CITY OF FROSTBURG ZONING ORDINANCE

Effective May 7, 2014

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-2014-

Frostburg Mayor & City Council

W. Robert Flanigan, Mayor
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Donald L. Carter, Commissioner of Finance
Brian Alderton, Commissioner of Water, Parks & Recreation
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Part 1. ADMINISTRATION AND DEFINITIONS

Section 1.1 ENACTMENT

A. **Title**. An Ordinance establishing zoning regulations within the City of Frostburg, including the division of the City into zoning *districts*, and with administration of the ordinance by a Community Development Director, *Board of Zoning Appeals* and Historic *District* Commission. As a short title, this Ordinance shall be known as the "City of Frostburg Zoning Ordinance" of 2014.

B. **Repealer**. All ordinances or parts of ordinances in conflict with this Zoning Ordinance, or inconsistent with the provisions of this Ordinance, are hereby repealed to the extent necessary to give this Ordinance full force and effect. This shall specifically repeal the pre-existing Frostburg Zoning Ordinance and Zoning Map, as amended.

C. **Effective Date**. This Ordinance shall take effect and be in full force twenty (20) days after the adoption date.

D. **Severability**. Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid. The City Council and Mayor hereby declare that they would have passed all remaining portions of this Ordinance, excluding the portion declared unconstitutional or invalid, if they had knowledge that such portion would be declared unconstitutional or invalid.

Now, Therefore, Be it Resolved, that this Ordinance Number 2014-02 is hereby adopted by the Mayor and City Council of the City of Frostburg, Allegany County, Maryland this 17th day of April, 2014.

MAYOR AND CITY COUNCIL OF FROSTBURG

_____

W. Robert Flanigan, Mayor

_____

Attest John R. Kirby, Jr., City Administrator

Section 1.2 PURPOSES

A. This Zoning Ordinance, as herein established, has been prepared in accordance with the *Comprehensive Plan* and with reasonable consideration for the character of the City, its suitability for particular uses, long-term sustainability, enhancing the well-being of its citizens, and encouraging the orderly development and most appropriate uses throughout Frostburg.

B. **Purposes**. The purposes of this Ordinance are to achieve the State of Maryland's 12 planning visions (*see* Md. Land Use Code Ann. § 1-201), as follows:

- Quality of Life and Sustainability: A high quality of life is achieved through universal stewardship of the land, water, and air, resulting in sustainable communities and protection of the environment.
- Public Participation: Citizens are active partners in the planning and implementation of community initiatives and are sensitive to their responsibilities in achieving community goals.
- Growth Areas: Growth is concentrated in existing population and business centers, growth areas adjacent to these centers, or strategically selected new centers.
- Community Design: Compact, mixed–use, walkable design consistent with existing community character and located near available or planned transit options is encouraged to ensure efficient use of land and transportation resources and preservation and enhancement of natural systems, open spaces, recreational areas, and historical, cultural, and archeological resources.
- Infrastructure: Growth areas have the water resources and infrastructure to accommodate population and business expansion in an orderly, efficient, and environmentally sustainable manner;
- Transportation: A well–maintained, multimodal transportation system facilitates the safe, convenient, affordable, and efficient movement of people, goods, and services within and between population and business centers;
- Housing: A range of housing densities, types, and sizes provides residential options for citizens of all ages and incomes;
- Economic Development: Economic development and natural resource–based businesses that promote employment opportunities for all income levels within the capacity of the State's natural resources, public services, and public facilities are encouraged;

- Environmental Protection: Land and water resources, including the Chesapeake and coastal bays, are carefully managed to restore and maintain healthy air and water, natural systems, and living resources;
- Resource Conservation: Waterways, forests, agricultural areas, open space, natural systems, and scenic areas are conserved;
- Stewardship: Government, business entities, and residents are responsible for the creation of sustainable communities by collaborating to balance efficient growth with resource protection;
- Implementation: Strategies, policies, programs, and funding for growth and development, resource conservation, infrastructure, and transportation are integrated across the local, regional, state, and interstate levels to achieve these Visions; and,

(1) Promote the health, safety, morals, and general welfare of the community;

(2) Facilitate the adequate provision of transportation, water, sewerage, schools, recreation, parks and other requirements for the benefit of the public;

(3) Encourage coordination of public and private development in the City by requiring all City agencies to submit their facility projects and development plans to the Frostburg Planning and Zoning Commission for its review, recommendation and record;

(4) Accomplish the goals and objectives of the *Comprehensive Plan*; and

(5) Meet such other purposes for a zoning ordinance as are authorized by State law.

Section 1.3 INTERPRETATION AND APPLICATION OF ORDINANCE – MINIMUM STANDARDS

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals and general welfare. Wherever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted laws, rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive or that imposing the higher standards shall govern.

Section 1.4 FEES, CHARGES, AND EXPENSES

A. The *Mayor and Council* shall establish a schedule of fees, charges, and expenses, and a collection procedure for applications for *special exception*s, *variance*s, amendments, appeals, *building* permits, and other matters pertaining to this Ordinance. Such schedule shall be posted in the office of the Community Development Director and may be altered or amended only by the *Mayor and Council*.

B. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal pertaining to this Ordinance.

Section 1.5 TERRITORY AFFECTED

This Ordinance shall apply to all lands, *structure*s, and *building*s within the incorporated limits of Frostburg, Maryland, including water areas.

Section 1.6 ESTABLISHMENT OF DISTRICTS

A. **Districts.** The City of Frostburg is hereby divided into the following zoning *district*s:

Primary Districts
"R1" Single Family Residential District
“R2” Neighborhood Residential District
“R2-A” Town Residential District
"R3" General Residential District
“R4” Gateway Residential District
"RO" Residential Office District
"C1" University Corridor/Mixed Use District
"C2" Highway Commercial District
"C3" Town Center District
“C4” Gateway Commercial District
"T-LI" Technology/ Light Industrial District

Overlay Districts
"HP" Historic Preservation Overlay District
“PND” Planned Neighborhood Development Overlay District
“CMP” Camping Overlay District

Section 1.7 OFFICIAL ZONING MAP

A. **Establishment.** The boundaries of the zoning *district*s are shown on the Official Zoning Map of Frostburg, Maryland, which together with all notations and explanatory matter thereon is hereby made a part of this Ordinance. The Official Zoning Map shall be properly attested and, together with the amendments thereto, shall remain on file with the Clerk of the Allegany County Circuit Court, and an official copy shall be kept at the office of the Community Development Director.

B. **Changes to the Official Zoning Map**. If, in accordance with the provisions of this Ordinance, changes are made in *district* boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the *Mayor and Council*. No changes of any nature shall be made on the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Ordinance. Any unauthorized change of whatever kind by any person shall be considered a violation of this Ordinance and punishable as provided under Section 1.21(See also Section 1.9 "Amendments to the Ordinance".)

C. **Replacement of Official Zoning Map.** In the event that the Official Zoning Map becomes damaged, destroyed, or lost, the *Mayor and Council* map by resolution adopt a new Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall make a substantive change to the Official Zoning Map. The new Official Zoning Map shall be properly attested, and a notation of the date of adoption shall be entered on the map. Unless the prior Official Zoning Map has been lost or totally destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to the adoption and amendment of the prior map.

Section 1.8 INTERPRETATION OF DISTRICT BOUNDARIES

A. **Rules for Interpretation**. Where uncertainty exists as to the boundaries of *district*s as shown on the Official Zoning Map, the following rules shall apply:

(1) Boundaries indicated as approximately following the center lines of *street*s, highways, or *alleys* shall be construed to follow center lines;

(2) Boundaries indicated as approximately following platted *lot* lines shall be contoured as following such *lot* lines;

(3) Boundaries indicated as approximately following City limits shall be construed as following City limits;

(4) Boundaries indicated as approximately following the center lines of streams, channels or other bodies of water shall be construed to follow such center lines;

(5) Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 4 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;

(6) Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections 1 through 5 above, the *Board of Zoning Appeals* shall interpret the *district* boundaries;

(7) Where a *district* boundary line divides a *lot* which was in single ownership at the time of passage of this Ordinance, the *Board of Zoning Appeals* may permit, as a *special exception*, the extension of the regulations for either portion of the *lot* not to exceed 50 feet beyond the *district* line into the remaining portion of the *lot*.

Section 1.9 AMENDMENTS TO THE ORDINANCE

The provisions and zoning districts set forth in this Ordinance may from time to time be amended, supplanted, modified, or repealed by the Mayor and Council. The reclassification of any property and the relocation of any district boundary shall be deemed an amendment to this Ordinance and subject to the provisions of this section.

A. Text Amendments

(1) Who may Initiate Amendments: Proposals for amending the Zoning Ordinance text may be made by any interested individual or governmental agency. Such proposals for text amendments shall be in written form as prescribed by the Community Development Director and should be addressed to and filed with the *Mayor and Council*.

(2) Procedure for Text Amendment:

(a) Any proposal for a text amendment shall be in written form and officially filed with the *Mayor and Council*. The proposed amendment shall be referred by the *Mayor and Council* to the *Planning Commission* for an investigation and recommendation.

(b) The *Planning Commission* may direct the Community Development Director to make such investigations as the *Planning Commission* deems appropriate or necessary and, for this purpose, may require the submission of pertinent information by the applicant, and may hold such public meeting(s) as deemed appropriate in the *Planning Commission*'s judgment.

(c) In addition, the *Planning Commission* shall submit any recommendations and pertinent supporting information concerning the proposed text amendment to the *Mayor and Council* within 120 days after the *Planning Commission*'s first regular meeting following the receipt of said amendment from the *Mayor and Council*, unless an extension of time is granted by the *Mayor and Council*.

(d) After receiving any recommendations of the *Planning Commission* concerning any such amendment to this Ordinance, and before adopting or denying same, the *Mayor and Council* shall hold a public hearing in reference thereto in order that parties of interest and citizens shall have an opportunity to be heard. The *Mayor and Council* shall give public notice of such hearing in accordance with the provisions of Section 1.10.

