 15.2 of the Code of Virginia that are not codified in the current Zoning Ordinance.

Passed this 13th, day of May 2026 by the following recorded vote:

John F. Jewell, Chairman	Gary R. Oates
Robert T. Liero	Robert W. Wells
Michael D. Guevremont	Jason C. Aikens
Albert L. Orndorff	**A COPY ATTEST**

_____
Michael L. Bollhoefer
Frederick County Administrator

Board of Supervisors
Agenda Item Detail
Meeting Date: May 13, 2026
Agenda Section: Planning Commission Business - Public Hearings

Title:

Ordinance Amendment to the Frederick County Code – Modifications to Chapter 144 – Subdivision Ordinance to Reorganize the Chapter, to Remove any Redundant and Conflicting Language, and to Convert Narrative Standards into Tables and Graphics, Where Appropriate. The Amendment Also Adds or Modifies Provisions and References from Chapter 22 of Title 15.2 of the Code of Virginia that are Not Codified in the Current Subdivision Ordinance.

Attachments:
BOS05-13-26SubdivisionOrdinanceUpdate.pdf

PLANNING & COMMUNITY DEVELOPMENT
BERKLEY GROUP

MEMORANDUM

To: Frederick County Board of Supervisors
From: Caroline Vanterve, AICP, Principal Planner
Berkley Group
Date: April 29, 2026
Subject: Phase I Zoning and Subdivision Ordinance Update – Public Hearings

Frederick County has enlisted the support of Berkley Group to restructure the County's Zoning and Subdivision Ordinances and update the provisions for compliance with the Code of Virginia. The updated Ordinances will achieve the following:

- Provide a streamlined and user-friendly Ordinance format;
- Incorporate current Code of Virginia requirements; and
- Prepare the County to efficiently address policy items, as guided by the Comprehensive Plan, in a future phase.

This process was initiated by County staff and serves as a technical update focused on clarity and usability. It is considered Phase I and **does not consist of policy changes** (e.g., addition of zoning districts; edits to use standards or design standards). **Any and all changes made as part of Phase I were introduced solely for compliance with the mandatory items of state code, reorganizational purposes, or to remove redundant or conflicting provisions.** Additionally, any zoning text amendments adopted between July 2025 and February 2026 have been directly integrated as adopted. A Phase II update to address policy is anticipated following completion of the County's ongoing Comprehensive Plan update.

During the May 13, 2026 regular meeting, the Board of Supervisors will hold two public hearings to consider the updated Zoning and Subdivision Ordinances. Consistent with Virginia law, the Board of Supervisors will vote after each public hearing to approve, approve with amendments, or deny the proposed Zoning and Subdivision Ordinances.

The Planning Commission recommended approval of the updated Zoning Ordinance and approval of the updated Subdivision Ordinance following public hearings held to consider each respective Ordinance during their regular meeting on Wednesday, April 15, 2026.

Should the Ordinances be adopted, they will be immediately effective and will repeal and replace the existing Zoning and Subdivision Ordinances in their entirety.

CV

No policy changes were made during the Phase 1 update. Revisions were to limited to Code of Virginia compliance, improved readability, and reorganization.

1. ***Draft* Article I – General Provisions**

This Article replaces the current *Article I – Intent,* of the current Subdivision Ordinance. It establishes the Subdivision Ordinance; the authority of Frederick County to have and enforce a subdivision ordinance; the purpose and intent of the subdivision ordinance; and other general provisions that allow the County to amend the Ordinance and prevent circumvention of Ordinance requirements. Notable edits are as follows:

- New text added to § 144-101.02 to establish the authority of Frederick County to assure the orderly subdivision of land and its development, pursuant to the Code of Virginia § 15.2-2240.
- New text added to § 144-101.05 to address filing of amendments, pursuant to the Code of Virginia § 15.2-2252.
- New text added to §§ 144-101.06, 144-101.07, and 144-101.08 to provide a severability clause and address amendments to the Ordinance. While not required by state code, this language is necessary for enforcement and defensibility of the Subdivision Ordinance.
- Provisions prohibiting circumvention of Ordinance standards have been added to § 144-101.09. While not required by state code, this language is necessary for enforcement and defensibility, and matches the County's current stance in practice.

2. ***Draft* Article II – Administration**

This Article updates and replaces the current *Article III – General Provisions*. It centralizes all administrative provisions for easier use. Roles and responsibilities of the Subdivision Administrator are clearly provided, along with enforcement procedures and associated fees. Revisions of note include the following:

- To comply with July 1, 2025 amendments to the Code of Virginia (§§ 15.2-2259 and 15.2-2260), various revisions have been made. This is to formally designate the Subdivision Administrator as the Designated Agent for Frederick County. This is also because the Planning Commission/Board of Supervisors can no longer be involved in the review and determination of subdivision plats and plans.
- Similar to the above, the current language allowing any division of land, Subdivision Design Plan, or Final Plat to be forwarded to the Board of Supervisors for final approval has been removed to comply with recent state code amendments.
- New language added to § 144-202.01 regarding Ordinance enforcement to comply with the Code of Virginia (§ 15.2-2254).

3. ***Draft* Article III – Subdivision Standards**

This Article consolidates all standards for subdivision, including access; sidewalks; open space; grading; easements; and utilities. Revisions of note include the following:

- New language related to communications easements has been introduced in § 144-302.11 to comply with state code requirements (§ 15.2-2241(A)(6)).
- Requirements for family division lots and rural preservation lots are currently contained in the Zoning Ordinance as part of standards for the Rural Areas (RA) zoning district. For usability and to keep all lot

requirements together, they have been relocated into this Article (§§ 144-301.05 and 144-301.06).

- Various provisions from the Zoning Ordinance that are actually direct requirements for subdivision – including motor vehicle access, street standards, interparcel connectivity, property owners' associations (POAs), and sidewalks – have been removed from the Zoning Ordinance and relocated to this Article.
- Specific stormwater management requirements have been removed and replaced with a cross-reference to Chapter 143, Stormwater/Erosion and Sediment Control, of the County Code. This is to avoid redundancy and potentially conflicting requirements related to stormwater.

4. *Draft* Article IV – Improvements and Guaranties

This Article is the same as *Article VII – Improvements and Guaranties* of the current Subdivision Ordinance, and addresses subdivision guarantees through incorporating reference to mandatory requirements of state code and the County's adopted *Monetary Guaranty Policy and Performance Agreement Policy*. The only update made to this language is including direct reference to relevant sections of the Code of Virginia as well as the adopted guaranty policy.

5. *Draft* Article V – Plats

This Article consolidates all requirements for plats currently contained in *Articles IV and VI* of the current Subdivision Ordinance into a single article for ease of use and enhanced transparency. The Article is further organized into the following Parts: General Requirements (applicable to all plats); Subdivision Design Plans; Final Plats; and Vacations of Plats. Notable revisions include the following:

- A new Part (Part 501) has been added to establish regulations generally applicable to all plats. This language matches what Planning and Development staff does in practice and is recommended to improve general clarity and defensibility of the Ordinance.
- Per County staff, the Ordinance requirements for Preliminary Sketches have been removed. Subdivision Design Plans are required for all subdivisions, except for divisions in RA districts that neither propose the creation/extension of public roads nor require stormwater management plans. This aligns with what County staff is requiring in practice.
- Added a requirement for the location of any mapped dam break inundation zones; graves; and/or structures marking a burial site to be included on final plats, in accordance with Code of Virginia § 15.2-2258. Developers will further be required to supply an engineering study if a development lies within a dam break inundation zone (Code of Virginia § 15.2-2243.1).
- Introduced a requirement for plat details to meet the standard for plats as adopted under the Virginia Public Records Act. This is to comply with state code (§ 15.2-2241(A)(1)).
- Increased the amount of time for a final plat to be filed by the County from six months to one year, in order to align with the timeframes established in state code (§ 15.2-2260).
- In lieu of including lengthy requirements regarding the review, resubmittal, and approval of preliminary sketches, subdivision design plans, and final plats, propose truncating language and simply referencing the pertinent sections of state code in various sections.
- Introduced new language to comply with state code requirements for plat recording into § 144-504.05. These state code sections include §§ 15.2-2254, 15.2-2241, 15.2-2261, and 15.2-2265.
- A new part (Part 505) has been added to bring the Subdivision Ordinance into compliance with multiple sections of the Code of Virginia regarding the vacation of recorded plats and boundary lines.

6. *Draft* Article VI – Definitions

Draft Article VI, Definitions, is a reorganized and updated version of *Article II – Definitions* of the current

Ordinance. As a best practice for usability and administration, Berkley Group recommends continuing to include a standalone article for terms and definitions. *Continued on the following page.*

Revisions of note include the following:

- 144-601.01 and 144-601.02. contain new administrative (non-policy) language, which is recommended to assist County staff with enforcement and administration of the Ordinance.
- Several definitions have been **updated to align with definitions used in the Zoning Ordinance** to avoid conflicts between the way the same terms are defined**.** Examples include "contiguous", "development", "easement", "lot", "lot of record", "master development plan", and "street".
- Several definitions have been **added or updated to align with state code**. Examples include "Comprehensive Plan", "Designated Agent", and "immediate family".



Frederick County, Virginia
SUBDIVISION ORDINANCE

DRAFT

Adopted DATE, 2026

Effective DATE, 2026

Amended DATE

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Article I. General Provisions.

Part 101. General.

Section 144-101.01. Title.

This Chapter, the full title of which is "The Subdivision Ordinance of Frederick County, Virginia," shall be permitted, for convenience, to be referred to as the "Subdivision Ordinance," "Ordinance," or "Chapter."

Section 144-101.02. Authority.

Pursuant to the Code of Virginia, § 15.2-2240, et seq., Frederick County, Virginia is given the authority to assure the orderly subdivision of land and its development.

Section 144-101.03. Purpose and Intent.

A. The purpose of this Ordinance is to establish subdivision standards to assist in the orderly, efficient, and integrated development of land. These standards are further intended to:

(1) Promote appropriate development practices;

(2) Ensure conformance with the adopted Frederick County Comprehensive Plan and Frederick County Code;

(3) Provide for the public's health, safety, convenience, comfort, prosperity, and general welfare; and

(4) Guide public and private actions to ensure efficient systems for transportation, water, sewerage, fire protection, drainage, erosion control, recreation, open space, and other services to promote a stable and economically sound community.

B. This Ordinance shall establish reasonable survey standards to ensure proper subdivision layout, appropriate recordation of all land divisions, clear legal descriptions, monument placement on urban land, and appropriate procedures and standards for land development.

Section 144-101.04. Applicability.

A. **Subdivision Plats.** All land divisions shall require the submittal of a subdivision plat for review and approval prior to recordation.

(1) All subdivisions shall be required to submit a Subdivision Design Plan (SDP) prior to recordation or land disturbance, in accordance with Article IV, Part 502, of this Ordinance.

(2) SDP approval shall not be required for Boundary Line Adjustments (BLAs), Minor Rural Subdivisions, or Lot Consolidations.

B. **Master Development Plan (MDP).** Unless specifically waived or exempted under Article III, Permits and Applications, of Chapter 165, Zoning, all subdivisions of land shall require an approved MDP, which shall conform with all requirements of Article III, Permits and Applications, of Chapter 165, Zoning, of the Frederick County Code.

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Section 144-101.05. Recording of Ordinance.

A certified copy of the adopted Subdivision Ordinance and any and all amendments thereto shall be filed in accordance with Code of Virginia § 15.2-2252.

Section 144-101.06. Amendments.

Amendments to this Ordinance shall be made in accordance with Code of Virginia §§ 15.2-2251, 15.2-2253, and 15.2-2285 after public hearing held in accordance with Code of Virginia § 15.2-2204.

Section 144-101.07. Repeal.

Upon the adoption of this Ordinance, all prior Subdivision Ordinances adopted by the Frederick County Board of Supervisors are hereby repealed.

Section 144-101.08. Severability.

If any section, subsection, paragraph, sentence, clause, or phrase of this chapter shall be declared invalid for any reason whatever, such decision shall not affect the remaining portions of this Ordinance. The remaining portions shall remain in full force and effect; and, for this purpose, the provisions of this Ordinance are hereby declared to be severable.

Section 144-101.09. Circumvention.

A. The following shall be prohibited:

(1) The development of multiple adjoining Minor or Major Rural Subdivisions, over any amount of time, for the purpose of circumventing subdivision requirements;

(2) The development of multiple adjoining Major Rural Subdivisions, for the purpose of circumventing preliminary plat requirements; and

(3) Creative or unconventional lot layout, for the purpose of circumventing design requirements.

Section 144-101.10. Variations, Exceptions, and Appeals.

A. Appeals to any decisions made by the Subdivision Administrator regarding the requirements of this Ordinance shall be in accordance with Code of Virginia § 15.2-2259.

B. Variations in or exceptions to the provisions of this Ordinance may be granted by the Board of Supervisors in cases of unusual situations or when strict adherence to the general regulations would result in substantial injustice or hardship.

Part 102. Transition of Regulations After Adoption.

Section 144-102.01. Effective Date of Ordinance.

This Ordinance was adopted on May 13, 2026 and became effective at 12:01 a.m. on May 14, 2026. Its provisions shall be in force until repealed or amended.

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Section 144-102.02. Violations Continue.

Any development or activity in violation of the previous Subdivision Ordinance will continue to be a violation under this Ordinance unless the development or activity is brought into compliance with the provisions of this Ordinance.

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Article II. Administration.

Part 201. Subdivision Administrator.

Section 144-201.01. Appointment, Powers, and Duties.