(e) A majority vote of the entire body of the *Mayor and Council* shall be required to pass any amendment to this Ordinance. No amendment shall become effective until at least 20 days after at least one (1) public hearing by City Council.

B. **Map Amendments**

(1) Who May Initiate Amendments: Proposals for amendment of the Official Zoning Map may be made by any governmental agency or by an individual with a committed financial, contractual or proprietary interest in the subject property.

(2) Procedure for Map Amendment:

(a) The Map Amendment proposal shall be addressed to and filed with the *Mayor and Council* and shall be co-*sign*ed by the owner of record of the property if the applicant is other than said owner.

(a) Every application for map amendment shall be accompanied by a plat drawn to scale showing the existing and proposed boundaries and be drawn on the Maryland State Plane coordinate system. Such plat shall not be required for sectional or comprehensive *reclassification*s

(b) The proposed amendment shall be referred by the *Mayor and Council* to the *Planning Commission* for an investigations and recommendation.

(c) The *Planning Commission* may direct the Community Development Director to make such investigations as the *Planning Commission* deems appropriate or necessary, and for this purpose may require the submission of pertinent information by the applicant, and may hold such public meeting(s) as deemed appropriate in the *Planning Commission*'s judgment.

(d) In addition, the *Planning Commission* shall submit any recommendations and pertinent supporting information concerning the proposed ordinance amendment to the *Mayor and Council* within 120 days after the *Planning Commission*'s first regular meeting following the receipt of said amendment from the *Mayor and Council*, unless an extension of time is granted by the *Mayor and Council*.

(e) After receiving any recommendations of the *Planning Commission* concerning any such amendment to this Ordinance, and before adopting or denying same, the *Mayor and Council* shall hold a public hearing in reference thereto in order that parties of interest and citizens shall have an opportunity to be heard. The *Mayor and Council* shall give public notice of such hearing in accordance with the provisions of Section 1.10.

(f) A majority vote of the entire body of the *Mayor and Council* shall be required to pass any amendment to this Ordinance. No amendment shall become effective until at least 20 days after at least one (1) public hearing by City Council.

(g) *Findings for Map Amendments*. Where the proposed amendment is to change the zoning classification of property, the *Mayor and Council* shall make findings of fact in each specific case including but not limited to the following matters: population change, availability of public facilities, present and future transportation patterns, compatibility with existing and proposed development, the recommendation of the *Planning Commission*, and the relationship of the proposed amendment to the *Comprehensive Plan*.

(i) The *Mayor and Council* may grant the *reclassification* based upon a finding that there was a substantial change in the character of the neighborhood where the property is located since the last classification or that there is a mistake in the last classification and that a change in zoning would be more desirable in terms of the objectives of the *Comprehensive Plan*.

(ii) The fact that an application for *reclassification* complies with all of the specific requirements and purposes set forth in this Ordinance shall not be deemed to create a presumption that the proposed *reclassification* and resulting development would in fact be compatible with surrounding land uses and is not, in itself, sufficient to require the granting of the application.

(3) Overlay Districts. The establishment of any Overlay *district* shall follow the provisions provided in the corresponding sections in Part 4 of this Ordinance, which may supersede the requirements of this section.

(4) Repeated Application for Map Amendment. No application for *reclassification* shall be accepted for filing by the *Mayor and Council* if the application is for the *reclassification* of the whole or any part of land for which the *Mayor and Council* have denied *reclassification* within 12 months from the date of the decision of the *Mayor and Council*.

(a) However, the *Mayor and Council* may allow an applicant to withdraw an application for a map amendment at any time without prejudice; provided, that if the request for withdrawal is made after publication of the notice of the hearing, no applications for *reclassification* of all or any part of the land which is subject of the application shall be allowed within 12 months following the date of the resolution of the *Mayor and Council* approving such withdrawal, unless, by the resolution allowing withdrawal or subsequent resolution, the *Mayor and Council* specify that the time limitation shall not apply.

(5) Changing the Official Zoning Map. It shall be the duty of the Community Development Director to change the Official Zoning Map forthwith upon the adoption of any amendments, in order that said map shall always be an up-to-date public record of the *district*s in the City.

Section 1.10 PUBLIC NOTICE

A. **Requirements for Notice to the Public.** Unless otherwise expressly provided by law, all notice to the general public required by the terms of this ordinance shall be made as follows:

(1) The property affected or to be affected shall be posted prior to the pending proceeding.

(2) Such posting shall be made no more than 30 days before the public hearing and no less than 14 days before such public hearing, by erection of a *sign* to be furnished by the Community Development Director. Notwithstanding the foregoing, in the event the public hearing is continued after proceedings have begun, no further posting shall be required.

(3) The *sign* shall be placed in a conspicuous location on the property where it may be readily seen by the public from a street and/or sidewalk.

(4) Such *sign* should be placed inside a window, unless the property is unimproved or the improvements located thereon do not include windows visible from a *street* and/or sidewalk.

(5) Any *sign* required to be posted by this provision shall be maintained in a location clearly visible from a *street* and/or public sidewalk and free from obstruction by curtains, brush, weeds, or other growth until after the public hearing is held, and such *sign* shall be removed within seven (7) days after the final decision. At the hearing it shall be the duty of the initiator of the proceeding to prove by affidavit that he/she has posted and endeavored to maintain the *sign* up to the time of the hearing.

(6) Such posting of a site(s) shall not be required for comprehensive reclassification procedures.

(7) Newspaper Advertisement. The Community Development Director shall publish notice of the time and place of the public hearing together with a summary of the subject matter of the hearing in at least one newspaper of general circulation in Frostburg once each week for two (2) consecutive weeks. The first notice shall be published no less than fifteen (15) nor more than thirty (30) days prior to the public hearing.

(a) A legal advertisement may also include such other information as the Community Development Director deems appropriate.

(8) Notice of a Public Hearing. Whenever a public hearing is required, the governmental body conducting such hearing shall give at least 15 days notice of the time and place of such hearing, by regular first class U.S. mail, to the initiator of the proceeding, to the Chairperson of the *Planning Commission*, and to the last known owners of record of all properties contiguous to the subject property and of all properties opposite said property measured at right angles to any intervening *street*.

(a) Said mailed notice shall be directed to the address to which the real estate tax bill on the property is sent, unless a person specifically provides another address in writing to the Community Development Director for such purpose. Said notice shall contain the same information as the published notice.

(b) Notification of property owners shall not be required for changes resulting from a *comprehensive* reclassification, map amendment, or for proposed amendments to the ordinance text.

Section 1.11 APPLICATION OF DISTRICT REGULATIONS

A. **Conformance Required**. Except as hereinafter specified, no land, *building*, *structure* or *premises* or part of any of the foregoing shall hereafter be occupied or used, located, erected, reconstructed, extended, moved, enlarged, converted, or altered except in conformity with the *district* regulations hereinafter provided.

B. **Territory not within a Zoning District**. In the event that any territory has not been specifically included within a *district*, such territory shall automatically be zoned in the same manner as the most restrictive *district* adjoining such territory until otherwise classified.

C. **Annexed Territory**. All territory which may hereafter be annexed to the City shall be considered to be zoned in the same manner as the most restrictive contiguous territory inside the previous City limits until otherwise classified.

D. **Yard, Open Space, Parking and Loading Requirements**. No part of a *yard* or other *open space*, or *off-street* parking or loading space, which is required for any building or use under the provisions of this Ordinance, shall be included as a part of the *yard*, *open space*, *off-street parking* or loading space which is similarly required for any other *building* or use.

E. **Government Property**. This Zoning Ordinance shall not regulate land or *building*s owned by the U.S. Government, the State of Maryland, the Allegany County Commissioners, the Allegany County Board of Education or the City of Frostburg for legitimate governmental, educational, or public university purposes.

Section 1.12 ESSENTIAL SERVICES EXEMPTED

A. **Exemption**. Such *essential services* shall be permitted in any *district*, it being the intent hereof to exempt such *essential services* from the application of this Ordinance. Providing, however, for the following review provisions:

(1) For any *essential services* involving the construction of a *building* or any *structure* over 10 feet in height, the Community Development Director may prescribe such conditions and safeguards as are necessary to ensure compatibility with surrounding uses and to protect the public health and safety.

(2) For any *essential services* involving land development that would otherwise be regulated by the Subdivision and Land Development Regulations, the *Planning Commission* may request review of the exempted project to determine impacts, if any, to the City.

Section 1.13 PLANNING COMMISSION

A. **Membership.** The Commission shall consist of five (5) or seven (7) members appointed by the *Mayor and Council* for staggered five (5) year terms or until a successor takes office. One (1) of the members may be a member of the local legislative body, serving in an ex officio capacity concurrent with the member's official term. Members may be removed from office by the *Mayor and Council* for (i) incompetence; (ii) misconduct; or (iii) in the same manner as for a member of a State board or commission: (a) failure to attend meetings under 8-501 of the State Government Article of the Annotated Code of Maryland; or (b) conviction of a crime in accordance with 8-502 of the State Government Article of the said Annotated Code. The *Mayor and Council* shall provide the *Planning Commission* member sought to be removed with a written statement of charges stating the grounds for removal and an opportunity for a public hearing to contest the charges. Vacancies occurring other than through the expiration of term shall be filled for the unexpired term by the *Mayor and Council*. Members may serve with such compensation as the *Mayor and Council* deem appropriate.

B. **Organization**. The Commission shall elect a chairperson from its membership. The chairperson's term shall be one (1) year with eligibility for re-election. The Commission shall hold meetings quarterly or more often as its duties require, provided, however, that the chair may cancel a quarterly meeting. It shall adopt rules for transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations, which record shall be a public record for the purposes of the Maryland Public Information Act (Md. State Gov. Code Ann. §§ 10-611, *et seq*.), as may be amended from time to time.

C. **Rules of Order.** The *Planning Commission* shall adhere to the Frostburg Planning Commission Rules of Order for all meetings it conducts. The Rules of Order shall be written in accordance with the Maryland Land Use Article. Robert's Rules of Order shall apply in instances where the Rules of Order do not prescribe a procedure.

Section 1.14 DEVELOPMENT DIRECTOR

A. **Appointment.** The existing position of "Community Development Director" for the City of Frostburg is hereby continued. Any new Community Development Director shall be appointed by the *Mayor and Council*.

B. **Duties of Community Development Director**. This Ordinance shall be administered and enforced by the Community Development Director. The Community Development Director may be provided with the assistance of such other persons as the *Mayor and Council* may direct, and the Community Development Director may delegate some or all of his/her duties and responsibilities to his/her designee(s) as are the appropriate, in his/her judgment. *See* enforcement provisions in Section 1.21 of this Ordinance.

Section 1.15 BUILDING PERMITS, ZONING OCCUPANCY AND LAND USE PERMITS

A. **BUILDING PERMIT REQUIRED**. No *building* permit shall be issued except in conformity with the provisions of this Ordinance. A Frostburg *Building* Permit issued by the Frostburg Community Development Department is required prior to the initiation of any of the following activities:

[a] Erection of any building or structure

[b] Construction of an addition to any building or structure

[c] Relocation of any building or structure

[d] Major Renovation of any building or structure

[e] Demolition of any building or structure

[f] Grading

[g] Construction of driveways, parking, and sidewalks

[h] Construction of walls or fences

[i] Construction or installation of a new accessory structure

[j] Installation of a permanent sign regulated by this Ordinance

[k] Renovations to accommodate a change in type of use

[l] Conversion of an unfinished and uninhabitable space to dwelling unit

[m] Renovation or Reconstruction of a structure following damages from a natural disaster, including but not limited to a fire or a severe weather event, or following a structural failure

(2) **Application for a Building Permit**. All applications for building permits shall be accompanied by site plans in triplicate, drawn to scale, showing the actual dimensions and shape of the *lot* to be built upon, the exact size and locations of already existing *building*s on the *lot*, if any, and the location and dimensions of the proposed *building* or *alteration*.

(a) The application shall include such other information as lawfully may be required by the Development Staff, including statements describing or identifying the existing and proposed *building(s)* and *alteration(s)*; existing and proposed uses of the *building(s)* and land; the number of families, housekeeping units, or rental units the *building(s)* is/are designed to accommodate; conditions existing on the *lot*; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of this Ordinance.

(b) At least one (1) copy of the plan shall be maintained in the City's files.

(c) Applications for building permits that are minor in nature and do not involve construction of a *principal building* shall, at a minimum, be accompanied by a sketch of the proposed project, and should include relevant information such as property lines, dimensions, and/or topography.

(d) A review by the Chief of Police, the City Engineer, and/or the Allegany Soil Conservation *District* may be required in certain circumstances.

(3) **Expiration of Permits**. If the work described in any building permit has not begun within one (1) year from the date of issuance, said certificate shall expire and it shall be canceled by the Development Staff.

(a) Extension. A building permit may be extended for no more than one (1) additional six (6) month period for a good cause as determined by the Development Staff.

(b) Completion. If the work described in any building permit issued for other than a non-residential *principal building* has not been substantially completed within one (1) year of the date of issuance thereof, or eighteen (18) months within the date of issuance if the permit has been extended as provided for in subsection (a) above, said permit shall expire automatically upon the expiration of the applicable term. Building permits for non-residential *principal buildings* shall expire (2) years from the date of their issuance. Further work as described in the expired permit shall not proceed unless and until a new building permit has been obtained.

B. **Zoning Use and Occupancy Permits**

(1) Use and Occupancy Permit**.** It shall be unlawful to use or occupy or permit the use or occupancy of any *building* or land, or both, or part thereof, hereafter created, erected, converted, or wholly or partly altered or enlarged in its use of *structure* until a zoning use and occupancy permit has been issued by the Community Development Director, stating that the proposed use of the *building*s or land conforms to the requirement of this Ordinance.

(a) The *structure* must meet all code requirements and be verified by an authorized City Inspector prior to issuance of an Occupancy Permit.

(b) As an administrative matter, the Community Development Director may at his/her option waive, in writing, the requirement for an Occupancy Permit for minor residential additions and similar improvements.

(2) Relation to Building Permit. All inspections and *utility* hookups stipulated in the *building* permit as well as required outside agency approvals must be completed to the satisfaction of the City prior to issuance of an Occupancy permit.

(3) Temporary. A temporary occupancy permit may be issued by the Community Development Director for a period not exceeding six (6) months during the *alteration*s or partial occupancy of a *building* pending its completion, provided that such temporary permit may require such conditions and safeguards as will protect the safety of the occupants and the public. In instances where a temporary occupancy permit is sought, the Community Development Director shall require the developer to post a bond or other surety in an amount sufficient to cover the costs of the completion of the *building* prior to issuance of the temporary occupancy permit. The form and content of the bond or other surety shall be subject to the approval of the Community Development Director.

(4) Records. The Community Development Director shall maintain a record of all zoning occupancy permits and copies shall be furnished upon request to any person.

(5) Rental Housing. The Community Development Director shall require an applicant to prove compliance with the City's Rental Housing Ordinance, as applicable.

C. **Compliance with Submittals and Permits**. Building Permits or Zoning Use and Occupancy Permits issued on the basis of site plans and applications approved by the Community Development Director and/or the *Board of Zoning Appeals* authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement or construction shall be deemed to be authorized by such approval.

(1) Use, arrangement, or construction differing with that authorized may be deemed a violation of this Ordinance, and may be punishable as provided by Section 1.21 hereof.

D. **Violation**. Failure to obtain a zoning use and occupancy or building permit shall be a violation of this Ordinance and punishable under Section 1.21.

Section 1.16 SITE PLAN REVIEW AND APPROVAL

A. Prior to issuing a zoning use and occupancy permit or building permit for construction, expansion, or change in use, a site plan and supporting documentation shall be submitted to the Planning Commission for its review and approval.

B. The purpose of site plans are to assure detailed compliance with applicable provisions of enacted regulations and to prescribe standards for the design and construction of site improvements. Development requiring site plan approval shall be permitted only in accordance with all specifications contained on an approved site plan, and shall not be undertaken until the site plan is approved and all required construction permits have been obtained subsequent to such approval.

C. **Applicability**. All development or land use activities within the City shall require site plan review before being undertaken, except for the following:

(1) Construction or expansion of a *single-family dwelling*, a *twin family dwelling* and ordinary *accessory structures*.

(2) Landscaping or grading which is not intended to be used in connection with a land use reviewable under the provisions of this Zoning Ordinance.

(3) Parking areas five (5) spaces or less in size.

(4) Ordinary repair, maintenance or alterations of the interiors of existing *structures* or uses.

(5) Exterior alterations or additions to existing *structures* which would not increase the square footage of the existing *structure* by more than 1,000 square feet or have a cost value of less than $10,000.00.

(6) Agricultural or gardening uses.

(7) All signs except in conjunction with new development.

D. Site plan applications shall include the information listed in Appendix A for preliminary and final site plans. The *Planning Commission* may, in its discretion, waive any information or preliminary requirements which are not relevant to the proposed use and site.

E. The *Planning Commission's* review of the preliminary site plan shall include, but is not limited to, the following considerations:

(1) Adequacy and arrangement of vehicular traffic access and circulation, including emergency vehicle access.

(2) Location, arrangement, appearance and sufficiency (including, but not limited to, the size of the spaces provided) of off-street parking and loading.

(3) Location, arrangement, size and design of *building*s, lighting, and signs.

(4) Relationship of the various uses to one another and their scale.

(5) Adequacy, type, and arrangement of trees, shrubs, and other landscaping constituting a visual and noise buffer between adjacent uses and adjoining lands.

(6) Adequacy of storm water and sanitary waste disposal.

(7) Adequacy of *structures*, roadways, and landscaping in areas susceptible to erosion, ponding, or flooding.

(8) Compatibility of development with natural features of the site and with surrounding land uses.

(9) Adequacy of open space for play areas, informal recreation and the retention of natural areas such as wildlife habitats, wetlands, and wooded areas.

(10) Adequacy for pedestrian access.

F. The Planning Commission may require additional information which appears necessary for a complete assessment of the project.

G. Major site plans shall be prepared by an engineer, architect, landscape architect, or land surveyor duly registered to practice in the State of Maryland.

H. Upon receipt of the major site plan, the Planning Commission shall review the site plan, soliciting comments from other departments, agencies, and officials as may be appropriate. The site plan shall be approved if it meets the requirements of this section, Appendix A, other requirements of this Zoning Ordinance and all other Federal, State, and County regulations. Notice of approval or disapproval of the site plan shall be given in writing to the applicant.

I. **Construction of Required Improvements**.

(1) Upon approval of a site plan, the applicant shall then secure the necessary construction permits from appropriate agencies before commencing work. The applicant may construct only such improvements as have been approved by the Planning Commission and appropriate City review and approval agencies.

(2) The City may require inspection during and/or after construction of the site improvements.

J. **Expiration and Extension.**

(1) Approval of site plans shall be for a two (2) year period and shall expire at the end of such period unless substantial construction of site improvements has begun in good faith, i.e. with the intent to continue with the construction and carry it through to the completion of the project.

(2) Upon written request by the applicant within thirty (30) days prior to the expiration of said approval, upon good cause shown, the Planning Commission may grant a one (1) year extension of the aforesaid two (2) year period.

(3) The Planning Commission shall acknowledged receipt of a request for an extension and shall render a decision thereon not more than thirty (30) days after its filing.

Section 1.17 SUBDIVISION AND LAND DEVELOPMENT ORDINANCE

A. The purpose of the City of Frostburg Subdivision and Land Development Regulations are to regulate and control the division or the development of land within Frostburg in order to promote the public health, safety, and general welfare of the residents of the City of Frostburg.

B. **Subdivision and Land Development Ordinance.** In addition to the provisions of this Ordinance, the regulations set forth in the Subdivision and Land Development Ordinance apply to:

(1) Any proposed subdivision or other division of land

(2) Any proposed new principal non-residential *building*

(3) Any expansion of more than 1,000 square feet in floor area of a non-residential *building*

(4) Any proposed new Multi-*family* housing unit(s) or *townhouse*s of three (3) or more connected units.