A. A Subdivision Administrator shall be appointed by the County and entrusted to enact, administer, and enforce the requirements of this Ordinance.

(1) For the purposes of this Ordinance, the Subdivision Administrator shall serve as the Designated Agent for Frederick County in accordance with Code of Virginia § 15.2-2259.

B. The Subdivision Administrator shall have the power and duties as are conferred by this Ordinance, including the authority to:

(1) Administratively approve or disapprove any divisions of land in the RA (Rural Areas) zoning district and any divisions of land in all other zoning districts that are within an approved MDP; and

(2) Make interpretations concerning the application of the requirements of this Ordinance.

Part 202. Enforcement.

Section 144-202.01. Enforcement.

A. As provided in Code of Virginia § 15.2-2254, the following applies:

(1) No person shall subdivide land without making and recording a Final Plat of the subdivision and without fully complying with the provisions of the Code of Virginia and this Ordinance.

(2) No Final Plat of any subdivision shall be recorded unless and until it has been submitted to and approved by the Subdivision Administrator in accordance with the provisions of this Ordinance.

(3) No person shall sell or transfer any land of a subdivision, before a Final Plat has been duly approved and recorded as provided by this Ordinance, unless the subdivision was lawfully created prior to the adoption of a subdivision ordinance.

(4) Nothing contained in this Ordinance shall be construed as preventing the recordation of the instrument by which such land is transferred or the passage of title as between the parties to the instrument.

(5) As of the effective date of this Ordinance, the clerk of the Circuit Court shall not file or record a Final Plat of a subdivision until such plat has been approved as required by this Article.

i. The penalties provided by Code of Virginia § 17.1-223 shall apply to any failure to comply with the provisions of this Section.

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Section 144-202.02. Violation and Penalty.

A. All land divisions requiring subdivision approval shall conform to the provisions of this Ordinance.

B. Any person(s), firm or corporation, whether owner, lessee, principal, agent, employee, or otherwise, who violates any provision of this Ordinance shall be guilty of a misdemeanor.

(1) Upon conviction of such misdemeanor, such person(s), firm, or corporation shall be subject to punishment by a fine of not more than $500 for each lot or parcel of land so subdivided, transferred or sold.

C. The description of the lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from the penalties or remedies herein provided.

Part 203. Fees.

Section 144-203.01. Fees and Charges.

The Board of Supervisors, by resolution, may establish a schedule of fees for the application, review, and inspection of subdivision plans. A public hearing shall be required prior to the adoption of a schedule of fees.

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Article III. Subdivision Standards.

Part 301. Subdivision Types.

Section 144-301.01. General Subdivisions.

A. General subdivisions shall be any division of land into at least two (2) lots not defined as one of the following:

(1) Minor Rural Subdivisions;

(2) Major Rural Subdivisions;

(3) Boundary Line Adjustments; or

(4) Family divisions.

Section 144-301.02. Minor Rural Subdivisions.

A. **Applicability.** Minor rural subdivisions shall be any subdivision which results in a cumulative total of three (3) or fewer lots being divided from a single parent parcel within the RA Zoning District.

B. **Lot Types Permitted.** In addition to traditional lots, the division of the following types of lots are permitted under the regulations for a Minor Rural Subdivision:

(1) Lots described by Section 144-301.05., Family Subdivisions, of this Ordinance; and

(2) Lots described in Section 144-301.06., Rural Preservation Lots, provided that a total of no more than three (3) such lots may be created from any one (1) parcel under these regulations.

Section 144-301.03. Major Rural Subdivisions.

A. **Applicability.** Major rural subdivisions shall be any subdivision which results in a cumulative total of four (4) or more lots being divided from a single parent parcel within the RA Zoning District.

(1) Lots described in Section 144-301.05., Family Subdivision, of this Ordinance, shall not count toward the limit established in A., above.

(2) Prior to review and approval of final plats for such divisions, a SDP must be reviewed and approved by the Subdivision Administrator, in accordance with Article V, Part 502 of this Ordinance.

Section 144-301.04. Boundary Line Adjustments.

Any Boundary Line Adjustments (BLAs) or lot consolidations between contiguous properties shall be reviewed and approved by the Subdivision Administrator.

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Section 144-301.05. Family Subdivisions.

A. **Applicability.** Family division lots are subdivisions of land for simultaneous conveyance to a member of the immediate family as defined in Article VI, Definitions, of this Ordinance and Code of Virginia § 15.2-2244.

B. **Family Division Lots.** On any parcel which contained seven (7) acres or more prior to December 11, 1991, lots as small as two (2) acres may be created, provided that the following conditions are met:

(1) Lots are conveyed to immediate family members of the owner of record of the parent tract.

i. The conveyed lot(s) shall remain with the family member for a period of five (5) years from the date of the creation of the family lot.

ii. Only one (1) such lot shall be permitted per immediate family member.

(2) One (1) parcel of at least five (5) acres in size shall remain intact following the division.

(3) The creation of all such lots shall be in accordance with the provisions of this Ordinance and § 15.2-2244 of the Code of Virginia.

Section 144-301.06. Rural Preservation Lots.

A. Rural preservation lots shall be permitted in the RA Zoning District in accordance with Article IV, Primary Zoning Districts, of Chapter 165, Zoning, of the Frederick County Code, and provided all of the following are achieved:

(1) At least 60% of the parent tract shall remain intact as a contiguous parcel (Rural Preservation Tract), the acreage of which shall be designated prior to the division of the fourth lot.

(2) No future division of this designated Rural Preservation Tract shall be permitted, other than for the widening of existing VDOT road rights-of-way or public utility dedications, unless all the following are met:

i. The division results in an overall acreage increase to the Rural Preservation Tract;

ii. Acreage added to the preservation tract may come from areas internal or external to the rural preservation subdivision;

iii. Acreage from the preservation tract may not be adjusted into parcels outside of the rural preservation subdivision; and

iv. The Rural Preservation Tract continues to meet all requirements of this Ordinance and Chapter 165, Zoning, of the Frederick County Code.

(3) 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 (2) residual parcels to be created, the Subdivision Administrator may permit the 60% to be made up of two (2) parcels.

(4) **Board of Supervisors Waiver of Division Restriction - Rezoning.**

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i. The designated Rural Preservation Tract may be released from the restrictions of A(1), above, after a period of 10 years from its creation through the rezoning process.

ii. The rezoning shall be consistent with the goals of the adopted Frederick County Comprehensive Plan in effect at the time of the rezoning application.

iii. 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.

Part 302. General Design Standards.

Section 144-302.01. Conformity to Plans and Regulations.

A. The design of and physical improvements to a property being subdivided shall be constructed and installed in accordance with the requirements of this Ordinance and as depicted on the approved SDP.

B. All subdivisions shall conform to the requirements of:

(1) The Frederick County Code;

(2) Policies set forth in the County's Comprehensive Plan; and

(3) If applicable, the approved MDP for the land being subdivided.

C. This Ordinance establishes regulations governing the minimum requirements for the submission, review, disposition, and recordation of subdivision plans and plats. Design standards and installation procedures for all required improvements are provided, along with requirements for the layout and arrangement of all lots, streets, easements, and drainage areas.

D. Any subdivisions or development within subdivisions shall comply with all applicable requirements of Chapter 165, Zoning, of the Frederick County Code.

Section 144-302.02. Lots.

A. All lots shall be established and arranged so that no foreseeable difficulties will occur in providing and constructing allowed uses on any lot due to lot size, shape, topography, or other conditions.

B. The dimensions of all lots shall conform with the requirements of Chapter 165, Zoning, of the Frederick County Code, concerning lot area, minimum lot width, setbacks, and other dimensional requirements.

(1) Insofar as practical, side lot lines shall be at right angles to straight front lot lines or radial to curved front lot lines.

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Section 144-302.03. Remnants.

No remnants shall remain after establishing lots. All land on the final subdivision plat shall be contained in lots, streets, or common open space. All parcels of land on the final subdivision plat shall meet the requirements for those uses as specified in the Frederick County Code.

Section 144-302.04. Frontage.

A. Corner lots with public street frontage on two (2) adjacent sides shall be allowed.

B. Double-frontage lots with public street frontage on two (2) streets that do not intersect at the lot shall be avoided, except where required to prevent direct access to collector or arterial streets.

C. Lots with public street frontage on more than two (2) sides are prohibited.

Section 144-302.05. General Access.

A. **General.**

(1) All lots shall abut and have direct access to a public street or ROW dedicated for maintenance by VDOT, except as otherwise provided in B., below.

(2) All new lots created on collector or arterial roads shall meet the requirements regarding minimum driveway spacing as specified in Section 144-302.06, below.

i. Any lot created that cannot meet these requirements shall provide easements for shared access that will be reviewed for approval at the SDP or Final Plat review stage.

(3) Whenever a proposed subdivision contains or is adjacent to an existing or recorded arterial street, the Subdivision Administrator may require road improvements, such as acceleration and deceleration lanes, service drives approximately parallel to such ROW, reverse frontage lots with buffers and screening along a nonaccess strip at the back of the lots, deep lots, or other such treatments as may be necessary to adequately protect residential properties and provide separation of through and local traffic. The design of such features shall be determined based on traffic safety considerations.

B. **Exempt**.

(1) Lots in subdivisions to be used for the following housing types, as defined by Chapter 165, Zoning, of the Frederick County Code, are exempt from the requirement to abut public streets:

i. Duplexes;

ii. Multiplexes;

iii. Atrium Houses;

iv. Townhouses;

v. Weak-link Townhouses;

vi. Garden Apartments;

vii. Single-Family Small Lot Housing; and

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viii. Age-Restricted Multifamily Housing.

(2) When such lots do not abut public streets, they shall abut private roads, parking lots, or access easements.

i. The length and extent of private roads, driveways, and parking aisles providing access to lots shall be minimized. Public streets shall be provided in larger subdivisions when substantial distances are involved.

ii. Individual lots shall be no more than 1,000 feet from a state-maintained road, as measured from the public street along the private access road. The Board of Supervisors may allow lots to be located as much as 1,200 feet from a state-maintained road in cases where enhanced circulation is provided with a driveway loop.

(3) The Board of Supervisors may waive the public street requirement specified in A., above, to allow for a complete system of private streets within proffered age-restricted communities.

i. This waiver may be requested by the applicant during the consideration of a rezoning application or during MDP consideration.

ii. The applicant is required to provide a conceptual design which demonstrates the proposed private street system layout and provides both the cross section (horizontal and vertical) section dimensional base and pavement detail that meets or exceeds VDOT standards as a condition of requesting waiver approval.

Section 144-302.06. Motor Vehicle Access.

A. **General.** Private driveways or entrances shall be allowed to provide access to individual residences or uses or parking lots and loading areas shared by several residences or uses.

B. **Applicability.**

(1) In order to provide safe and convenient access and to provide efficient travel on arterial highways, minimum spacing requirements are herein established and shall apply to the following:

i. New driveways and entrances onto collector roads, arterial highways, and primary highways, in the B1, B2, B3, TM, M1, and M2 zoning districts;

ii. Any business, industrial or institutional use in any zoning district;

iii. Any residential development in which more than one dwelling shares a parking lot;

iv. All zoning districts between new residential driveways and commercial entrances onto collector roads, arterial highways, and primary highways; and

v. All zoning districts between the intersections of other roads with such collector roads, arterial highways, and primary highways; and

vi. Divided or developed lots that have been included together on an approved MDP, site plan or subdivision plat, provided shared access is provided in accordance with F., below.

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(2) No new lot shall be created on any state-maintained road unless spacing requirements can be met for driveways/entrances on the lot or unless access is provided through shared or existing access.

C. **Minimum Spacing Requirements.**

Table III-1. Minimum Residential Driveway, Full Commercial Entrance and Intersection Spacing on Primary Highways, Arterial Highways, and Collector Roads.

Road Classification		Minimum Required Spacing (feet)
Minor Collector		100
Major Collector	*Residential Driveway/Entrance*	150
	Commercial Entrance	250
Primary or Arterial	*Posted Speed Limit 45 mph or less*	250
	Posted Speed Limit over 45 mph	495

(1) In all cases, the spacing distances established in Table III-1, above, shall be measured from the tangents to the curb return of the driveways or intersecting streets.

D. **General Requirements for Driveways and Entrances.**

(1) No more than one (1) driveway or entrance shall be allowed per parcel unless each driveway/entrance from the parcel separately meets the spacing requirements, relative to each other and relative to any intersections within the minimum required spacing distance in all directions.

(2) All driveways and entrances onto state-maintained highways shall meet all requirements of VDOT, including road improvement plans or corridor plans, and all other requirements of the Frederick County Code, including road improvement plans or corridor plans.

(3) New driveways and entrances 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.

E. **Existing Access.**

(1) When a lot abuts a minor or collector street that intersects with the arterial or primary highway, and when the lot cannot be provided with an entrance onto the arterial or primary highway that meets the spacing requirement, access to the lot shall be only from the existing entrance on the minor or collector street.

i. New entrances directly onto the arterial or primary highway shall be prohibited.

F. **Shared Access.**

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(1) If a lot is divided or developed and cannot meet the required minimum spacing, but abuts a lot with shared access meeting those requirements, the new lot shall not be permitted to have a direct entrance onto the arterial or primary highway.

(2) When a lot is created on a collector road or arterial or primary highway, shared means of access to the road or highway shall be created by access easement, shared driveway, shared entrance, or other means acceptable to the Subdivision Administrator to ensure that the spacing requirements have been met.

i. The Subdivision 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.

ii. Shared access easements shall be provided in a manner so that shared driveways are clearly separated from parking areas, loading areas and pedestrian walkways.

iii. Shared access easements that follow lot lines are preferred.