(5) Any proposed new parking lot consisting of six (6) or more spaces

C. **Planning Commission Review.** A subdivision plat shall not be recorded until it has been approved by the *Planning Commission* as provided in the Subdivision and Land Development Regulations and witnessed by the signature of the Chairperson.

D. **Relation to Zoning Ordinance.** If a conflict occurs between this Ordinance and the Subdivision and Land Development Regulations, the standards set forth in Section 1.3 shall apply.

Section 1.18 BOARD OF ZONING APPEALS

A. **Membership of Board**. The *Board of Zoning Appeals* shall consist of five (5) members and one (1) alternate appointed by the *Mayor and Council*. Existing terms of office shall be continued. Any appointments after the adoption of this Ordinance shall be for terms of three (3) years.

(1) **Removal.** Members may be removed from office by the *Mayor and Council* for (i) incompetence; (ii) misconduct; or (iii) in the same manner as for a member of a State board or commission: (a). failure to attend meetings under 8-501 of the State Government Article of the Annotated Code of Maryland; or (b) conviction of a crime in accordance with 8-502 of the State Government Article of the said Annotated Code. The *Mayor and Council* shall provide the member sought to be removed with a written statement of charges stating the grounds for removal and an opportunity for a public hearing to contest the charges.

(2) If any member leaves office before the conclusion of his/her term, the Mayor and Council shall appoint a replacement to serve the unexpired length of the term.

(3) Members may serve with such compensation as the *Mayor and Council* deem appropriate.

B. **Organization, Meetings, Rules and Records of the Board**. The *Board of Zoning Appeals* shall elect a Chairperson from its membership. The Chairperson's term shall be one (1) year with eligibility for re-election. The alternate may sit on the Board in the absence of any member of the *Board*. When the alternate is absent, the *Mayor and Council* may designate a temporary alternate.

(1) The *Board* shall adopt rules for the transaction of business that shall be posted in the office of the Community Development Director and available to the public in written form.

(2) The *Board* and/or its staff shall keep a record of its resolutions, transactions, testimony, findings, and determinations, all of which shall be public records for the purposes of the Maryland Public Information Act (Md. State Gov. Code Ann. §§ 10-611, *et seq*.), as may be amended from time to time.

(3) The *Board* may call upon any City official or department head for assistance in the performance of its duties, and it shall be the duty of such officers to render such assistance to the Board as may reasonably be required.

(4) It shall be the duty of the Community Development Director to serve as the secretary and administrative officer for the *Board of Zoning Appeals*.

C. **Powers of the Board of Zoning Appeals**: With respect to zoning matters, the *Board of Zoning Appeals* shall have the following powers and functions.

(1) Administrative Review. The *Board of Zoning Appeals* shall hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by any City agency or official in the administration or enforcement of this Ordinance.

(a) Any such appeal shall be filed within 30 days after such alleged error, unless the appellant alleges and proves that he/she had no notice, knowledge or reason to believe that such error had been made and should not have known that it had been made, in which event, the appeal shall be filed within 30 days from the date of the earliest to occur of the foregoing bases for extending the filing deadline. If such person has succeeded to his/her interest after such alleged error, then he/she shall be bound by the knowledge of his/her predecessor in interest.

(2) Interpretation of District Boundaries. The *Board of Zoning Appeals* may determine the exact location of zoning district boundaries as shown on the Official Zoning Map, consistent with the provisions of Section 1.8 hereof.

(3) Special Exceptions. The *Board of Zoning Appeals* shall hear and decide only such *special exception*s as the *Board of Zoning Appeals* is specifically authorized to pass on according to the provisions of this Ordinance and to decide such questions as are involved in determining whether *special exception* may be granted.

(a) A *special exception* may be authorized when the *Board of Zoning Appeals* finds from a preponderance of the evidence of record that the proposed use or *structure*:

(i) will be consistent with the City's *Comprehensive Plan*;

(ii) will meet the standards and criteria applicable to such use and similar uses permitted as a matter of right within the subject *Zoning District*; and

(iii) will not cause an adverse effect upon adjoining and surrounding properties unique and different, in kind, or degree, than that associated with such use, regardless of its location within the zone.

(b) *Burden of Proof*. The applicant for a *special exception* shall have the burden of proof, which shall include the burden of going forward with the evidence and the burden of persuasion on all questions of fact, which are to be determined by the *Board*.

(4) Variances to authorize upon appeal in specific cases such *variance*s from the terms of this Ordinance where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in practical difficulty.

(a) A *variance* from the terms of this Ordinance shall not be granted unless and until the applicant has demonstrated each of the following:

(i) special conditions and circumstances exist which are peculiar or unique to the land, *structure* or *building* involved in a manner different from the nature of the surrounding properties such that the peculiarity or uniqueness causes this Ordinance to impact disproportionately on the applicant's property;

(ii) the peculiarity or uniqueness of the special conditions or circumstances relate to inherent characteristics of the subject property which are not shared by neighboring properties, (e.g., shape, topography, subsurface conditions, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions and bearing and party walls) or other similar restrictions);

(iii) literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same *district* under the terms of this Ordinance;

(iv) the special conditions or circumstances did not result from the actions of the applicant;

(v) such modification will not be contrary to the public interest; and

(vi) such *variance* will not involve allowing a use not permitted under the terms of this Ordinance in the *district* involved.

(b) *Administrative Variance***.** An *administrative variance* may be granted by the Community Development Director when special conditions and circumstances exist which are peculiar to the *lot* or parcel, and are not conditions resulting from an act or actions of an Applicant, and would make strict enforcement of this Ordinance unreasonable. Applicability for an administrative modification is relevant to how and when the subject *lot* was created, geophysical conditions, legal encumbrances or existing improvements associated with the subject *lot* or parcel. Examples include, but are not limited to, shape of *lot*, *lot* area, infra*structure*, *utility* easements, buried or overhead electric lines, or a combination thereof. Modification(s) to development standards are not taken into consideration relative to the financial or physical condition of the applicant, nor for *lot*s created after October 5, 1964 (Subdivision and Land Development Regulations).

(i) The Community Development Director may only authorize an *administrative variance* if:

[a] the subject lot was created prior to October 5, 1964;

[b] if the project cannot be relocated on the subject *lot* to meet the requirements of the Zoning Ordinance; and,

[c] the project cannot not be reduced in scope or size to conform to the Ordinance.

(ii) The Community Development Director may authorize the following *administrative variances* after making an on-site investigation and consulting with other appropriate agencies:

[a] an *administrative variance* of 50% or less in *lot* size or width.

[b] an *administrative variance* of 50% or less in *front, side, or rear yard* setbacks, including setbacks from *alleys*. Where lots front on a state highway, the State Highway Administration may vary the setback per their requirements,

[c] an *administrative variance* of 75% or less in *side or rear yard* setbacks for *accessory structures*.

(iii) The Community Development Director may not authorize an *administrative variance* to beyond the extent required to meet the purposes for which it was sought. In the event staff denies a request for an administrative modification, it may be appealed to the *Board of Zoning Appeals*.

(iv) All other requests for *variances* must be heard by the *Board of Zoning Appeals* as a variance to the terms of Section 1.18C(4)(a).

(c) *Persons with Disabilities***.** After having received a complete written application, the *Board of Zoning Appeals* shall grant a *variance* allowing modifications to specific requirements of this Ordinance that the applicant proves to the satisfaction of the *Board of Zoning Appeals* are necessary to provide a reasonable accommodation under the Americans With Disabilities Act and/or the Federal Fair Housing Act and/or applicable State law, as amended, to serve persons who the applicant proves have disabilities as defined in and protected by such laws.

(5) *Variances* shall not be considered based upon the financial condition of the applicant.

(6) Conditions. In granting any *variance*s or *special exception*, the *Board of Zoning Appeals* may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the *variance* or *special exception* is granted, shall be punishable under the provisions of Section 1.21 hereof and at the discretion of the Board after notice and hearing and shall be grounds for termination or revocation of the *variance* or *special exception* itself.

(7) Limitation. The *Board of Zoning Appeals* shall not have the authority to amend the Zoning Ordinance.

(8) Additional Powers of Board. The *Board* shall have the authority to hear and decide appeals when it is alleged that there is an error in any order, requirement, decision or determination made by an administrative officer, including, but not limited to, the Community Development Director, or administrative unit in the implementation of this Ordinance.

(9) Non-Conforming Uses. The Board may grant approval for the expansion or change of *non-conforming use*s in accordance with the provisions of Section 1.22.

D. **Who may file an Appeal or Application**.

(1) With respect to zoning matters, applications to the *Board* may be filed by any person who has a financial or ownership interest in the property to be affected and who is:

(a) desirous of obtaining the grant of a *special exception*; or

(b) desirous of obtaining a grant for *variance* from the terms of this Ordinance; or

(c) desirous of obtaining an interpretation of a *district* boundary, consistent with the provisions of Section 1.8;

(d) requesting an administrative review or other review or approval specified by this Ordinance.

(2) With respect to other matters, appeals to the *Board* may be filed by any person who is aggrieved by any order, requirements, decision, or determination of any City agency or official in connection with the administration and enforcement of this Ordinance.

(3) Appeals and applications shall be made on forms provided by the Community Development Director.

(4) The hearing shall be scheduled within 90 days of the date in which the appeal application was filed.

(5) Appeals and applications, accompanied with the required fees established by the *Mayor and Council*, shall be filed with the Community Development Director.

(6) In the case of appeals, the Community Development Director shall transmit to the *Board* all papers constituting the record upon which the action appealed from was taken.

E. **Hearing, Notice**. The Community Development Director shall fix a reasonable time for the hearing of appeals and applications, consistent with its rules of practice and procedure. Public notice shall be given by the Board for all hearings relating to zoning matters in accordance with the procedures set forth Section 1.10 hereof.

F. **Calendar of the Board**. The Community Development Director may establish a regular calendar of hearing dates, which are intended to be used if applications are submitted that need action by the Board.

G. **Advice of the Planning Commission.** Before deciding any application for special exception, variance, or administrative error review, the Board of Zoning Appeals shall request the advice of the Planning Commission in reference to such applications.

(1) The Board may request from the Planning Commission such technical information and advice as will further assist the Board in reaching decisions. Any written material forwarded by the Planning Commission shall be incorporated into the public record and be made available to the applicant.

(2) The advice of the Planning Commission shall not be binding upon the Board of Zoning Appeals. Lack of advisory action by the Planning Commission shall not delay action by the Board of Zoning Appeals

H. **Stay of Proceedings**. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Community Development Director certifies to the *Board of Zoning Appeals* that by reasons of facts stated in the certificate a stay would, in the Community Development Director's opinion, cause imminent peril to life or property. Upon such certification, the stay shall terminate except that, upon good cause shown, the Board may order that the stay shall remain in effect only if good cause is shown the *Board of Zoning Appeals* shall by written order permit such proceedings to go forward, in total or in part or under such restrictions as the Board may deem appropriate or it shall order that the stay remain in effect if good cause is shown. A hearing pursuant to the certification shall be held as soon as is practicable.

I. **Repeated Applications**. If an application or appeal is disapproved by the *Board of Zoning Appeals*, thereafter the *Board* shall not be required to accept for filing another application for substantially the same proposal on the same premises, until after one (1) year from the date of such disapproval.

(1) An appeal or application may be withdrawn prior to advertisement of the hearing without prejudice; however, the fees for such appeal or application may be retained by the City, at the discretion of the Community Development Director.

J. **Limitation of Authority of the Board**. Nothing contained in this section shall be deemed to authorize the *Board* to reverse or modify any refusal of a permit or any other order, requirement, decision, or determination which conforms to the provisions of this Ordinance and which is therefore not erroneous; nor to authorize the Board to validate, ratify, or legalize any violation of law or of the provisions of this Ordinance.

(1) The *Board* shall not amend any of these provisions of this Ordinance including the Official Zoning Map; nor shall such authority be vested in the *Board*.

Section 1.19 APPEALS TO THE COURTS

A. **Standing to Appeal**. Any of the following person(s), jointly or separately, may appeal a decision of the *Board of Zoning Appeals* to the Circuit Court for Allegany County by filing a request for judicial review with that tribunal;

(a) applicant person aggrieved by the decision or action;

(b) a taxpayer; or

(c) an officer or unit of City government.

B. **Court Review** Procedure**.** An appeal to the Circuit Court of Allegany County, Maryland, shall be taken in the manner provided by the Maryland Rules of Procedure, Title 7, Chapter 200 or its successor section.

Section 1.20 DUTIES ON MATTERS OF APPEAL AND ENFORCEMENT

A. **Appeal from Community Development Director**. It is the intent of this Ordinance that all questions of interpretation and enforcement shall be first presented to the Community Development Director. Such questions may be presented to the *Board of Zoning Appeals* only on appeal from the decision of the Community Development Director. Persons aggrieved by the decisions of the *Board of Zoning Appeals* may file petition for judicial review with the Circuit Court for Allegany County, Maryland as provided for previously herein.

B. **Role of Mayor and Council.** It is further the intent of this Ordinance that the duties of the *Mayor and Council* in connection with this Ordinance shall not include hearing and deciding questions of interpretation and enforcement that may arise. Under this Ordinance, the *Mayor and Council* shall have only the duties of:

(1) Considering and adopting or rejecting proposed amendments to the text and the maps, or the repeal of this Ordinance, and

(2) Establishing a schedule of fees, charges, and expenses as stated in Section 1.4.

Section 1.21 VIOLATIONS AND PENALTIES

A. **Violations and Enforcement**.

(1) It shall be unlawful to locate, erect, construct, reconstruct, enlarge, change, maintain, begin the excavation thereof, or use any *building* or land in violation of any regulation in or any provision of this Ordinance, or any amendment thereto lawfully adopted by the *Mayor and Council*, or to fail to comply with any lawful requirement or condition imposed by the *Board of Zoning Appeals*, or fail to obtain a permit required under this Ordinance.

(2) All zoning use and occupancy and building permits shall be revocable for failure to comply with all applicable requirements and conditions.

(3) <u>Enforcement</u>**.** If the Community Development Director has reason to believe that any of the provisions of this Ordinance are being violated, he/she shall provide or send a written Notice of Violation to the person responsible for such violations, in person or by 1st Class, registered or certified U.S. Mail, indicating the nature of the violation and ordering the action necessary to correct it within 10 calendar days, or another reasonable period established in writing by the Community Development Director.

(a) Such Notice may be sent to the address of the property-owner as listed in official real estate tax records or to an address listed in an official application to the City or to another address known to the Community Development Director. The Community Development Director may extend such time period an additional 90 days if the applicant provides evidence of an on-going good faith effort to bring the property into compliance in the shortest reasonable time period.

(b) *Stop Work***.** In addition, the Community Development Director may issue a Stop Work Order to immediately halt work on a property that is in violation of this Ordinance. Such order may permit limited work to occur that is necessary to stabilize and secure the site.

(4) If at the conclusion of the time period stated in the Notice of Violation, the violation has not in the judgment of the Community Development Director been satisfactorily corrected, the Community Development Director shall enforce the penalty provisions of this Ordinance and shall take such other action(s) as are permitted under State law to ensure compliance with this Ordinance. Such action(s) may include, but are not limited to seeking a court injunction to bring about the correction of such violation.

(5) In addition to other enforcement and remedy provisions established by this Section, in case any *building* is or is proposed to be located, erected, constructed, reconstructed, altered, repaired, converted, maintained, or used, or any land is or is proposed to be used, in violation of this Ordinance as amended, the *Mayor and Council*, the Community Development Director, or any adjacent or neighboring property owner who would be specifically damaged by such violation may institute injunction, mandamus, abatement, or any other appropriate action or proceeding to prevent, restrain, correct, or abate such unlawful location, maintenance, or use, to prevent any illegal act, conduct of business or use in or about such *premises*.

(6) Appeals. See Section 1.19 of this Ordinance.

B. **Penalties.**

(1) Any person, firm, or corporation violating any provision of this Ordinance as amended shall be guilty of a misdemeanor, and shall be fined not less than $100.00 dollars nor more than $500.00 dollars for each violation. For failure to pay such fines, a person may be imprisoned for a period of not more than 30 days, at the discretion of the court.

(2) Each and every day during which such illegal location, erection, construction, reconstruction, enlargement, change, maintenance or use continues may be deemed a separate offense. Section 1.21.A of this Ordinance shall not be interpreted to require the Community Development Director to send any more than one Notice of Violation relative to any particular set of conditions as a condition precedent to seeking remedial or punitive action under this Section.

(3) In addition to criminal penalties, the City of Frostburg through the Community Development Director may levy a civil penalty of $500.00 per day for each violation of this Ordinance. Any such civil enforcement shall comply with procedures established in the Annotated Code of Maryland, Land Use Article §11-202.

(4) Any criminal or civil fines shall only be levied or assessed after the Community Development Director determines there is a failure to comply with a written notice of violation as stated in Section 1.21, within the time frame set forth in such notice or as extended by the Community Development Director, as applicable.

Section 1.22 NON-CONFORMITIES

A. Non-Conformities in General.

(1) Definition of Non-conformities. *Lot*s, *structure*s, *sign*s, uses of land, and/or uses of *structure*s and land in combination which were lawful before this Ordinance was passed and amended, but which would not be permitted within the applicable *district* established by this Ordinance, as amended.

(2) Purposes. To seek the gradual conversion of *non-conforming use*s over time into more conforming uses and to carefully control increases in the severity of other non-conformities.

(3) Non-conformities shall not be enlarged upon, expanded or extended except as provided in this Section 1.22. Non-conformities shall not be used as grounds for adding other *structure*s or uses prohibited elsewhere in the same *district*.

(4) To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in plans, construction, or designated use of any *building* on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which "actual construction" has been carried on diligently.

(5) Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. For the purposes of this sub-section, excavation or demolition or removal shall be deemed to be actual construction provided that work shall be carried on diligently.

B. **Non-Conforming Lots of Record**. In any *district* in which *single family detached dwelling*s are permitted, a *single family detached dwelling* and customary *accessory structures* may be erected on a *lot* that was a single *lot of record* at the effective date of adoption of this Ordinance, or upon two (2) or more *lots of record* that are permanently merged, providing that all applicable requirements of this Ordinance (including but not limited to required *yard*s) are met, regardless of whether such existing *lot* complies with minimum lot area and minimum lot width requirements.

(1) Such *lot* shall be in separate ownership, not be of continuous frontage with other *lot*s in the same ownership, have an absolute minimum *lot* area of 1,000 square feet, and not be further subdivided. This provision shall not permit construction upon a *lot* that according to an approved subdivision plan was not intended for building purposes.

(2) Any modification of *yard* requirements shall require a *variance* by the *Board of Zoning Appeals*.

(3) In addition, such a *lot* must be able to provide a safe water supply and be able to dispose of domestic waste without causing a health hazard.

C. **Non-Conforming Structures and Signs**. Where a lawful *structure* or *sign* exists at the effective date of adoption or amendment of this Ordinance that could not be erected under the provisions of the ordinance, such *structure* or *sign* may be continued so long as it remains otherwise lawful, subject to the following provisions:

(1) A *structure* or *sign* may be altered to simply decrease its non-conformity. No non-conforming *structure* or *sign* may be enlarged or altered in such a way as to increase its non-conformity.

(2) A non-conforming *structure* involving a *non-conforming use* shall also meet the applicable provisions for a *non-conforming use*.

(3) A non-conforming *structure* occupied by a conforming use may be expanded provided all requirements of this Ordinance are met for the expansion, including, but not limited to setbacks, height and maximum building coverage.