G. **Minor Rural Subdivision Access Requirements.** Vehicular access to Minor Rural Subdivisions may be provided by means of shared private driveways.

(1) The minimum ROW width for a shared private driveway shall be 50 feet to a public street or ROW dedicated for maintenance by VDOT.

(2) For the purposes of family division lots, the minimum ROW width for a shared private driveway shall be 20 feet to a public street or ROW dedicated for maintenance by VDOT.

(3) The owners of lots provided with access via such driveways shall be responsible for the improvement and maintenance of said driveways.

(4) When shared driveways are used, the Subdivision Administrator shall be provided with copies of the deeds of transfer, which shall contain the following language:

i. "The proposed shared private driveway is not built according to street standards of and will not be maintained by the VDOT or the County of Frederick. The improvement and maintenance of said driveway shall be the sole responsibility of the owners of lots which are provided with access via the driveway. Said shared private driveways will not be considered for inclusion into the state secondary system until they meet the applicable construction standards of VDOT. The cost of bringing said driveways to acceptable standards shall not be borne by VDOT nor by Frederick County."

H. **Internal Circulation.**

(1) A complete system of internal traffic circulation shall be provided to serve all uses in any development included in a single MDP, site plan, or subdivision plat approved by Frederick County.

(2) 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.

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I. **Fire Lanes.** Fire lanes shall be required as set forth in Chapter 90, Fire Prevention and Protection, of the Frederick County Code.

J. **Alternative Methods.**

(1) The Subdivision Administrator may allow other means of motor vehicle access which do not meet the requirements listed in this Section above. Such means may involve the use of entrances which physically limit or restrict left turns (such as a right-in/right-out only entrance), methods which ensure one-way travel or other methods.

(2) In such cases, the Subdivision 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.

(3) Requested alternative methods of motor vehicle access which do not meet the minimum requirements established in this Part must be approved by VDOT prior to approval by the Subdivision Administrator.

(4) The Subdivision Administrator may permit entrances/driveways that do not meet the minimum spacing requirements if they are utilized solely for emergency access and are not open to the public; such entrances must be gated or chained.

Section 144-302.07. Streets; Sidewalks.

A. **Public Streets.** The following standards are intended to ensure that an adequate network of streets is created which provides multiple access points to subdivisions.

(1) All proposed subdivision streets shall be public streets dedicated to Frederick County for eventual acceptance into the state secondary road system and shall meet the following design standards, as well as the subdivision street requirements of VDOT. Where conflicts occur, the more restrictive requirement shall apply.

i. **Streets Prior to State Acceptance.**

a. No residence shall be occupied within an approved subdivision to contain state-maintained streets until the portion of the street serving that residence is provided with a compacted California Bearing Ratio (CBR) base material and a prime-and-single-seal surface. If the developer cannot prime and single seal the street surface due to weather conditions, occupancy permits may be issued if an appropriate letter of credit or bond for no longer than four (4) months is issued to the County to cover all costs associated with stripping and recompaction of the CBR base and providing a prime-and-single-seal surface.

b. The developer shall be responsible for maintenance and snow removal until the street is accepted into the state road system. Snow removal from all streets that serve residences shall be undertaken whenever VDOT removes snow from state-maintained roads.

ii. **Street Layout.** The layout, width, grade, design and location of all streets shall conform to the approved final MDP, the standards contained in the Frederick County Comprehensive Plan, VDOT requirements, and the following regulations:

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a. Residential streets shall be laid out to discourage through traffic. New residential lots shall not have direct vehicle access to roads defined as major collector or arterial by the Frederick County Comprehensive Plan or VDOT.

b. Where no lots front on the road, the Subdivision Administrator may require the design and grading of the ROW to conform to VDOT standards with a minimum of temporary or permanent seeding.

iii. **Interparcel Connectivity.** Provisions shall be made for the continuation of planned, existing, or platted streets on adjoining lots. The design of such streets shall be coordinated in terms of location, width, grades, and drainage.

a. Such continuations shall be made to provide access to adjoining lots, to provide for streets identified in the Comprehensive Plan and to provide for safe and adequate traffic patterns and access. Such continuations may not be appropriate where they provide for access between substantially different uses or where they will result in adverse traffic impacts on existing neighborhoods or existing traffic patterns and access.

b. All interparcel connectors, whether public or private, shall be built to VDOT standards.

c. If adjoining lots are developed or have had a subdivision plat approved, the connecting street shall coordinate with the existing or platted streets in the adjoining lot.

d. If an adjoining lot is undeveloped, the location of the connecting street shall be as shown on the MDP.

e. The requirement for interparcel connector streets may be waived by the Board of Supervisors, if the Board finds that:

(i). A connector street to an adjoining lot is not likely to be needed;

(ii). The connector street would be required to be placed in a location which is impractical for location of a street;

(iii). An adjoining undeveloped lot 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.

iv. **Street Names.** Prior to filing a plat for approval, proposed street names shall be reviewed and approved by the Subdivision Administrator.

a. Proposed street names shall not duplicate or approximate phonetically the names of existing or recorded streets in the County or the City of Winchester unless the proposed street is a continuation of an existing or platted street.

v. **Intersections.** Streets shall intersect at approximately right angles.

a. The Board of Supervisors may allow intersections of lesser angles. However, in no case shall a street intersect another at an angle of less than 80°.

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b. No more than two (2) streets shall intersect at the same point.

c. Wherever possible, the intersection of two (2) streets on the opposite sides of a street shall be cross intersections. The center-line offsets of local or collector streets not at cross intersections shall be no less than 300 feet.

(i). Any street intersecting with an arterial street shall have a minimum center-line offset of 800 feet from any other street intersecting that same arterial street.

(ii). Distances shall be measured from center line to center line of the two (2) intersecting streets along the center line of said arterial street.

vi. **Expansion of Existing Right-of-Way (ROW).** Whenever a property proposed for subdivision or development abuts one (1) side of an existing or platted public street, the subdivider or developer shall dedicate half (1/2) of the total ROW necessary to meet the ROW width standards for the street as contained in this Ordinance or for future expansion of the street as determined by VDOT or Frederick County.

a. Any required setbacks or buffers shall be measured from the edge of this dedicated ROW.

vii. **Cul-de-sacs.**

a. A permanent cul-de-sac shall not exceed 1,000 feet in length unless required by VDOT standards for connectivity.

(i). The turnaround provided shall have a ROW radius of not less than 50 feet and a paved radius of not less than 45 feet.

(ii). The Board of Supervisors may waive this requirement in cases where extreme topography or other factors make it impractical.

(iii). Loop streets are preferred to a cul-de-sac, where possible.

(iv). In no case shall the street serve more than 25 lots.

b. Any street dead-ended for access to an adjoining property or because of approved stage development, which is over 200 feet in length, shall be provided with a temporary, all-weather, 50-foot turnaround.

(i). The plan shall note that the land outside of the normal street ROW shall revert to the adjoining landowners whenever the street is continued.

(ii). A temporary cul-de-sac used to accommodate approved phasing or to provide access to adjoining properties shall not be restricted in length to the 1,000-foot maximum requirement for a cul-de-sac.

(iii). The length of any temporary cul-de-sac shall not exceed the length specified by the phasing plan on an approved MDP.

viii. **Reserve Strips.** Reserved-land spite strips, serving solely to restrict access to existing or planned streets, are prohibited, provided that nothing herein shall prohibit areas for planting and landscaping where adequate access is otherwise available.

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ix. **Grades.** Street grades shall not exceed 10% on local streets or 8% on collector streets.

a. Ditches on grades greater than 5% shall be properly stabilized to prevent erosion and ensure positive drainage.

b. Catch basins shall be installed where required under the current VDOT standards.

x. **Widths.** The ROW width for streets shall conform to the Frederick County Comprehensive Plan and the requirements of xi., Classification, below.

xi. **Classification.** The classification of proposed streets shall be determined by the Frederick County Comprehensive Plan. The subdivider may be required to reserve ROWs for and/or construct major roads as well as minor streets where applicable and construct appropriate road improvements, bicycle and pedestrian accommodations and access points.

a. *Local Street.* Minimum ROW width shall be 55 feet (with curb and gutter, and pedestrian accommodation on both sides) or as required by VDOT standards.

b. *Minor Collector.* Minimum ROW shall be 60 feet (with curb and gutter, and pedestrian accommodation on both sides) or as required by VDOT standards.

c. *Major Collector.* Minimum ROW requirements and roadway design shall reflect the future roadway classification as designated by the Comprehensive Plan (including total number of lanes, medians, curb and gutter, and pedestrian accommodations) and/or as required by VDOT standards.

d. *Minor Arterial.* ROW requirements and roadway design shall reflect the future roadway classification as designated by the Comprehensive Plan (including total number of lanes, medians, curb and gutter, and pedestrian accommodations) and/or as required by VDOT standards.

e. *Major Arterial.* Minimum ROW requirements and roadway design shall reflect the future roadway classification as designated by the Comprehensive Plan (including total number of lanes, medians, curb and gutter, and pedestrian accommodations) and/or as required by VDOT standards.

(i). Controlled access with service drives shall be required.

xii. **Curbs and Gutters.** Curbs and gutters shall be constructed along both sides of all streets in any subdivision containing lot(s) less than 15,000 square feet or lot widths of 80 feet or less at the street.

a. The subdivider shall determine the curb cuts necessary for entrance locations for any subdivision that requires curbs and gutters at the SDP stage.

b. The Subdivision Administrator may allow alternatives to curbs and gutters where it is determined that improved stormwater management, such as reduced concentration of peak flow for a drainage shed, would be achieved without it.

(i). Such alternatives shall only be permitted when acceptable to the Subdivision Administrator and when approved by the Director of Public Works.

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c. The following are exempt from the requirements of xii., Curbs and Gutters:

(i). Commercial and Industrial Subdivisions;

(ii). Minor Rural Subdivisions; and

(iii). Major Rural Subdivisions.

xiii. **Street Signs.** Street signs shall be required at all street intersections in all subdivisions. Signs other than those conforming to typical VDOT standards may be permitted by the Subdivision Administrator if the size and design are deemed appropriate.

a. The subdivider shall submit a maintenance plan for any sign that does not conform to VDOT standards, which must be approved by the Subdivision Administrator.

b. No occupancy permit will be issued for any dwellings within a subdivision prior to the placement of required street signs serving those residences.

xiv. **Streetlights.**

a. Streetlights of adequate type and intensity shall be required to promote public health and safety in any subdivision in the following zoning districts:

(i). RP, Residential Performance;

(ii). R4, Residential Planned Community;

(iii). R5, Residential Recreational Community; and

(iv). Residential areas in MS, Medical Support.

b. Streetlights shall be provided at all intersections. The design proposal for streetlighting shall be approved by the Subdivision Administrator.

c. Streetlights shall comply with all applicable lighting standards identified in Article VIII, Community Development Standards, of Chapter 165, Zoning, of the Frederick County Code.

d. The Board of Supervisors may waive the requirement for streetlights.

e. The following are exempt from the requirements of xiv., Streetlights:

(i). Commercial and Industrial Subdivisions;

(ii). Minor Rural Subdivisions; and

(iii). Major Rural Subdivisions.

B. **Private Streets.**

(1) Private roads providing lot access to multifamily and single-family small lot housing, as permitted in Section 144-302.05. B., above, shall be a minimum of 20 feet wide.

(2) The pavement design for the private roads shall include eight (8) 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.

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(3) 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 Subdivision Administrator may approve a waiver of sidewalks on private streets, provided that another recreational amenity is substituted for the sidewalk.

i. The Subdivision Administrator may also 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.

C. **Sidewalks.**

(1) Sidewalks shall be installed in the ROW and adjacent to the boundary of the ROW of all proposed and existing streets and shall contain adequate handicapped ramps at all intersections at intervals acceptable to VDOT.

(2) Safe pedestrian walkways shall be provided to all uses on land included in a master plan or site plan approved by Frederick County.

i. Safe pedestrian pathways shall be provided in conformance with adopted Comprehensive Plan policies for present and future roadway classifications and/or approved master development plans.

Table III-2. Sidewalk Requirements.

Location/Street Type	Requirement	Possible Exception/Waiver
Local Streets in subdivisions zoned RP (Residential Performance), R4 (Residential Planned Community), R5 (Residential Recreational Community), and residential areas in the MS (Medical Support) District	Sidewalks required along both sides of all local streets	If low-impact development techniques are utilized within a project, the Subdivision Administrator may allow sidewalks to be placed on only one (1) side of a local street within any residential subdivision.
Collector and Arterial Streets in any zoning district within the Urban Development Area and/or Sewer and Water Service Area	Sidewalks required along both sides of all collector and arterial streets	The Subdivision Administrator may waive the requirement for one (1) side of a collector road within a master planned industrial park if: • A 10-foot asphalt pedestrian facility has been or will be constructed on the opposite side; and • The sidewalk has been deemed unnecessary along said collector street.

(3) There shall be a minimum two (2)-foot-wide grass strip or swale between the street edge and the sidewalk.

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(4) The Subdivision Administrator may waive the sidewalk requirement along local streets when the pedestrian walkways are provided that allow pedestrian access to each lot or use. Such walkways must provide appropriate connections to pedestrian systems throughout the development and on adjoining properties.

(5) All sidewalks and walkways shall be a minimum of five (5) feet wide and conform to VDOT standards.

(6) Alternative designs and construction materials for sidewalks and walkways may be approved by the Subdivision Administrator to accommodate low-impact design, when deemed acceptable by the Subdivision Administrator and approved by the Director of Public Works and the Building Official.

(7) Bicycle and pedestrian facilities shall be constructed along all roadways designated by the Frederick County Comprehensive Plan.

i. All bicycle and pedestrian facilities shall be a minimum of 10 feet in width and conform to VDOT standards.

(8) If not located within a public road ROW, all trails shall be placed within a public access easement and maintained by the developer and/or property owners' association (POA).

(9) Major and minor rural subdivisions shall be exempt from the requirements of this subsection C.

Section 144-302.08. Open Space.

A. Common open space required within the subdivision shall be dedicated to a POA, which shall own, maintain, and assume liability for such areas. In lieu of such dedication, the subdivider may dedicate the open space to Frederick County.

(1) Such open space will be accepted by Frederick County only with specific approval by the Board of Supervisors. The Board of Supervisors shall be under no obligation to accept such dedication of open space.

B. The subdivider shall submit a plan specifying the proposed utilization and maintenance of all areas of a subdivision designated as open space. This plan shall be submitted with the SDP and shall include, at a minimum:

(1) A description of the intended use of each section of common open space;

(2) Identification of the party responsible for maintaining each section; and

(3) The type and frequency of maintenance required to ensure compliance with all applicable County Codes.

C. Where appropriate, common open space shall be free of debris and weeds and shall be graded, stabilized, and completely improved for its intended use prior to its dedication to the POA or the County.

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Section 144-302.09. Grading Requirements.

A. All grading of roads, lots and other areas shall be carried out to ensure positive drainage away from buildings. Grading which results in the concentration or collection of water outside of drainage easements is prohibited.

B. Individual lot grading shall be coordinated with the overall stormwater management plan of the subdivision.

Section 144-302.10. Monuments and Markers.

A. Permanent monuments shall be placed at all corners, angles and points of curvature of all lots, parcels and open space areas in accordance with Code of Virginia § 15.2-2241(A)(7).

(1) Monuments shall consist of iron pipes or iron rods no less than 1/2 inch nor more than one (1) inch in diameter and no less than 18 inches in length.

i. The tops of such monuments shall be no more than four (4) inches and no less than one (1) inch above the finished grade of the ground surface, with a witness stake set beside the monument identifying the corner.

ii. If a corner is located on a rock ledge, a 1/2-inch hole shall be drilled not less than six (6) inches deep.

B. One (1) concrete monument shall be placed for each 50 lots or fraction thereof within a subdivision, with a minimum of two (2) concrete monuments in each subdivision.

(1) Such concrete monuments shall be of stone or precast concrete, not less than four (4) inches square or four (4) inches in diameter and appropriately scribed with vertical and horizontal controls.

Section 144-302.11. Easements.

A. **Utility Easements.** All easements for utility lines within a subdivision shall be recorded according to the requirements of the relevant utility companies.

B. **Communications Easements.** In accordance with Code of Virginia § 15.2-2241(A)(6), once a developer conveys a common or shared easement permitting electric, cable, or telephone service to be furnished to a subdivision, the developer shall, within 30 days after written request, grant an easement to such provider for the purpose of furnishing cable television and/or communications services to the subdivision.

(1) This easement shall be geographically coextensive with the electric service easement, or if only a telephone or cable easement has been granted, then coextensive with that easement.

(2) The developer and the franchised provider may agree upon an alternate easement location.

(3) **Underground Utilities.** All electric, telephone and cable television lines shall be installed underground. This requirement may be waived by the Board of Supervisors for the following:

i. Subdivisions and lots in business and industrial zoning districts not requiring an approved MDP; or

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ii. Subdivisions in business and industrial zoning districts that were approved prior to May 13, 2026.

C. **Avigation Easements.** Any new residential subdivision that is located within the Airport Support Area designated by the Frederick County Comprehensive Plan shall be required to provide an avigation easement for the Winchester Regional Airport.

(1) This avigation easement shall be included in all deeds and shall hold harmless the Winchester Regional Airport Authority from any lawsuit regarding noise pollution.

D. **Exemptions.** All major and minor rural subdivisions shall be exempt from the requirements of A. and B.3., above.

Section 144-302.12. Utilities.

A. **General.** Generally, in the sewer and water service area (SWSA) designated by the Frederick County Comprehensive Plan, or where public sewer and water is available, such service shall be extended by the developer to all lots within a subdivision and throughout the limits of the property to adjoining properties.

(1) Such facilities shall meet all regulations and specifications of Frederick Water or other applicable federal, state or local agencies**.**

B. **Central Sewer or Water Systems.** Any person proposing the construction of a central sewer or water facility shall obtain a written agreement with Frederick Water, prior to final subdivision plat approval, which states that said facility shall become the property of Frederick Water.

(1) Such systems shall only be constructed if they are in conformance with the policies set forth in the Comprehensive Plan.

C. **Private Sewage Systems.** Installation of privately owned sewage collection and treatment facilities shall meet all the requirements of the State Water Control Board, the Virginia Department of Health (VDH), and any other state or local agencies having authority over such installations.

(1) Such facilities shall not be designed or utilized to serve more than one (1) residence.

D. **Individual On-Lot Systems.** The Subdivision Administrator shall not approve any subdivision where a public sanitary sewer system is not provided unless a written statement from the local Health Official is present to the effect that the area contained in each subdivided lot is satisfactory for the installation of an on-site sewage disposal system.

(1) These requirements shall not apply to a parent tract that is part of a Minor Rural Subdivision, so long as said parent tract remains a minimum of 20 acres after the subdivision.

Section 144-302.13. Environmental Features and Protections.

A. **General.** All environmental features described by Chapter 165, Zoning, of the Frederick County Code shall be protected in subdivisions according to requirements of that Ordinance.

B. **Floodplain Development.**

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(1) **Floodplains.** When any stream or substantial surface drainage course is located in an area proposed to be subdivided, provisions shall be made for an adequate floodplain easement, encompassing the area of the 100-year flood, along the stream or drainage course for the purpose of protecting the stream or drainage course for drainage purposes.

(2) **Floodplain Study.**

i. When an area proposed to be subdivided contains a stream or drainage course which has not had the 100-year floodplain delineated by the United States Army Corps of Engineers or the United States Geological Survey (USGS), the subdivider shall be required to show the 100-year floodplain on the plat of the property to be subdivided.

a. The limits of such floodplain shall be located by a floodplain study prepared by a qualified engineer or by other qualified persons or methods approved by the Subdivision Administrator.

ii. Any proposal which would in any way alter or modify an area determined to be within a designated floodplain, must be accompanied by a floodplain study which establishes the impacts of such alteration or modification.

(3) **Building Lots.** In floodplain areas, to ensure development of lots containing sufficient land upon which to place structures without impeding natural drainage, the subdivider shall provide elevation and flood profile data as may be required by the Subdivision Administrator. All building sites shall conform to all requirements of Chapter 165, Zoning, of the Frederick County Code, and all building floor elevations shall be a minimum of two (2) feet above the 100-year floodplain elevation.

C. **Wetlands.** 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.

D. **Erosion and Sediment Control.**

(1) Whenever earthmoving or grading activities are proposed as part of the development of a subdivision, the developer shall plan for practical and effective erosion controls of both a temporary and permanent nature for the purpose of alleviating adverse effects on and off the site before, during and after development.

(2) Plans and specifications for erosion and sedimentation controls shall be reviewed for approval by the County Engineer and shall comply with the Virginia Erosion and Sedimentation Control Law and Chapter 143, Stormwater/Erosion and Sediment Control, of the Frederick County Code.

(3) No site improvement may be initiated prior to posting a performance bond and the issuance of a land disturbance permit in accordance with the specifications of Chapter 143, Stormwater/Erosion and Sediment Control, of the Frederick County Code.

E. **Stormwater Management.**

(1) **Stormwater Management Plan.**

i. An overall stormwater management plan shall be provided with each subdivision to ensure compliance with the requirements of Chapter 143, Stormwater/Erosion and

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Sediment Control, of the Frederick County Code and all applicable regulations administered by the Virginia Department of Environmental Quality (DEQ) stormwater management regulations, as applied to communities with local stormwater management programs.

ii. A stormwater management plan for a land development project shall be developed so that, from the site, the post-development peak runoff rate from a 2-year storm and a 10-year storm, considered individually, shall not exceed the predevelopment rates.

a. Predevelopment and post-development runoff rates shall be verified by calculations in accordance with § 143-145 of the Frederick County Code.

iii. The Subdivision Administrator may exempt subdivisions in which all lots are 15,000 square feet or more in area from the above requirements; this waiver shall only be permitted when acceptable to the Director of Public Works. In such cases, the exempted subdivision shall meet the requirements of 9VAC25-875-560.(A)(19).

(2) **Design Criteria.** Stormwater management facilities shall be designed in accordance with the standards in Chapter 143, Stormwater/Erosion and Sediment Control, of the Frederick County Code.

(3) **Stormwater Conveyance.** Storm drainage conveyance systems for subdivisions shall be designed to convey a storm with a 10-year frequency without surcharging inlets. Systems shall safely pass the 100-year storm through overland relief and channelization flow without damage to private property or threats to public safety. Dams or embankments shall include an emergency spillway capable of carrying the peak 100-year discharge.

i. Drainage flowing through a site from off-site areas upstream shall be determined using runoff coefficients or curve numbers for the anticipated land use per the Comprehensive Plan, not by existing conditions.

(4) **Natural Drainageways.** Natural drainageways shall be used whenever possible to carry stormwater runoff.

(5) **Drainage Easements.** Whenever a subdivision is traversed by a watercourse, drainageway, channel or stream, a drainage easement shall be provided that substantially follows the line of such feature and is of sufficient width to preserve the natural drainage function. A deed of dedication describing the method of protection and maintenance shall be submitted to the Subdivision Administrator for approval.

i. The subdivider shall grade and seed the slopes of such easement after construction where necessary to prevent erosion and sedimentation and in a manner that will not adversely affect the function of the drainageway. No structures, vegetation, or materials shall be placed within the easement that impede the flow of drainage.

(6) **Lot Drainage.** Lots shall be established to provide positive drainage away from buildings and to coordinate with the overall approved stormwater management plan. Concentration or collection of water shall not occur outside of drainage easements.

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i. Minimum floor elevations for habitable spaces, including basements, shall be shown on the SDP and established as part of the stormwater management plan review to prevent flooding or other drainage problems.

(7) **Sinkhole Protection.** Nothing shall be done to negatively alter the quality and quantity of runoff entering sinkholes from predevelopment conditions. Best management practices shall be applied for stormwater control.

(8) **Regional Facilities.** Where land to be subdivided lies within a watershed designed by the Frederick County Comprehensive plan as one (1) in which regional stormwater facilities are planned, the subdivider shall contribute a pro rata share of the cost of those facilities as provided in Code of Virginia § 15.2-2243.

a. In such cases, the Subdivision Administrator may waive some or all of the stormwater management requirements in this Section when acceptable to the Director of Public Works.

ii. The policy and criteria for determining the pro rata share of total costs of regional facilities shall be adopted by the Board of Supervisors following a public hearing.

F. **Buffers, Screens, and Recreational Facilities.** Appropriate provisions shall be made for the location of buffers and screens and recreational facilities on subdivision plans, in accordance with all applicable provisions of Chapter 165, Zoning, of the Frederick County Code. Provisions shall be made for the protection of all environmental features required to remain undisturbed.

Section 144-302.14. Property Owners' Association (POA).

A. **Intent.**

(1) The intent of this Section is to require the establishment of a nonprofit organization to be known as the Property Owners' Association (POA), consisting of all subdivision lot owners holding subdivision interests in the development.

(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 POA or corporation.

B. **Applicability.**

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

i. RP, Residential Performance;

ii. R4, Residential Planned Community;

iii. R5, Residential Recreational Community; and

iv. MH1, Mobile Home Community.

(2) The Subdivision Administrator shall review each final Subdivision Plat and deed of dedication to ensure that the requirements of this Part are met.

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(3) The POA shall be:

i. **C**reated by the subdivider;

ii. Fiscally responsible for its own operations; and

iii. Charged with the continuous maintenance and management of all common areas, easements, stormwater management facilities, and other dedicated facilities associated with an approved subdivision.

C. **Establishment.**

(1) The subdivider shall file legal documents that establish procedures for the establishment of a nonprofit POA prior to the sale of any lot in an approved subdivision.

i. These legal documents shall be submitted to the Subdivision Administrator and the County Attorney for review and approval prior to the approval of the final subdivision plats.

ii. These documents shall include, but not be limited to, the following:

a. Provisions for dedication of common properties;

b. Declarations of covenants, conditions, and restrictions;

c. Articles of incorporation;

d. Bylaws; and

e. Deed clauses for common areas.

(2) All final contracts between the subdivider and all lot purchasers shall include a consumer disclosure statement listing the POA's annual assessments and a copy of the final approved POA bylaws.

(3) Membership in the POA shall be mandatory for each original purchaser and each successive purchaser of a lot in any approved subdivision.

(4) A liability insurance policy of $1,000,000 shall be mandatory for any POA containing 20 or more lots.

(5) 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.

(6) 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.

D. **Dedication.** All required open space, recreational facilities, and other common elements shall be dedicated to a POA or to Frederick County.

(1) Open space, recreational facilities and common elements shall only be dedicated to Frederick County with the approval of the Board of Supervisors.

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E. **Management and Responsibility.** The subdivider shall be responsible for the management and maintenance of all private common areas, easements, and improvements in the approved subdivision until such improvements are formally transferred to the POA.