(4) <u>Damage</u>. If a non-conforming *structure* or *sign* is damaged or destroyed to an extent of more than 50% of its replacement cost at the time of damage or destruction, it shall not be reconstructed or restored except in conformance with the provisions of this Ordinance, provided however, that any dwelling lawfully existing at the time of the adoption of this Ordinance which shall be damaged to any extent may be repaired or reconstructed at its prior location notwithstanding any other provision of this Ordinance.

(5) Should such *structure* or *sign* be moved for any reason for any distance whatever by the owner thereof, it shall thereupon be required to conform to the regulations for the *district* in which it is located after it is moved, except that a *structure* or *sign* may be moved on a *lot* (such as further from a *street*) to simply make it less non-conforming.

D. **Non-Conforming Uses Not Involving Significant Structures**. Where at the time of adoption of this Ordinance, lawful use of land exists which would not be permitted by the regulations imposed by this Ordinance, and where such use involved no individual *structure* with a floor area in excess of 100 square feet, the use may be continued so long as it remains otherwise lawful, provided:

(1) No such *non-conforming use* shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the time the use became non-conforming.

(2) No such *non-conforming use* shall be moved in whole or in part to any portion of the *lot* or parcel other than that occupied by such use at the effective date of adoption or amendment of this Ordinance.

(3) If any such *non-conforming use* of land ceases for any reason for a period of more than 90 days, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the *district* in which such land is located.

(4) No additional *structure* that does not conform to the requirements of this Ordinance shall be erected in connection with such *non-conforming use* of land.

E. **Non-Conforming Uses Involving Significant Structures**. If a lawful existing use involves individual *structure*(s) with a *total floor area* in excess of 100 square feet exists at the effective date of this Ordinance, and such *non-conforming use* would not be allowed in the *district* under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful subject to the following provisions:

(1) No non-conforming *structure* shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered in such a way that will increase the extent of any dimensional nonconformity.

(2) Expansion.

(a) As a *special exception*, the *Board of Zoning Appeals* may permit a *non-conforming use* (other than a *sign*) to expand up to a maximum of 50% of the *total floor area*, the total *building* volume and the total land area occupied by the use, whichever is more restrictive, that existed on the date the use became non-conforming under the City Zoning Ordinance, provided that:

(i) no new non-conformity is created,

(ii) no existing dimensional non-conformity is made more severe, and

(iii) no additional non-conforming *dwelling unit*s or boarding house units are created.

(b) In addition, the Community Development Director may allow minor expansions of a *non-conforming use* to accommodate routine minor adjustments that will not increase the intensity of the use, such as construction of fire stairwells or handicapped access.

(3) Within Existing Building. Any *non-conforming use* may be extended throughout any parts of an existing *building* which were manifestly arranged or designed for such use at the time such use became non-conforming.

(4) Change in Use:

(a) A *non-conforming use* may be changed to a use permitted in the *district* in which it is located. If a *non-conforming use* is changed to a conforming use, a *non-conforming use* may not thereafter be resumed.

(b) As a *special exception*, a lawful *non-conforming use* may be changed to another *non-conforming use*, provided that the applicant proves that the new use will not be more intense in terms of external effects and nuisances than the previous use.

(5) Abandonment. When a *non-conforming use* involving a *structure* of over 100 square feet of floor area is discontinued or abandoned for 12 consecutive months or for a minimum of 18 months during any three (3) year period (except when government action impedes access to the *premises*), the right to continue a *non-conforming use* shall cease. In such case, the land and *structure*s shall only be used in conformance with the regulations of the *district* in which they are located.

(6) Destruction. Where *non-conforming use* status applies to a *structure* and land in combination, removal or destruction of the *structure* shall eliminate the non-conforming status of the land. Destruction for the purpose of this subject is defined as damage to an extent of more than 50% of the replacement cost at the time of destruction.

(7) Number of Occupants**.** Where this Ordinance would require a lower number of occupants in a certain *dwelling unit* than City regulations that were in effect immediately before this Ordinance was adopted, such higher maximum number of occupants may continue with in that *dwelling unit* as a *non-conforming use*, provided:

(a) The property-owner or his/her successor provides evidence that such *dwelling unit* was registered with the City of Frostburg under the Rental Housing Code at the time this Ordinance was adopted, and continues to be registered,

(b) Such *dwelling unit* was inspected under the Rental Housing Code, and continues to be inspected as required,

(c) There continues to be compliance with the maximum number of occupants that were authorized by the Housing Inspector, and

(d) The number of *dwelling unit*s or rooming house units on the *lot* does not increase after the adoption of this Ordinance.

F. **Repairs and Maintenance**:

(1) This Ordinance shall not regulate ordinary maintenance and repairs of nonconformities, provided the extent of the non-conformity is not increased.

(2) If the non-conforming *structure* or portion of a *structure* containing a non-conforming use becomes physically unsafe or unlawful due to the lack of repairs and maintenance and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, or rebuilt except in conformity with the regulation of the *district* in which it is located.

G. **Uses Allowed Under Special Exception Provisions**:

(1) Any use which exists at the effective date of this Ordinance which is permitted by this Ordinance as a *special exception* in the *district* where such use is located shall not be deemed a *non-conforming use* in such *district*, but shall without further action be considered a conforming *special exception* use.

(2) Such use, however, shall be subject to the jurisdiction of the *Board of Zoning Appeals* as a *special exception*, and shall not be expanded or otherwise modified or enlarged except upon Board hearing and approval.

Section 1.23 CHANGES IN PERMITTED USE

A. If an existing use changes in the type of use or expands into additional types of uses that are permitted by this Ordinance, then one (1) of the following shall occur:

(1) The applicant shall apply for a new use and occupancy permit and obtain required approvals for all uses on the property and shall prove full compliance with this Ordinance, or

(2) Alternatively, the applicant shall submit a written permit application to the Community Development Director describing the proposed new uses, and shall agree to comply with reasonable conditions on such permit that shall be established by the Community Development Director to avoid nuisances and hazards resulting from the new uses, such as, but not limited to, reasonable limits on hours of operation and on outside storage.

Section 1.24 CONVERSIONS

The conversion of a non-residential *building* into a *dwelling unit*, or the conversion of a single family unit into multiple *dwelling units*, shall be permitted only: a) within a *district* in which a new *building* for similar occupancy would be permitted under this Ordinance, and b) when the resulting occupancy will comply with all the requirements governing new construction in such *district*.

Section 1.25 UNSAFE STRUCTURES

Nothing in this Ordinance shall prevent the temporary strengthening to a safe condition of any part of any *building* or *structure* declared unsafe by proper authority until such time as it shall be restored or fully demolished in accordance with this Ordinance, provided that this provision shall not be used to circumvent the Historic District Regulations.

Part 2. DEFINITIONS

Section 2.1 MEANING OF TERMS

Accessory Structure: A *structure* that is a) subordinate to and serves the principal *structure*; b) is located on the same *lot* as the principal *structure*; and c) is not attached by any common wall or by a common roof to the main *structure*. *Accessory structure* under this Ordinance does not pertain to a separate *dwelling unit* not attached to the principal dwelling.

Accessory Use: A use which a) is subordinate to and services the *principal use*, b) takes place on the same *lot* as the *principal use*, and c) is a use which is clearly incidental to customarily found in connection with and, except as otherwise provided in this Zoning Ordinance, is located on the same lot as the principal use of the premise. *Accessory use* under this ordinance does not pertain to a separate *dwelling unit* not attached to the principal dwelling.

Adult Day Care Center: A facility operated to provide, with or without charge, care for four (4) or more medically handicapped adults or elderly individuals in accordance with the Title 14 of the Maryland General Health Article.

Adult Day Care Home: A facility operated to provide, with or without charge, care for two (2) or three (3) medically handicapped adults or elderly individuals in accordance with the Title 14 of the Maryland General Health Article. An *Adult Day Care Home* shall be permitted as a *Home Occupation*, and operated in accordance with Section 8.1.

Adult Use: Any business, operation, or activity, in which a significant amount of the business consists of one (1) or more of the following, and which shall only be permitted in a zoning *district* where the use is specifically permitted by this Ordinance:

(1) The conduct, promotion, delivery, provision, or performance of A*dult Entertainment or Material*; including, but not limited to, that occurring in, a, or in connection with a cabaret, lounge, night club, modeling studio, bar, restaurant, club, lodge, or similar establishment; or

(2) The sale, rental, transfer, loan, dissemination, distribution, provision or promotion of *Adult Entertainment or Material*, in any format, form, or medium, including but not limited to, books, magazines, newspapers, photographs, movies, videos, DVDs, CDs, or other audio/video recordings, other electronic recordings, and/or coin operated pay-per-view viewing devices, including, but not limited to, the operation of an *Adult Book or Video Store.*

Adult Bookstore or Video Store: An *Adult Use*, whether or not containing viewing booths, theatres, or other performance viewing source, that involves the sale, rental, transfer, loan, dissemination, newspapers, photographs, movies, videos, DVDs, CDs, or other audio/video recordings, or other electronic recordings, or in the form of merchandize, objects, items, or devices.

Adult Entertainment or Material: Any performance, depiction, or text that is intended to cause or provide, or reasonably may be expected to cause or provide, sexual stimulation, sexual excitement, or sexual gratification, and;

(a) In which an individual or individuals appear in a state of nudity or partial nudity; or

(b) That consists, in whole or in part, of action, activity, poses, portrayal, depiction, or description of:

(i) Human genitals in a discernible state of sexual stimulation or arousal; or

(ii) Any act, which is, or may be considered, sexual in nature, whether real or simulated, or physical or attempted contact with clothed or unclothed genitals, pubic areas, and female breasts.

(c) That consists of any merchandise, object, item or device that is designed and/or marketed with the intention of causing, or that reasonably may be expected to cause, sexual stimulation, sexual excitement, or sexual gratification.

Alley: A public way that primarily provides a means of access or travel between abutting properties and which has a maximum right-of-way of less than 20 feet.

Basement: Any area fully or partially below the grade adjacent to a *structure*.

Bed and Breakfast: An establishment that primarily serves transient visitors to the area with *sleeping room*s and that is within a setting reflecting a residential rather than *commercial* character.