(1) The subdivider shall exercise all powers and duties of the POA, including assessment and collection of charges.

(1) Prior to the sale of the lot constituting 50% of all approved buildable lots, all common areas, easements, and improvements shall be transferred from the developer to the POA.

i. At the time of transfer, all private common areas, easements, and improvements shall be in good operating condition and in compliance with all applicable laws, codes and regulations

ii. The subdivider shall notify the Department of Planning and Development when the transfer of control to the POA occurs.

F. **Financial Procedures.** Within subdivisions containing 20 or more lots, all funds associated with a POA shall be maintained in interest-bearing escrow accounts approved by the POA's Board of Directors.

(1) The treasurer of the POA shall be bonded and shall be responsible for:

i. Providing annual statements;

ii. Preparing and submitting an annual budget; and

iii. Making financial recommendations to the Board of Directors.

(2) In accordance with the Code of Virginia § 15.2-2256, the Board of Directors or other managing professional charged with collection of fees and the maintenance of common improvements shall provide an annual report to the lot owners of all fees collected and disposition of all funds.

G. **Maintenance.** All private common areas, easements, stormwater management facilities, and other dedicated facilities shall be continuously maintained in a fashion where the use, function, and appearance is in conformance to the provisions of the Frederick County Code.

(1) The County shall have the right to inspect any common area, easement, stormwater management facility, or other dedicated facility to ensure compliance with the requirements of the Frederick County Code.

(2) If maintenance of any such areas or facilities is neglected or becomes a danger to public health or safety, the County shall have the authority to perform the work necessary to bring the area into compliance with all applicable codes and recover all costs from the owner(s).

(3) 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.

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Section 144-302.15. Obligation of Improvements.

All improvements shown on the SDP and the Final Plat shall be provided by the applicant at their cost and are not the responsibility of the County, as outlined in the Code of Virginia § 15.2-2268.

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Article IV. **Improvements and Guaranties.**

Part 401. General.

Section 144-401.01. General Requirements.

A. Prior to the approval of any Final Plat, all improvements must be constructed, or sufficient guaranties and performance agreements must be provided in accordance with such amount and form in the following:

(1) Code of Virginia §§ 15.2-2241, 15.2-2241.1, 15.2-2241.2, and 15.2-2245; and

(2) The *Monetary Guaranty Policy and Performance Agreement Policy* adopted by the Board of Supervisors.

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Article V. Plats.

Part 501. General Requirements.

Section 144-501.01. Approval Required Before Sale.

A. No person shall sell, convey, or record a deed to land subdividing off a parcel without making and recording a Final Plat of such subdivision and without fully complying with the provisions of this Ordinance.

B. No Final Plat shall be approved unless all lots shown thereon comply with all applicable requirements of this Ordinance.

Section 144-501.02. Subdivision Name.

If applicable as determined by the Subdivision Administrator, every subdivision shall be given a name which shall not duplicate or closely approximate that of any other subdivision existing or planned.

Section 144-501.03. Changes to Plat.

No change, erasure or revision shall be made on any SDP or Final Plat, nor on accompanying data sheets, after approval has been endorsed, in writing, on the plat or sheets, unless authorization for such change has been granted in writing by the Subdivision Administrator.

Section 144-501.04. Separate Ownership.

A. Where the land covered by a subdivision includes two (2) or more parcels in separate ownership, and lot arrangement is such that a property ownership line divides one (1) or more lots, the land in each lot so divided shall be transferred by deed to single ownership, simultaneous with the recording of the plat.

(1) Said deed is to be deposited with the Subdivision Administrator and held with the plat until the subdivider is ready to record same, and they both shall then be recorded together.

Section 144-501.05. Deed of Dedication.

A. The subdivider shall be required to submit a Deed of Dedication for review and approval by the Subdivision Administrator prior to the approval of any Final Plat.

(1) The Deed of Dedication shall provide for the following:

i. Dedication of streets and roadways to Frederick County for public use;

ii. Covenants and use restrictions;

iii. Notarized owner's certification as required by Code of Virginia § 15.2-2264;

iv. Establishment of a nonprofit POA;

v. Dedication of all common open space to the POA for its use or as specified by the approval of the subdivision;

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vi. Dedication of all drainage easements and facilities for public use and access;

vii. Specification of maintenance provisions and use restrictions for all drainage easements and facilities;

viii. Dedication of recreational facilities for use by the POA; and

ix. Dedication and maintenance of any other public improvements.

Part 502. Subdivision Design Plans (SDPs).

Section 144-502.01. Applicability.

A. All proposed subdivisions shall submit an SDP for review and approval prior to recordation of any land division.

(1) Proposed subdivisions in the RA district shall only be required to submit an SDP if:

i. The subdivision is on an existing public road and does not propose the extension or creation of a new public road; and

ii. The subdivision does not require a stormwater management plan, as provided in Chapter 143, Stormwater/Erosion and Sediment Control, of the Frederick County Code.

Section 144-502.02. Subdivision Design Plan Requirements.

A. **General.**

(1) The SDP shall be drawn at a scale acceptable to the Subdivision Administrator and shall include a sheet depicting the full subdivision being submitted.

(2) All SDPs shall be prepared by a qualified professional engineer or land surveyor trained and experienced in the layout of subdivisions and licensed to do so within the Commonwealth of Virginia.

(3) A north arrow, written scale, and graphic scale shall be provided on each sheet, as applicable.

(4) Each sheet shall include a page number and the total number of pages.

B. **Contents.**

(1) **General.**

i. The following requirements should be broken down into phases on the SDP, where applicable:

a. The title of the subdivision ("SDP for ...."), with a notation of all previous names of the subdivision;

b. The original property identification number;

c. The name of the owner or subdivider;

d. A vicinity map (scale of 1:2,000) showing all roads, properties and subdivisions within 1,000 feet of the subdivision;

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e. A day, month and year plan, prepared and revised. The dates of revisions should be clearly listed;

f. The name of the magisterial district in which the subdivision is located;

g. The zoning of all land to be subdivided;

h. A boundary survey of all lots, parcels and rights-of-way. The perimeter boundary line and section lines shall show bearings to the nearest minute and distances to the nearest 1/100 of a foot;

i. The topography shown at a contour interval acceptable to the Subdivision Administrator but in no case greater than five (5) feet;

j. The names of the owners, zoning and use of all adjoining properties, and deed-book and page-number references for each adjoining parcel;

k. A tabulation illustrating the following shall be provided together on the SDP:

(i). The total land area of the subdivision;

(ii). A breakdown of the number of lots in each use category;

(iii). The total land area of all common open space;

(iv). The total land area of all residential lots;

(v). Perimeter and interior landscaping calculations (if required); and

(vi). All parking space calculations, including handicap spaces (if required).

ii. A proposed grading plan, including spot elevations and flow arrows;

iii. All required setback information;

iv. A table illustrating the relationship between the MDP and the Subdivision Plan. The intent of this table is to provide an incremental update which will tabulate the expended acreage, lot counts, open space and special environmental areas disturbed for each phase of development;

v. The location of all required regular and handicap parking spaces, aisles, curb and gutter, and pavement striping;

vi. Facilities necessary to meet the requirements of the Fire Code;

vii. A statement listing all requirements and conditions placed on the land included in the subdivision resulting from approval of conditional zoning or a conditional use permit;

viii. The location of each residential use category area; and

ix. Other information necessary to ensure that all requirements of the Frederick County Code have been met.

(2) **Streets, Easements, Utilities, and Public Facilities.**

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i. The location, names, ROW widths, and classifications of existing and planned roads, streets and shared private driveways adjacent to and on the property;

ii. The location, dimensions and cross sections of existing and proposed sidewalks and walkways;

iii. Existing or proposed utilities, sewer and water lines, manholes, fire hydrants and easements;

iv. Existing and proposed drainageways, drainage facilities, culverts and drainage easements with dimensions and design details;

v. The location of proposed recreational areas and facilities;

vi. The location of all land to be dedicated or reserved for public use; and

vii. Cross sections, profiles and design details of all proposed streets, roads, culverts, storm sewers, sanitary sewers and water mains;

(3) **Natural and Historic Resources.**

i. The location of all environmental features, including floodplains, steep slopes, wetlands, sinkholes, woodlands and natural stormwater detention areas;

ii. The names of all streams and bodies of water, including all 100-year flood limits as mapped by FEMA;

iii. The location of each parcel of common open space and the total area of common open space; and

iv. A stormwater management plan, with calculations describing how stormwater management requirements are being met, including the location and design details of proposed facilities;

(4) **Landscaping and Screening.**

i. The location of proposed buffers and screening, with design details, locations and types of plants and screening;

ii. Proposed landscaping, with location, types of plants, and size specifications;

(5) **Required Notes and Certifications.**

i. Certification by an engineer, surveyor or other qualified professional of the accuracy of the plat.

ii. The signature of the owner, certifying ownership of property.

iii. A signature line for the Subdivision Administrator.

Section 144-502.03. Subdivision Design Plan Submission.

A. The subdivider shall submit copies (as required by the Subdivision Administrator) of the SDP, applicable fees, and all required subdivision application materials to the Subdivision Administrator for review and comment.

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B. A Traffic Impact Analysis (TIA) may be prepared and submitted to the Department of Planning and Development with all SDP applications, in accordance with the adopted Traffic Impact Analysis Standards.

Section 144-502.04. Subdivision Design Plan Review.

A. **Intent.** The intention of the SDP is to provide all review agencies with a comprehensive design of the proposed layout and improvements required under Section 144-503.02. of this Ordinance, as well as all requirements of Chapter 165, Zoning, of the Frederick County Code.

B. **Review.** The Subdivision Administrator shall act according to the Code of Virginia §§ 15.2-2222.1, 15.2-2259, 15.2-2260, and 15.2-2269 regarding SDP procedures and timeframes of review, resubmittals, and other agency reviews.

C. **Effect and Validity.** Pursuant to Code of Virginia § 15.2-2260, an approved SDP shall be valid for a period of five (5) years, provided the developer:

(1) Submits a Final Plat for all or a portion of the property within one (1) year of such approval; and

(2) Thereafter diligently pursues approval of the Final Plat, meaning that the developer has incurred extensive obligations or substantial expenses relating to the submitted Final Plat or modifications thereto.

(3) If, as determined by the Subdivision Administrator, approval of the Final Plat is not diligently pursued no sooner than three (3) years following such SDP approval, the Subdivision Administrator shall provide the subdivider with 90 days written notice by certified mail that because approval has not been diligently pursued, the approval of the SDP has been revoked.

i. "Diligent pursuit of approval" means that the subdivider has incurred extensive obligations or substantial expenses relating to the submitted final subdivision plat or modifications thereto.

(4) Pursuant to the Code of Virginia § 15.2-2260, once an approved Final Plat for all or a portion of the property is recorded, the underlying SDP shall remain valid for a period of five (5) years from the date of the latest recorded Final Plat of subdivision for the property.

Part 503. Final Plats.

Section 144-503.01. Applicability.

A. Final Plats shall be required for all subdivisions, BLAs, consolidations, and easements.

(1) If a subdivision requires an SDP, as provided in Section 144-502.01. of this Ordinance, Final Plat submission shall be after the SDP is approved.

(2) Plat details shall meet the standard for plats as adopted under the Virginia Public Records Act, Code of Virginia § 42.1-76 et seq.

Section 144-503.02. Final Plat Requirements.

A. **General.**

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(1) The Final Plat shall be drawn at a scale acceptable to the Subdivision Administrator.

(2) All Final Plats shall be prepared by a qualified professional engineer or land surveyor trained and experienced in the layout of subdivisions and licensed to do so within the Commonwealth of Virginia.

(3) The final subdivision plat shall contain signatures of all owners, surveyors and review agencies, along with all other required materials.

(4) Each sheet shall include a page number and the total number of pages.

(5) A north arrow, written scale, and graphic scale shall be provided on each sheet, as applicable.

B. **Cover Page.** A cover page shall be included for each Final Plat that provides the following:

(1) The title of the subdivision ("Final Subdivision Plat for ....."");

(2) A vicinity map to a scale of 1:2,000, showing all roads, properties and subdivisions within 1,000 feet of the subdivision;

(3) A day, month and year plan, prepared and revised;

(4) The name of the magisterial district in which the subdivision is located;

(5) The zoning and use of all land to be subdivided and all adjoining land;

(6) **Survey Data.**

i. A boundary survey of all lots, parcels and rights-of-way, showing bearings to the nearest degree, minute and second and listing distances to the nearest 1/100 of a foot;

ii. The names of owners of all adjoining properties and deed-book and page-number references for each adjoining parcel;

iii. The location and description of monuments and markers;

iv. If the subdivision consists of land acquired from more than one (1) source of title, the property boundary lines and names of the owners of the various tracts shall be identified;

(7) **Lots and Tracts.**

i. The area of each lot and parcel, the total area of the subdivision and the total area in lots;

ii. The location and area of each parcel of common open space and the total area of common open space;

iii. The location of required setback lines on each lot;

(8) **Streets, Easements, and Rights-of-Way.**

i. The location, names, and ROW widths of existing and planned roads, streets and shared private driveways adjacent to and on the property;

(9) **Utilities and Public Facilities.**

i. Existing or proposed utilities, utility easements and other easements, with dimensions and locations;

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ii. Existing and proposed drainage easements, with dimensions and locations;

iii. The location of all land to be dedicated or reserved for public use;

iv. The location of proposed recreational areas;

(10) **Natural and Historic Resources.**

i. The location of floodplain limits;

ii. Location of any mapped dam break inundation zones;

a. A developer shall supply an engineering study if a development lies within a dam break inundation zone, in accordance with the Code of Virginia § 15.2-2243.1.

iii. Location of any grave, object, or structure marking a place of burial;

(11) **Notations and Certifications.**

i. Certification by a registered engineer or surveyor qualified to practice in the Commonwealth of Virginia, verifying the accuracy of the plat;

ii. The signature of the owner, certifying ownership of property;

iii. Signature lines for the Subdivision Administrator and relevant reviewing agencies;

iv. A statement listing all requirements and conditions placed on the land included in the subdivision resulting from approval of conditional zoning or a Conditional Use Permit (CUP);

v. Notarized owner's certification as required by Code of Virginia § 15.2-2264; and

(12) An indication of the portion of the allowable density from the parent tract, as determined by Article IV, Part 404 of Chapter 165 of the Frederick County Code, which is to be allocated to each parcel resulting from the subdivision.

C. **Final Plat Requirements for Minor Rural Subdivisions.** A plat for a minor rural subdivision shall be prepared by a certified professional engineer or land surveyor and shall contain the following information:

(1) **Cover Sheet.** A cover sheet to contain the following:

i. A title indicating "Final Plat for Minor Rural Subdivision of the Land of ..... "; "Boundary Line Adjustment Between the Land of ..... and ..... "; or "Lot Consolidation of the Land of ..... and ..... .";

ii. The Tax Map number, magisterial district, County and state where the parcel is located.

iii. The name and signature of the owner(s) of record, with the deed book and page number of the last instrument in the chain of title and a statement that the division is with the owner's consent.

iv. A vicinity map, showing the location of the parcel to be subdivided at a scale of not more than one (1) to 2,000 (1:2,000).

v. A notation of the zoning on the parent tract that is being divided.

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vi. A signature block for a representative of the Frederick County Health Department and the Subdivision Administrator.

vii. In the case of a lot being created under the provision for a family division (Section 144-301.05. of this Ordinance), a statement listing to whom the lot is to be conveyed and their relationship to the recorded owner.

viii. A statement indicating the portion of the allowable density of the parent tract (as determined by Section 165-404.01. of Chapter 165, Zoning, of the Frederick County Code, which is to be allocated to each parcel resulting from the subdivision.

ix. The page number and the number of total pages making up the plat, for example, "Sheet 1 of 3."

x. Notarized owner's certification as required by Code of Virginia § 15.2-2264.

(2) **Plat Contents.**

i. A North point and scale.

ii. The date the plat was prepared along with the signature and seal of the licensed surveyor or engineer preparing the plat.

iii. A dashed line showing the location of the front, rear and side setback requirements for principal structures.

iv. A boundary survey and acreage of all lots created or altered by the division or adjustment. Unchanged lot lines of residual parcels of over 20 acres in size are not required to be shown, provided that the general location of the perimeter boundary of the tract is shown on an insert map and the acreage of the unsurveyed lot(s) is given.

v. In the case of boundary line adjustments, the amount of acreage to be added to or deleted from any parcel, with the tabulation of the resulting acreage for all lots.

vi. The zoning, use (vacant, agricultural, residential, commercial or industrial), and name of owners of all adjoining parcels.

vii. The location of all existing streets with their names and numbers and any existing or proposed ROW adjacent to or providing access to any of the subject lots.

viii. The location and names of any watercourses, ponds, and designated floodplain areas.

ix. The location of existing buildings and drainfields, along with any designated environmental or historical features on the site.

x. The location, width and design details of shared private driveways and/or private roads. All plats with shared private driveways and/or private roads should contain the following language:

a. “The proposed private driveway/road is not built according to street specifications of and will not be maintained by, the Virginia Department of Transportation or Frederick County. The improvement and maintenance of said driveway/road shall be the sole responsibility of the owners of lots which are provided with access via the

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driveway/road. Said driveway/roads will not be considered for inclusion into the state secondary system until they meet the applicable construction standards of the Virginia Department of Transportation. The cost of bringing said driveway/road to acceptable standards shall not be borne by the Virginia Department of Transportation nor by Frederick County."

Section 144-503.03. Final Plat Submission.

A. **General.**

(1) The subdivider shall file four (4) copies of the final subdivision plat with the Subdivision Administrator within one (1) year of receiving official notification of SDP approval.

(2) The subdivider shall be required to submit a deed of dedication in accordance with Section 144-501.05; a copy of all covenants or restrictions, an estimate of all public improvements and all required guaranties for improvements, in accordance with Section 144-401.01; and all final plats to the Subdivision Administrator.

(3) Final plats of boundary line adjustments and lot consolidations shall be submitted to the Subdivision Administrator for approval, approval with modifications or disapproval. The Subdivision Administrator shall notify the subdivider of any action made on the plats within 30 days of their complete submittal.

B. **Minor Rural Subdivisions.** Three (3) copies of Final Plats for a Minor Rural Subdivision shall be submitted to the Subdivision Administrator for review and approval.

(1) In the case of divisions created under the provisions of Section 144-301.05., Family Subdivisions, of this Ordinance, an affidavit with the notarized signature of the grantor must be provided.

i. The affidavit shall state to whom the lot will be conveyed, the relationship of the grantor to the grantee and the grantors understanding of the requirements of this Ordinance and Code of Virginia § 15.2-2244.

(2) Prior to submission to the Subdivision Administrator, all Final Plats shall be signed by a representative of the Health Department and VDOT as required by this Ordinance, to certify that lots within the Minor Rural Subdivision have been approved for sewage disposal.

Section 144-503.04. Final Plat Review.

A. The Subdivision Administrator shall act according to the regulations of Code of Virginia §§ 15.2-2222.1, 15.2-2254, 15.2-2259, 15.2-2260, and 15.2-2269 with regards to the timeframes of resubmittals and other agency reviews, approvals, and disapprovals.

(1) The Subdivision Administrator shall review all Final Plats to ensure conformance with the approved SDP and shall have approval authority over all Final Plats.

(2) Approval of the SDP does not guarantee approval of the Final Plat.

(3) If the Subdivision Administrator does not act in accordance with the time constraints or disapproves a plat and the subdivider contends that the disapproval was not properly based, then the subdivider may seek approval as provided in the Code of Virginia § 15.2-2259.

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B. **Minor Rural Subdivisions.**

(1) No plat shall be recorded or lot sold in a Minor Rural Subdivision until the requirements of this Ordinance have been met.

i. A copy of the Final Plat, with appropriate notations signifying that the plat has been appropriately recorded, shall be returned to the Subdivision Administrator within 30 days after approval of such plat.

Section 144-503.05. Recording.

A. Any owner or subdivider of any tract of land situated within Frederick County who subdivides the same shall make and record a plat pursuant to the Code of Virginia § 15.2-2254.

B. All final subdivision plats shall be legally recorded in the Frederick County Clerk of Court's office within six (6) months of final approval by the Subdivision Administrator.

C. Failure to record final subdivision plats within this time shall make the approval signatures null and void and require reapproval by all applicable agencies, except in cases specifically identified in Code of Virginia § 15.2-2241(A)(8).

D. A copy of the final legally recorded plat, with appropriate agency approval signatures and notations signifying that the plat has been appropriately recorded, shall be returned to the Subdivision Administrator within 30 days of recordation.

E. Any recorded Final Plat shall be valid for a period of not less than five (5) years from the date of approval, as required by Code of Virginia § 15.2-2261. If a recorded subdivision plat dedicates real property to Frederick County, then the approved final subdivision plats shall remain valid indefinitely.

F. Recordation of Final Plats shall act as transfer of streets, and the termination of easements and rights-of-way, as outlined in the Code of Virginia § 15.2-2265. However, nothing shall obligate Frederick County to install or maintain such facilities unless otherwise agreed to by the County.

Part 504. Vacation of Plats.

Section 144-504.01. Vacation.

A. Pursuant to Code of Virginia § 15.2-2278, any recorded plat of subdivision may be vacated as outlined in B. through F., below. The effects of such vacations are as outlined in Code of Virginia § 15.2-2274.

B. Pursuant to Code of Virginia § 15.2-2275, the Subdivision Administrator may approve the boundary lines of any lot or parcel of land to be vacated, relocated, or altered as part of an otherwise and properly recorded plat of subdivision or re-subdivision:

(1) Approved as provided in this Ordinance after submission of a Final Plat in accordance with Part 503, above; or

(2) Properly recorded prior to the applicability of this Ordinance and executed by the owner or owners of the land.

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(3) The action shall not involve the relocation or alteration of streets, alleys, easements for public passage, or other public areas. No easements or utility ROWs shall be relocated or altered without the express consent of all persons holding any interest therein.

C. Any interest in streets, alleys, easements for public rights of passage, easements for drainage, and easements for a public utility granted to Frederick County as a condition of the approval of a Site Plan may be vacated by the Board of Supervisors according to the two (2) methods listed in the Code of Virginia § 15.2-2270.

D. An approved and recorded plat of subdivision, or part thereof, may be vacated prior to the sale of any lot therein by the Board of Supervisors utilizing the procedures set forth in Code of Virginia § 15.2-2271 and the adopted *Monetary Guaranty and Performance Agreement Policy*.

E. An approved and recorded plat of subdivision, or part thereof, may be vacated after the sale of any lot by the Board of Supervisors utilizing one (1) of the two (2) methods specified in Code of Virginia § 15.2-2272 and the adopted *Monetary Guaranty and Performance Agreement Policy*.

F. According to Code of Virginia § 15.2-2276, the Clerk in whose office any plat so vacated has been recorded shall write in plain legible letters across such plat, or the part thereof so vacated, the word "vacated," and also make a reference on the plat to the volume and page in which the instrument of vacation is recorded.

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Article VI. Definitions.

Part 601. Word Usage.

Section 144-601.01. General.

A. Words and terms set forth in this Article shall have the meanings ascribed to them. Any word, term(s), or phrase used in this Subdivision Ordinance not defined herein 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 Subdivision Administrator, established customs or practices in Frederick County, Virginia justify a different or additional meaning.

B. For the purpose of this Ordinance, certain words, terms, and phrases are herein defined as follows:

(1) Words used in the present tense include the future. Words in the singular include the plural, and the plural includes the singular.

(2) The word "shall" or "must" is always mandatory; the word "may" is permissive.

(3) The words "may not" indicate a prohibition.

(4) The words "used for" include "designed for," "arranged for," or "occupied for".

(5) The word "building" includes "structures" and must be construed as if followed by the phrase "or part thereof."

(6) The word "person" includes "individual," "partnership," "company," "profit or nonprofit corporation," "organization," or other similar entities.

(7) The word "erected" will be deemed also to include "constructed, reconstructed, altered, placed, or moved."

(8) The word "State" means the Commonwealth of Virginia.

(9) The word "County" means Frederick County, Virginia.

(10) The terms "land use" and "use of land" will be deemed also to include "building use" and "use of building".

(11) The term "Code of Virginia" will be deemed also to include "as amended".

(12) Unless otherwise specified, the term "day" means a calendar day.

Section 144-601.02. List of Abbreviations.

BFE: Base Flood Elevation

CO: Certificate of Occupancy

DEQ: Virginia Department of Environmental Quality

POA: Property Owners' Association

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ROW: Right(s)-of-Way

SWSA: Sewer and Water Service Area

UDA: Urban Development Area

VDH: Virginia Department of Health

VDOT: Virginia Department of Transportation

Part 602. General Terms.

Section 144-602.01. General.

ABUT – To physically touch or border upon, or to share a common property line.

ADMINISTRATOR, SUBDIVISION – The administrative representative, designated by the Board of Supervisors, who has been appointed to serve as the agent of the Board in approving the subdivision plats and administering this Ordinance.

AFFIDAVIT – A written declaration conducted before a notary public or other authorized official.

AGRICULTURAL PURPOSES – Any of the following activities on land which is eligible for land use assessment:

A. Cultivating the soil, raising or harvesting any agricultural, aquacultural, horticultural, floricultural or viticultural commodity on a farm, including the raising, feeding, training or management of animals and poultry, excluding kennels.

B. Handling, drying, packing, grading or storing on a farm any agricultural or horticultural commodity in its unmanufactured state but only if the owner, operator or tenant of the farm regularly produces more than half 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 forestland, be under a timberland plan or shall actually carry sufficient forest growth of suitable character and so distributed to give reasonable assurance that a stand of merchantable timber can be developed therefrom.

AMENDMENT – A revision to this Ordinance approved by the Frederick County Board of Supervisors.

AVERAGE DAILY TRIPS – The average number of vehicles forecast to travel over a specified segment of street during a 24-hour period.

AVIGATION EASEMENT – An easement above the ground that covers the area designated by the Frederick County Comprehensive Plan as the Airport Support Area.

BASE FLOOD ELEVATION (BFE) – The water surface elevations of the base flood, that is, the flood level that has a one-percent or greater chance of occurrence in any given year. The water surface elevation of the base flood in relation to the datum specified on the County's Flood Insurance Rate Map. For the purposes of this Ordinance, the base flood is the one-percent annual chance flood.

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BOARD – The Board of Supervisors of Frederick County.

BOUNDARY LINE ADJUSTMENT – A change in the boundary line between adjoining lots, tracts or parcels which does not create new lots or reduce the number of existing lots.

BUFFER – A required area used to separate and/or screen one (1) use from another.

BUILDING RESTRICTION LINE – An imaginary line fixed at a specified minimum distance from the boundaries of a lot that limits the placement of structures.