Board or Board of Zoning Appeals: The Board of Zoning Appeals of the City of Frostburg, Maryland.

Boarding Unit: A use within a single family *dwelling unit* allowed only when a property owner is in residence in which a room or group of rooms forming a habitable unit, used or intended to be used for living or sleeping but not for cooking or taking of meals, is provided to either one (1) individual or two (2) individuals not *related* to the property owner; when a housekeeping unit as defined under the definition of "*Family*" in this

Ordinance is not created; and when supported by *off-street parking* for unrelated occupants as set forth in Section 6.12 of this Ordinance.

Body Art Studio: A *commercial* use involving the marking of skin of persons with a design by process of pricking and/or ingraining and indelible pigment or by raising scars, or similar method.

Building: A *structure* with a roof supported by walls, designed to be used as a place of occupancy, storage, or shelter, or commerce.

Building Code: The International Building Code, together with the revisions and amendments thereto which were most recently adopted by the *Mayor and Council*. As of the effective date of this Ordinance, the *Mayor and Council* have adopted the 2012 edition of the International Building Code.

Building Setback: A line beyond which the foundation wall, any enclosed or covered porch, vestibule, or other *structure* of a *building* or part thereof shall not project; except for the architectural features listed in Section 6.1J. For purposes of this Ordinance, the *building* setback shall be the same as the innermost edge of the required *yard*s.

Building, Principal: A *building* that houses a *principal use*.

Bufferyard: A combination of a setback and a visual buffer or barrier, and is a yard or area together with the planting and/or *structure* required thereon. Both the amount of land and the type and amount of planting specified for each *bufferyard* requirement are designed to ameliorate potential adverse impacts between certain adjacent land uses, such as a single-family residence and a retail business.

Childcare Center: An agency, institution, or establishment, that for part or all of the day, or on a 24-hour basis on a regular schedule, and at least twice a week, offers or provides child care to children who do not have the same parentage, except as otherwise provided for in law or regulation. Any *childcare center* must be licensed in accordance with the Family Law Article of the Annotated Code of Maryland.

Childcare Home, Family: A residence in which family childcare is provided for up to eight (8) children. Family childcare is care given to a child under the age of 13 years or to any developmentally disabled person under the age of 21 years, in place of parental care for less than 24 hours a day, in a residence other than the child's residence, for which the childcare provider is paid. Any *family childcare home* must be licensed in accordance with the Family Law Article of the Annotated Code of Maryland. A *family childcare home* shall be permitted as a *Home Occupation*, and operated in accordance with Section 8.1.

Churches and Places of Worship: *Buildings* regularly used for religious services or worship such as a churches, temples, synagogues or mosques.

Clubs and Lodges: *Buildings* or areas of land that: a) are used by recreational, civic, social, fraternal, religious, political, labor unions or similar organizations for meetings, socializing and recreation, b) are limited to use by bona fide members and their occasional guests, except for persons specifically invited for special celebrations, c) which are not open to the general public, and d) which are not operated as a for-profit business. Any use such as a tavern, *restaurant* or retail sales shall only be permitted if all of the requirements for such use are also met. *Clubs and lodges* shall not include: a) fraternities or sorority dwellings, or b) any residential uses.

Commercial: Any activity conducted with the intent of realizing a profit from the sale of goods or services.

Comprehensive Plan: The current Frostburg Comprehensive Plan, as adopted by the *Mayor and Council*, pursuant to the laws of Maryland, and any amendments thereto.

District: A designated area within the city wherein specific residential or business activities may occur.

Driveway: A privately owned vehicular access from a *street* or *alley* serving one (1) or two (2) *lot*s.

Dwelling, Multi-Family: A residential use consisting of a *building* containing three (3) or more *dwelling units*. For the purpose of this definition, a *building* includes all *dwelling unit*s that are enclosed within that *building* or attached to it by a common floor or wall (even the wall of an attached *garage* or porch).

Dwelling, Multi-Family Apartments: A multi-family residential use other than a multi-family conversion or *townhouse*.

Dwelling, Primary with Accessory Apartment: a residence with the external appearance of a single-*family* residence, but in which there is located a second living quarters on the property, which is no larger than 25% of the *total floor area* of the principal *structure*. Common terms for such use are in-law-suite or guesthouse. A *primary dwelling with accessory apartment* shall be limited to the occupancy limit for one *dwelling unit* as set forth by the zoning *district.*

Dwelling, Single Family Detached: A residence consisting of a single detached *building* containing one (1) *dwelling unit*.

Dwelling, Townhouse: A *building* consisting of three (3) or more *dwelling unit*s, with each *dwelling unit* sharing a common vertical wall (including, without limitation, the wall of

an attached *garage* or porch) with at least one (1) other *dwelling unit*, and where each *dwelling unit* must occupy the space from ground to the roof and each *dwelling unit* must have independent outside access. Each *dwelling unit* is located on a separate fee simple *lot.*

Dwelling, Twin: One (1) *dwelling unit* attached to only one (1) other *dwelling unit*, with the *dwelling unit*s separated by a solid vertical wall, with each *dwelling unit* occupying the space from the ground to the roof and an independent exterior entrance, with each dwelling unit being situated on its own fee-simple *lot*.

Dwelling, Two-Family: A *building* containing two (2) *dwelling unit*s, but not including a *primary dwelling with an accessory apartment*. If two (2) *dwelling unit*s share a common wall, even the wall of an attached *garage* or porch, the *dwelling unit*s shall be considered to be a *two-family dwelling*.

Dwelling Unit: An enclosure containing sleeping, kitchen and complete bathroom facilities designed for and used, or held ready for use, as a residence by a maximum of only one (1) "*family*" (as defined by this Section), unless specifically stated otherwise. The minimum size of a *dwelling unit* shall be dictated by the effective building and property maintenance codes adopted by the *Mayor and Council*.

Essential Services: Facilities owned or maintained by public or private companies or public agencies that are engaged in the delivery or transport of water, wastewater, stormwater, natural gas, electric power, telecommunications, or similar services but not including new construction of a) *building*s or enclosed *structure*s greater than 1000 SF in area; b) *utility* storage *yard*s; c) overhead power transmission poles, towers, or wires; d) cellular, relay, or transmitting radio or communication towers.

Family: An individual, or two (2) or more persons who are *related*, or a group of not more than four (4) persons who are not *related* living together as one (1) common housekeeping unit in a *dwelling unit*, unless specifically stated otherwise (such as the applicable *district* regulations or the *group home* regulations).

Farm Animals: Animals other than *household* pets, which are intended to be kept for *commercial* and/or *family* food production and sale, education, or recreation. *Farm Animals* are identified by these categories: large animals, e.g., horses and cattle; medium animals, e.g., sheep, goats, pigs, hogs and any manner of swine; or small animals, e.g., rabbits, chinchillas, chickens, turkeys, pheasants, geese, ducks, and pigeons.

Fence: A fixed *structure* designed to prevent escape or intrusion or to define property.

Floor Area, Total: The gross area of a *building* measured by taking the outside dimensions of the *building* at each floor level intended for occupancy or storage.

Gambling: A use involving gaming, wagering, betting, or other games of chance where money or other items of value are at risk based upon the outcome of events which have not yet occurred.

Gambling Establishment: A use where the sole or primary purpose of the establishment is to offer patrons the opportunity to engage in *gambling* which shall include, but is not limited to, casinos or off-track betting parlors. A *gambling establishment* does not include fraternal clubs, religious or charitable organizations, which may, under the applicable laws of Maryland and Allegany County, utilize games of chance for fundraising activities to further charitable purposes. *Gambling establishments* shall not include restaurants, taverns, or stores that sell or promote games of chance sponsored or licensed by the State of Maryland.

Garage: A non-*commercial structure* used for the storage of vehicles and household items.

Group Home: A *dwelling unit* to house persons who need special care and oversight because of mental or developmental disability, old age, physical disability, physical or emotional abuse committed against themselves, or mental illness (other than mental illness that involves or has involved behavior related to violent crime). Such use shall function as a common household unit. See standards for *Group Home*s in Section 8.4. A *Group Home* shall not include any use that meets the definition of a "*Treatment Center*."

Historic District: See definitions in Section 4.1.

Home Occupation: A *commercial* activity that is a routine and customary *accessory use* to a *dwelling unit*, and that, if within a residential *district*, is conducted by a person on the same *lot* where such person resides. See standards in Section 8.1.

Hotel: See *Motel*.

Household: See the definition of "*family*."

Junkyard: An area used for the storage, dismantling, processing and/or sale of used, demolished, discarded, scrap and/or abandoned manufactured materials, including, but not limited to, furniture, tires, appliances, *mobile home*s, machinery, motor vehicles and their parts, and building materials.

1. A *junkyard* shall also include any area used for the parking or storage of motor vehicles that do not display evidence of: (i) current valid registration, (ii) registration that expired less than 90 days previously.
2. The term *junkyard* shall not include: (i) a City-permitted recycling collection or recycling processing center, (ii) solid waste or recyclables within a suitable container routinely awaiting imminent proper disposal, or (iii) storage within a lawful completely enclosed storage *building*.

Kennel: A *commercial* operation that: (i) provides food and shelter and care of animals for the purpose not primarily related to medical care (a *kennel* may or may not run by or associated with a veterinarian), or (ii) engages in the breeding of animals for sale.

Light Wholesale and Distribution Establishments: A use primarily involving manufactured products, supplies, equipment, and/or commodities held for (a) direct sales to the consumer, and/or (b) indoor storage and subsequent distribution to other *commercial* entities or locations for sale or resale. Such uses shall be in similar character and scale as *commercial* uses within the district, and the use shall not create excess noise or traffic.

Loading Space, Off-Street: A space designed for bulk pickup and deliveries by transport or delivery vehicles and not designed as *off-street parking*.

Lot: A *lot* is a parcel of land of sufficient size to meet minimum zoning requirements for use, *lot coverage*, and *lot* area and to provide such *yard*s and other *open space*s as are herein required. Such *lot* shall have frontage on an improved public *street*, and may consist of:

(3) A single *lot of record*;

(4) A portion of a *lot of record*;

(5) A combination of complete lots of record, or complete *lot*s of record and portions of *lot*s of record.