CENTRAL WATER AND SEWER FACILITY – A water or sewer system serving more than one (1) lot, dwelling, or use that is owned and operated by a municipality, private individual or corporation, licensed by the State Water Control Board and Health Department and approved by the Frederick County Board of Supervisors.

CODE OF ORDINANCES — The laws which govern the territory of Frederick County, Virginia. May also be referred to in this Ordinance as "County Code" or "County Code of Ordinances".

CODE OF VIRGINIA – The statute laws of the Commonwealth of Virginia, as codified.

COMMISSION – The Planning Commission of Frederick County.

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 Article VIII, Community Development Standards, of Chapter 165, Zoning, of the Frederick County Code.

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 Code of Virginia § 15.2-2223.

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

COVENANTS – A legally recorded, private agreement between the buyer and seller that asserts legal requirements or restrictions on the use of the land being transferred.

CONVEY – To transfer ownership or title to another.

CUL-DE-SAC – A street with only one (1) outlet and having a turnaround for reverse traffic movement.

DEED OF DEDICATION – A legally recorded document specifying the transfer of property rights related to subdivision improvements and facilities.

DEVELOPER – The legal or beneficial owner or owners of a parcel of 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.

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DESIGNATED AGENT – Pursuant to the Code of Virginia § 15.2-2201, any agent employed or authorized by a locality and designated by the governing body to review and act on subdivision plats, site plans, and plans of development. This shall not include the Planning Commission. The Subdivision Administrator shall serve as the Designated Agent for Frederick County.

DIRECT ACCESS – A direct means of vehicular approach that provides immediate physical entrance to a property.

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.

DRIVEWAY, SHARED PRIVATE – A deeded right-of-way or access easement serving as common access to two (2) or more lots from a dedicated public road.

EASEMENT – A grant of one (1) 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.

ENGINEER – A person duly licensed as such by the Commonwealth of Virginia.

EROSION – The process by which earth or rock material is moved from one (1) location to another by wind or water.

EROSION CONTROLS – Measures that comply with the Virginia Erosion and Sediment Control Handbook and the standards of Frederick County which prevent erosion and sedimentation on adjoining properties or in drainageways.

EROSION CONTROL PLAN – An engineered document depicting the proposed methods for preventing erosion of soil from a parcel or parcels of land.

FLOODPLAIN – A relatively flat or low land area adjoining a river, stream, or watercourse which is subject to partial or complete inundation resulting from a storm with an average frequency of once per every 100 years, as defined by Federal Emergency Management Agency (FEMA) and depicted on Flood Insurance Rate Maps.

GRADE – The degree of rise or fall of a sloping surface.

GRADING – Any stripping, clearing, cutting, filling, or stockpiling of earth or land.

GRANTEE – One to whom a conveyance is made.

GRANTOR – One who makes a conveyance.

GROSS RESIDENTIAL DENSITY – The total number of residential dwellings divided by the total gross area within the perimeter boundaries of a development. The "gross residential density" within a section or phase of a development shall be the number of residential dwellings in the section divided by the total area within that section.

HEALTH OFFICIAL – The Director of the Lord Fairfax Health District or his representative.

HIGHWAY ENGINEER – The resident engineer employed by the Virginia Department of Transportation (VDOT) who has jurisdiction over Frederick County.

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HISTORICAL FEATURE – A structure or site of historical and cultural significance and recognized as such by the County, state or federal government.

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

IMPROVEMENT – Any man-made, immovable item which becomes part of or is affixed to real estate.

LAND – Ground, soil, or earth above or below the surface.

LAND DIVISION – The subdivision of one (1) parcel of land into two (2) or more parcels or any changes to the boundary of any lot, tract, or parcel of land.

LAND DISTURBANCE – Any activity involving the clearing, cutting, excavating, filling, grading, or any other activity which alters land topography.

LAND DISTURBANCE PERMIT – A permit issued by the County allowing disturbance of the surface of a parcel of land.

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 which conforms to the requirements of Chapter 165, Zoning, of the Frederick County Code.

LOT, CORNER – A lot abutting two (2) or more streets at their intersection.

LOT, DOUBLE-FRONTAGE – An interior lot having frontage on two (2) streets.

LOT, FRONT – The side of a parcel facing or coterminous with a street or right-of-way. For the purposes of this Ordinance, lots fronting on more than one (1) street shall define the front property line as the shortest side having road frontage.

LOT CONSOLIDATION – Combination of two (2) or more lots into a single parcel.

LOT LINE – A line described by metes and bounds, depicting the boundary of parcels of land.

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

MASTER DEVELOPMENT PLAN – A general plan of development reviewed by the Director of Planning and Development for new developments in certain zoning districts before subdivision or site plan approval, according to the requirements of this Ordinance and Article III, Permits and Applications, of Chapter 165, Zoning, of the Frederick County Code.

MISDEMEANOR – An offense of lesser gravity than a felony, for which punishment may be a fine or imprisonment.

MONUMENT – Markers placed in the ground to indicate the location of property boundaries.

NATURAL DRAINAGE – Original path of least resistance of surface water runoff.

NATURAL STORMWATER DETENTION AREAS – Areas of poorly drained soils which are subject to periodic flooding and act as areas to temporarily store stormwater. In some cases, "natural stormwater detention areas" will contain floodplain and wetland areas.

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PEDESTRIAN WALKWAY – A pedestrian circulation network designed to enhance public safety by separating pedestrian traffic from vehicular traffic.

PERFORMANCE BONDING – A guaranty to cover the cost of public improvements in an approved subdivision.

PLAT – Includes the terms "plat," "map," "plot," "replat," and "replot"; a map or plan of a tract or parcel of land prepared by a licensed surveyor or engineer.

POSITIVE DRAINAGE – Drainage which does not adversely affect property.

PRIVATE SEWAGE SYSTEM – A sewage disposal system not operated by Frederick Water that has approval of the State Water Control Board.

PROPERTY – Any tract, lot, or parcel of land.

PROPERTY OWNERS' ASSOCIATION (POA) – A private, nonprofit organization or corporation of property owners, established to own, operate and maintain various common facilities or properties. May also be referred to in this Ordinance as a "homeowners' association".

PUBLIC WATER AND SEWER SYSTEM – A water or sewer system owned and operated by a municipality or public authority.

RECREATIONAL FACILITY – An area or structure designed and equipped for the conduct of sports, leisure-time activities, and other customary and usual recreational activities.

RESERVE STRIPS – A strip of land set aside during a subdivision to prevent adjoining properties from connecting to an interior road system.

RIGHT-OF-WAY (ROW) – Land dedicated, reserved for, or occupied by a street, railroad, utility or other similar use.

ROAD – A street dedicated to or owned by Frederick County or VDOT; also, privately owned ROW which serve as the principal means of access to more than one (1) property.

ROAD EFFICIENCY BUFFER – A buffer separating residential uses from collector and arterial roads.

SCREENING – A method of visually shielding or obscuring adjoining property uses from each other by fencing, walls, berms, or densely planted vegetation.

SEDIMENTATION – Deposited silt or soil that is being or has been moved by weathering or by man.

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

SETBACK LINE – An imaginary line fixed at a specified minimum distance from the boundaries of a lot that limits the placement of structures.

SIDEWALK – A paved surfaced or leveled area, separated from the street, serving as a pedestrian walkway.

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

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SPITE STRIPS – See “reserve strip.”

STEEP SLOPES – Land area where the slope exceeds 35%.

STORM DRAINAGE CONVEYANCE SYSTEM – A series of dedicated easements or facilities that provide for stormwater management.

STORMWATER MANAGEMENT PLAN – Documents containing material describing methods for complying with the requirements of a Virginia Erosion and Stormwater Management Program (VESMP).

STORMWATER RUNOFF – The portion of precipitation that flows from a drainage area on the land surface in open channels or in stormwater conveyance systems.

STORMWATER STORAGE SYSTEM – A storage facility to provide for the detention or retention of stormwater.

STREET – A roadway dedicated to or owned by Frederick County or VDOT; also, privately owned rights-of-way which serve as the principal means of access to more than one (1) property.

STREET, ARTERIAL – A street so classified by VDOT or by the standards of Frederick County which collects and distributes traffic to and from collector streets.

MINOR ARTERIAL – A "minor arterial" shall be a street designed to provide for either primary or secondary through traffic movement between major secondary roads, collectors, arterials or other major thoroughfares. Minor arterials interconnect and supplement the principal arterial system with a greater emphasis on land access and a lower level of traffic mobility.

MAJOR ARTERIAL – A "major arterial" shall be a street designed as a major carrier of through traffic.

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

MINOR COLLECTOR – A "minor collector" shall be a street within a subdivision that collects traffic from local streets and distributes it to the major collector and arterial system. These streets provide land access service and traffic circulation within residential, commercial and industrial areas and may be required to serve as access to adjoining properties or to connect with streets in adjoining subdivisions.

MAJOR COLLECTOR – A "major collector" shall be a street that collects traffic from local streets and minor collectors and distributes it to the arterial system. These streets provide links to higher classified routes and serve as important intracounty travel corridors.

STREET, LOCAL – A street, so classified by VDOT or by the standards of Frederick County, designed to provide access to adjoining or abutting properties. A "local street" shall be a street within a subdivision which may be required to serve as access to adjoining property or to connect with streets in an adjoining subdivision.

STREET, SERVICE DRIVE – A right-of-way generally parallel and contiguous to a major highway, primarily designed to promote safety by eliminating promiscuous ingress and egress to

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such major highway by providing safe and orderly points of access to the highway and streets ending in a cul-de-sac.

STREETLIGHT – External lighting for the purpose of illuminating pedestrian and vehicular travelways.

STREET SIGN – A sign, situated outdoors and located in the street right-of-way, which identifies a specific portion of a road network system.

STREET WIDTH – The total width of the strip from property line to property line, dedicated or reserved for public use or travel, including roadways, curbs, gutters, sidewalks and planting strips.

SUBDIVIDE – To divide any tract, parcel or lot of land into two (2) or more parts.

SUBDIVIDER – An individual, group, corporation, or registered partnership owning any tract, lot, or parcel of land to be subdivided.

SUBDIVISION – The division of a lot, tract, or parcel of land into two (2) or more lots, tracts, parcels, or other divisions of land for sale, development or lease; or the tracts or parcels of land resulting from the division of property.

SUBDIVISION, MAJOR RURAL – Any subdivision resulting in the cumulative total of four (4) or more traditional 5-acre lots, or rural preservation lots from a single parcel in the RA (Rural Areas) zoning district.

SUBDIVISION, MINOR RURAL – Any subdivision resulting in the cumulative total of three (3) or fewer traditional 5-acre lots, family division lots, or rural preservation lots from a single parcel in the RA (Rural Areas) zoning district.

SUBDIVISION DESIGN PLAN (SDP) – A plan required for the subdivision of land in the RP (Residential Performance), R4 (Residential Planned Community), and R5 (Residential Recreational Community) zoning districts, submitted to the County for review and approval prior to recordation or land disturbance, in accordance with the provisions of this Ordinance and Chapter 165, Zoning, of the Frederick County Code.

SUBDIVISION ORDINANCE – This Chapter, as adopted and amended by the Frederick County Board of Supervisors.

SURVEYOR – A person duly licensed as such by the Commonwealth of Virginia.

UTILITY, PUBLIC – Any agency which, under public franchise or ownership or under certificate of convenience and necessity, provides the public with electricity, gas, heat, steam, communication, rail transportation, water, sewage collection, or other similar service.

VACATION OF PLAT – Action by the Board of Supervisors to nullify a plat as specified by §§ 15.2-2270, 15.2-2271 and 15.2-2272 of the Code of Virginia.

WATERSHED – A basin in which all surface water drains to a centrally located stream, river, or other body of water.

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

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vegetation typically adapted for life in saturated soil conditions, and that is subject to a perpetual easement permitting inundation by water.

WOODLANDS – Areas, groves, or stands of mature or largely mature trees greater than six (6) inches caliper covering an area greater than 1/4 acre or groves of mature trees greater than 12 inches caliper consisting of more than 10 individual trees.

ZONING ORDINANCE – Chapter 165, Zoning, of the Frederick County Code as adopted and amended by the Frederick County Board of Supervisors.

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Subdivision Ordinance Crosswalk				
Article	Section Number	Section Content	*Updated Ordinance Location*	Notes
Article I - Intent				
Article I - Intent	144-1	Intent.	144-101.03.	
Article II - Definitions				
Article II - Definitions	144-2	Definitions and word usage.	144-601.01. 144-602.01.	
Article III - General Provisions				
Article III - General Provisions	144-3	Compliance required.	144-302.01.	
	144-4	Subdivision Administrator.	144-201.01.	
	144-5	Interpretations and appeals.	144-101.10. 144-201.01.	
	144-6	Violations and penalties.	144-202.02.	
	144-7	Amendments.	144-101.06.	
	144-8	Fees.	144-203.01.	
Article IV - Subdivision Review Procedures				
Article IV - Subdivision Review Procedures	144-9	General procedure.	144-101.04.	
	144-10	Master development plan.	144-101.04.	
	144-11	Preliminary sketches.	***Removed***	Per staff direction, requirements for preliminary sketches have been removed from the Subdivision Ordinance and instead consolidated with Subdivision Design Plans. In practice, the County is requiring most subdivisions - even in the RA district - to submit Subdivision Design Plans, based on the need to verify compliance with other County requirements related to stormwater management and roads.
	144-12	Subdivision design plan.	144-502.03. 144-502.04.	
	144-13	Final plat approval.	144-503.02. 144-503.03. 144-503.04. 144-503.05.	
	144-14	Boundary line adjustments; lot consolidations.	144-101.04. 144-301.04. 144-503.03.	
	144-15	Minor rural subdivisions.	144-101.04. 144-503.03 144-503.04.	

Subdivision Ordinance Crosswalk				
Article	Section Number	Section Content	*Updated Ordinance Location*	Notes
Article V - Design Standards				
Article V - Design Standards	144-16	General standards.	144-302.01.	
	144-17	Streets.	144-302.05. 144-302.07.	
	144-18	Sidewalks and pedestrian walkways.	144-302.07.C.	
	144-19	Streetlights.	144-302.07.	
	144-20	Sewer and water service.	144-302.12.	
	144-21	Stormwater management.	144-302.15.	
	144-22	Erosion and sediment control.	144-302.15.	
	144-23	Environmental requirements; floodplain development; wetlands.	144-302.15.	
	144-24	Lot requirements.	144-302.02. 144-302.03. 144-302.04. 144-302.05.	
	144-25	Utilities and easements.	144-302.11.	
	144-26	Buffers and screens; recreational facilities.	***Removed***	Removed due to redundant language.
	144-27	Avigation easements.	144-302.11.	
	144-28	Dedication of common open space.	144-302.08.	
	144-29	Grading requirements.	144-302.09.	
	144-30	Monuments and markers.	144-302.11.	
	144-31	Rural subdivisions.	144-301.02. 144-301.03.	
	144-32	Property owners' associations.	144-302.14.	
	144-33	Commercial and industrial design standard exceptions.	144-302.07	
Article VI - Plan Requirements				
Article VI - Plan Requirements	144-34	Certification required.	144-502.02. 144-503.02.	
	144-35	Preliminary sketches.	***Removed***	See note above.
	144-36	Subdivision design plan contents.	144-502.02.	
	144-37	Final plats.	144-503.02. 144-503.03.	
	144-38	Deed of dedication.	144-501.05.	
	144-39	Minor rural subdivisions.	144-503.02.C.	
Article VII - Improvements and Guaranties				
Article VII - Improvements and Guaranties	144-40	General requirements.	144-302.15. 144-401.01.	

ORDINANCE

Action:		
PLANNING COMMISSION:	April 15, 2026	Recommended Approval
BOARD OF SUPERVISORS:	May 13, 2026	Pending

TO AMEND CHAPTER 165

WHEREAS, a proposal to amend Chapter 144 – Subdivision Ordinance to reorganize the chapter, to remove any redundant and conflicting language, and to convert narrative standards into tables and graphics, and where appropriate to add or modify provisions and references from Chapter 22 of Title 15.2 of the Code of Virginia that are not codified in the current Subdivision Ordinance; and

WHEREAS, the Development Review and Regulations Committee (DRRC) met and discussed the proposed amendment at their March 26, 2026, regular meeting; and

WHEREAS, the Planning Commission held a public hearing on the proposed ordinance amendment on April 15, 2026, and recommended approval of the ordinance amendment; and

WHEREAS, the Frederick County Board of Supervisors held a public hearing on this proposed ordinance amendment on May 13, 2026;

NOW, THEREFORE, BE IT ORDAINED by the Frederick County Board of Supervisors, that in the interest of public health, safety, general welfare, and good zoning practice, the amendment to Chapter 144 – Subdivision Ordinance to reorganize the chapter, to remove any redundant and conflicting language, and to convert narrative standards into tables and graphics, and where appropriate to add or modify provisions and references from Chapter 22 of Title 15.2 of the Code of Virginia that are not codified in the current Zoning Ordinance.

Passed this 13th, day of May 2026 by the following recorded vote:

John F. Jewell, Chairman	Gary R. Oates
Robert T. Liero	Robert W. Wells
Michael D. Guevremont	Jason C. Aikens
Albert L. Orndorff	**A COPY ATTEST**

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Michael L. Bollhoefer
Frederick County Administrator

Board of Supervisors
Agenda Item Detail
Meeting Date: May 13, 2026
Agenda Section: Planning Commission Business - Public Hearings

Title:

Ordinance Amendment to the Frederick County Code – Modification to Amend Chapter 161 – Sewage Disposal and Sewers to Consider Clarifying How and When Portable Restrooms Can Be Utilized and Not Be Classified as an Illegal Pump and Haul. More Specifically, Clarify Allowances for Seasonal and Special Event Related Use for Public or Community Spaces and Events.

Chapter 161 – Sewage Disposal and Sewers

Article I – General Provisions; Definitions; Appeals

Part 101 General Provisions

- 161-101.02 Definitions

Article II. General Requirements and Maintenance of On-Site Sewage Systems

Part 201 On-Site Sewage Systems

- 161-201.05 Permanent Pump and Haul Systems

Attachments:
BOS05-13-26Chapter161Amend_SeasonalUse.pdf

COUNTY of FREDERICK

Department of Planning and Development
540/ 665-5651
Fax: 540/ 665-6395

MEMORANDUM

TO: Frederick County Board of Supervisors

FROM: Mark R. Cheran, Zoning and Subdivision Administrator

RE: Frederick County Code Chapter 161 Section (s) 101.02 & 201.05

DATE: April 27, 2026

This is a request by the Lake Holiday Country Club Inc. to allow for the use of temporary toilets (porta toilets) within the Lake Holiday community. This proposed change to Chapter 161 will affect sporting events, festivals and fairs, community activities, community trails, and Frederick County Parks and Recreation activities.

BACKGROUND: Frederick County updated Chapter 161 in 2010, this update required the County to review and approve all pump and haul systems. These systems are to be permanent systems. The strict application of Chapter 161 does allow for temporary toilets for any of the above-referenced activities. The use of temporary toilets is only allowed at active construction sites and approved special event centers via an approved Condition Use Permit.

The above-referenced activities could be treated as a seasonal use with the proposed changes to Chapter 161 Section (s) 101.02 & 201.05, as noted in the proposed text below.

PROPOSED CHANGES TO CHAPTER 161:

§161-101.02. Definitions
Seasonal Use- Any use that is no longer than six (6) months. To include sporting events, festivals and fairs, community activities, community facilities such as picnic areas, parks, or playgrounds, and Frederick County Parks and Recreation activities.

§161-201.05. Permanent pump and haul systems
Subsection (E) Portable restrooms operated for seasonal use as defined shall not be a permeant pump and haul system.

STAFF CONCLUSIONS: Staff is seeking a recommendation from the Board of Supervisors regarding the Frederick County Code Chapter 161 Section (s) 101.02 & 201. 05.

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§ 161-101.02. Definitions.

A. Definitions of terms contained in this chapter shall be those given in the Virginia State Board of Health Sewage Handling and Disposal Regulations, 12 Virginia Administrative Code, Agency 5, Chapter 610 (12 VAC 5-610-10 et seq.) and the Virginia State Board of Health Alternative Discharging Sewage Treatment Regulations for Individual Single Family Dwellings, 12 Virginia Administrative Code, Agency 5, Chapter 640 (12 VAC 5-640-10 et seq.).

B. The following definitions shall apply for additional terms contained in this chapter:

ALTERNATIVE DISCHARGING SEWAGE TREATMENT SYSTEM or DISCHARGING SYSTEM — Any device or system which results in a point source discharge of treated sewage for which the Health Department or the Virginia Department of Environmental Quality may issue a permit authorizing construction and operation when such system is regulated by the State Water Control Board pursuant to a general Virginia Pollutant Discharge Elimination System permit issued for an individual single-family dwelling or a multifamily dwelling with flows less than or equal to 1,000 gallons per day. Such system is designed to treat sewage from a residential source and dispose of the effluent by discharging it to an all-weather stream, an intermittent stream, a dry ditch, or other location.

ALTERNATIVE ON-SITE SEWAGE SYSTEM or ALTERNATIVE ON-SITE SYSTEM — A treatment works that is not a conventional on-site sewage system and does not result in a point source discharge.

ALTERNATIVE ON-SITE SOIL EVALUATOR (AOSE) — A person licensed by the Department of Professional and Occupational Regulation (DPOR) to evaluate soils and soil properties in relationship to the effect of these properties on the use and management of these soils as the locations for conventional and alternative on-site sewage systems, to certify in accordance with applicable state regulations and local ordinances that sites are suitable for conventional and alternative on-site sewage systems, and to design conventional and alternative on-site sewage systems suitable for the soils.

CONVENTIONAL ON-SITE SEWAGE DISPOSAL SYSTEM — A treatment works consisting of one or more septic tanks with gravity, pumped, or siphoned conveyance to a gravity distributed subsurface drainfield.

HEALTH DEPARTMENT — The Virginia Department of Health (Frederick County Office) and its authorized employees and agents.

ON-SITE SEWAGE DISPOSAL SYSTEM — Any treatment works design for the storage, treatment, disposal, discharge, or reclamation of sewage or combinations of sewage and industrial wastes, other than through use of a sanitary sewer system.

PUMP AND HAUL SYSTEM — Any device or system in which a sewage holding tank is pumped out on a regular basis and the raw sewage is transported by motor vehicle by a contractor having a valid sewage handling permit to an authorized treatment plant. The term "pump and haul" includes all facilities and appurtenances necessary to collect and store the sewage for handling by a contractor having a valid sewage handling permit.

SEASONAL USE — Any use that is no longer than six (6) months. To include sporting events, festivals and fairs, community activities, community facilities such as picnic areas, parks, or playgrounds, and Frederick County Parks and Recreation activities.

TREATMENT WORKS — Any device or system used in the storage, treatment, disposal,

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discharge, or reclamation of sewage or combinations of sewage and industrial wastes,

including but not limited to pumping, power, and other equipment and appurtenances, septic tanks, and any works, including land, that are or will be

(1) An integral part of the treatment process; or

(2) Used for ultimate disposal of residues or effluents resulting from such treatment.

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§ 161-201.05. Permanent pump and haul systems.

A. The Frederick County Board of Supervisors, after receiving a written statement from the Health Department, may approve a permanent pump and haul system permit if criteria such as the following is met:

(1) The structure to be served is one of the following:

(a) An existing dwelling that has no indoor plumbing and is converting to indoor plumbing, or where an existing on-site sewage system has failed;

(b) An existing structure used as a place of worship;

(c) An existing school structure;

(d) An existing commercial structure; and

(2) The Health Department has rejected an application for an on-site sewage system otherwise permitted under this chapter, or an off-site system;

(3) All other options for a sewage system (i.e., off-site easement) have been pursued and found unsatisfactory as evidenced by a denial letter issued by the Health Department and/or documentation that a neighboring property owner is uncooperative in giving an easement; and

(4) There shall be no additional bedrooms or bathrooms added to the dwelling or structure as a result of the permitting of a permanent pump and haul system.

B. Upon making application and paying an application fee to Frederick County for a permanent pump and haul system permit, the system owner shall sign a statement giving permission to the employees of Frederick County and the Health Department to conduct routine field inspections of the system to ensure proper maintenance.

C. On-site inspections shall be conducted a minimum of every three years by the Health Department to ensure that all properties with pump and haul system permits are in compliance with all state and local regulations.

D. The property owner shall submit annual invoices of pump out every year to the Health Department.

E. Pump and haul system requirements. **Portable restrooms operated for seasonal use as**

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defined shall not be a permanent pump and haul system. Pump and haul systems shall meet the following specifications:

(1) Pump and haul tanks are to be tanks of 1,500 gallons or greater tanks with watertight access risers on both tanks extending to the ground surface.

(2) The second tank is to be fitted with an audio-visual alarm float under the access riser and set to activate when the second tank is 1/2 full.

(3) All connections are to be wired inside the dwelling and not in a crawl space or other area which is not accessible.

(4) The tanks and risers must be sealed by the contractor to assure that they are watertight to prevent any infiltration.

F. Violation of pump and haul system permits. If a property owner who has been issued a permanent pump and haul system permit fails to adhere to the conditions or requirements of the permit, including but not limited to maintenance, inspections, and submission of annual invoices, the Board of Supervisors may revoke said permanent pump and haul system permit.

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ORDINANCE

Action:
BOARD OF SUPERVISORS: May 13, 2026 Pending

TO AMEND CHAPTER 161

Article I – General Provisions; Definitions; Appeals
Part 101. General Provision
§161-101.02. Definition

Article II. General Requirements and Maintenance of On-Site Sewage Systems
Part 201. On-Site Sewage Systems
§161-201.05 Permanent pump and haul systems

WHEREAS, a proposal to amend Chapter 161- Sewage Disposal and Sewers to consider clarifying how and when portable restrooms can be utilized and not be classified as an illegal pump and haul. More specifically, clarify allowances for seasonal and special event related use for public or community spaces and events; and

WHEREAS, the Frederick County Board of Supervisors held a public hearing on this proposed ordinance amendment on May 13, 2026; and

NOW, THEREFORE, BE IT ORDAINED by the Frederick County Board of Supervisors, that in the interest of public health, safety, general welfare, the amendment to Chapter 161 – Sewage Disposal and Sewers to amend definitions and additional regulations for clarifying how and when portable restrooms can be utilized and not be classified as an illegal pump and haul. More specifically, clarify allowances for seasonal and special event related use for public or community spaces and events for specific uses for permanent pump and haul to include performance standards is adopted.

This ordinance shall be in effect on the date of adoption.

Passed this 13th day of May 2026 by the following recorded vote:

John F. Jewell, Chairman

Albert L. Orndorff

Michael D. Guevremont

Gary R. Oates

Jason C. Aikens

Robert W. Wells

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Michael Bollhoefer
Frederick County Administrator