(6) A parcel of land described by metes and bounds, provided that no case of division of *lot*s or combination of *lot*s shall any residual *lot* or parcel be created which does not meet requirements of this Ordinance.

Lot Coverage: The total percentage of the *lot* area that is covered by all *building(s)* on the *lot*, unless specifically stated otherwise.

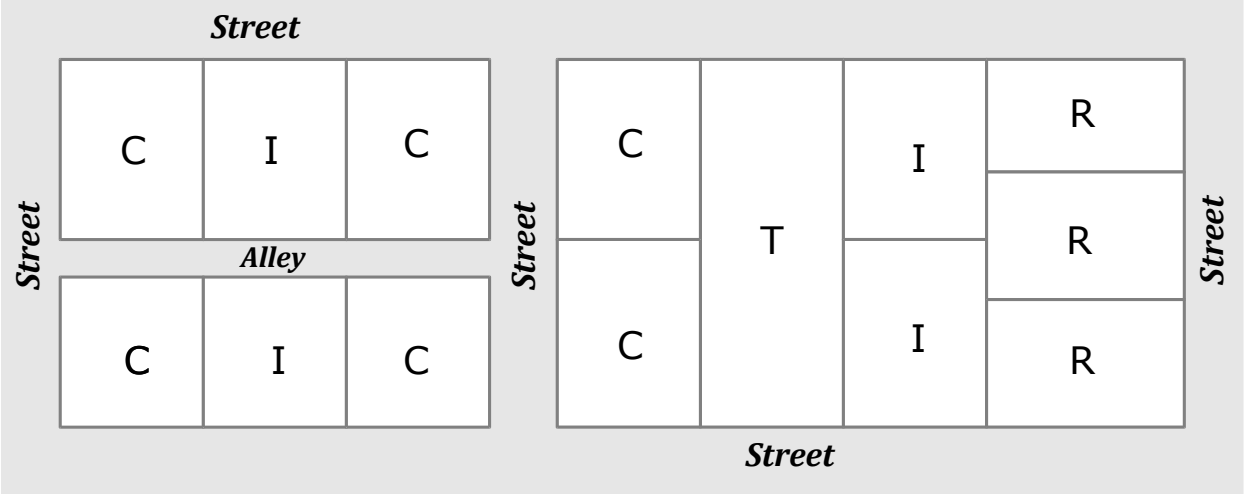
Lot Frontage: The front of a *lot* shall be the portion abutting or adjacent to the *street*. For the purpose of determining *yard* requirements on *corner lot*s and *through lot*s, all sides of a *lot* abutting or adjacent to *street*s shall be considered frontage, and *front yard*s shall be provided along each *street*.

Lot Line, Front: A property line running along a public *street* right of way. If an undeveloped *lot* abuts or is adjacent to two (2) or more *street*s, the Community Development Director shall determine which is the *front lot line*.

Lot Line, Rear: The *lot* line or lines generally opposite or parallel to the *front lot line*. A *through lot* has no real *lot* line.

Lot of Record: A *lot* which is recorded as a separate parcel of land in the official property records of Allegany County, Maryland, or which is designated on a plat for development submitted for approval by the *Planning Commission* or *Board of Zoning Appeals*.

Lot Types: See diagram and definitions below.



Key:
C: Corner Lot
I: Interior Lot
T: Through Lot
R: Reversed Frontage Lot

Corner Lot: A *lot* located at the intersection of two (2) or more public *streets*.

Interior Lot: A *lot* other than a *corner lot* with only one (1) frontage on a *street* other than *alley*.

Through Lot: a *lot* other than a *corner lot* with frontage on more than one (1) public *street*.

Reversed Frontage Lot: a *lot* in which the shorter roadway frontage is at right angles, or approximately right angles, to the general pattern established by other *lots* in the same block and in the block on the opposite side of the *street*. A *reversed frontage lot* may be a *corner lot* or an *interior lot*.

Major Renovation: Any structural change affecting the envelope of the *building* or resulting in a reconfiguration of interior space.

Mayor and Council: The Mayor and City Council of the City of Frostburg, Maryland.

Mining and Quarrying: the excavation of any natural mineral deposit(s) or soil(s) for *commercial* sale.

Mobile Home: A *dwelling unit* that: (i) is not constructed in accordance with the standards set forth in the City *building code* applicable to houses constructed on a conventional

perimeter foundation; and (ii) is composed of one (1) or two (2) main components, each of which contains a steel frame and a tongue.

Mobile Home Park: A parcel of land upon which more than one (1) *mobile home* is located.

Modular Home: a *dwelling unit* constructed in accordance with the standards set forth in the city *building code* applicable to site-built homes and composed of components substantially assembled in a manufacturing plant and which is designed to be supported by a conventional perimeter foundation. For the purposes of this ordinance, a *modular home* shall be regulated in the same manner as a site-built home. This type of home is also known as a sectional home. A *modular home* is not considered a *mobile home.*

Motel or Hotel: An establishment serving overnight transient visitors to the area and consisting of five (5) or more *sleeping room*s, with each room or suite of rooms in a permanent *building*, and with each room or suite of rooms having its own sanitary facilities. This term shall not include a *boarding unit* or *recreational trailer* park. A *motel* or *hotel* may include an attached accessory *restaurant* and meeting facilities.

Non-Conforming Use: Uses of land, and or uses of *structures* and land in combination which were lawful before this Ordinance was passed and amended, but which would not be permitted within the applicable *district* established by this Ordinance, as amended.

Open Space: Land intended for recreation or conservation of natural resources, and is free of residential, business, or industrial *structure*s and uses.

Outdoor Storage: The storage of merchandise, material or equipment of any type, stored within view of any residential property or public right of way.

Parking Lot, Commercial: Any combination of one (1) or more parking spaces designed or used for the parking of self-propelled vehicles and available to the public whether for a fee or as an accommodation to customers or clients.

Parking Space, Off-Street: A space adequate for parking an automobile that is constructed and provided in accordance with Section 6.12 of this Ordinance.

Permitted Principal Use: A by-right use that conforms to the regulations of the applicable *district* and other regulations pertinent to the use. Such use or *structure* may be conducted or erected on any legal *lot* within the *districts.*

Planning Commission: The Planning Commission of Frostburg, Maryland.

Premises: A tract of land including the *structure*s and *building*s thereon.

Principal Use: The primary activity for which a site or a *structure* is used. A *principal use* may be either a *permitted principal use* or a *special exception*.

Programmed Open Space: A dedicated open area, designed in such a manner that the structure and use of which will not disturb the underlying character of the *district*, either by reason of traffic movement, noise, appearance, or other characteristics.

Property Maintenance Code: The International Property Maintenance Code together with the revisions and amendments these to which were most recently adopted by the *Mayor and Council*. As of the effective date of this *Ordinance*, the *Mayor and Council* have adopted the 2012 edition of the International Property Maintenance Code.

Reclassification: The changing of the zoning classification which applies to a particular area of land or *structure*.

Recreational trailer: A vehicle built on a chassis designed to be pulled by another vehicle and used as a temporary dwelling for travel or recreational purposes

Recreational vehicle: A vehicle built to be self-propelled and used as a temporary dwelling for travel or recreational purposes.

Related or Relative: Persons who are *related* by blood, marriage, adoption or formal foster relationship to result in one (1) or more of the following relationships: brother, sister, parent, child, grandparent, great-grandparent, grandchild, great-grandchild, uncle, aunt, niece, nephew, sister-in-law, brother-in-law, parent-in-law or first cousin. This term shall not include relationships such as second or more distant cousins. This term shall include similar "step" relationships established by marriage, such as step-father or step-son.

Residence: See "Dwelling."

Restaurant, standard: A food serving establishment whose principal business is the sale of food and the principal method of operation is its service when ordered from a menu to seated customers at a table, booth, or counter inside the establishment. A snack bar or refreshment stand at a public or nonprofit community swimming pool, playground or park, operated solely for the convenience of its patrons shall not be considered a restaurant.

Restaurant, fast food: An establishment where ready-to-eat food primarily intended for immediate consumption is available upon a short waiting time and wrapped or presented so that is can readily be eaten outside or inside the premises.

Restaurant, drive-in or drive-through: Any establishment where ready-to-eat food primarily intended for immediate consumption is available upon a short waiting time and packaged or presented so that it can readily be eaten inside the premises and whose method of operation is also to serve customers in motor vehicles either at a drive-through when or while parked.

Semi-Public: Owned and operated by a civic or non-profit organization for the use or benefit of the general public.

Shopping center: a group of three (3) or more retail stores, service establishments, and/or other similar uses in common ownership and designed as a unit.

Signs: See definitions in Part 7.

Sleeping Room: A room which is intended for people to sleep in. Such rooms that are part of a *dwelling unit* are not *sleeping room*s.

Special Exception: A grant of a specific use that:

(a) would not be appropriate generally or without restriction; and

(b) shall be based on a finding that:

(i) the requirements of the zoning law governing the *special exception* on the subject property are satisfied; and

(ii) the use on the subject property is consistent with the plan and is compatible with the existing neighborhood.

Story: That portion of a *building* included between the surface of any floor and the surface of the floor next above it or, if there be no floor above it, the space between such floor and the ceiling above it. A *basement* shall be counted as a *story* if an average of five (5) feet or more is located above the ground level at the front of the *building* and if the *basement* includes an inside height of at least seven (7) feet.

Street: Any vehicle accessway other than a named *alley* that is shown on the official and current State Transportation Map for the City of Frostburg or any accessway not designated as an *alley* that is dedicated for public use on a plat approved pursuant to law.

Street, Private: Any accessway that is intended to provide vehicular access to multiple properties that is not dedicated as a public thoroughfare.

Street, Public: A *street* that is, or will be at the conclusion of construction, a City of Frostburg right-of-way, in which the *street* is, or will be, maintained by the City.

Structure: That which is built or constructed, an edifice or *building* of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. Also see *Historic District Definition, Structure.*

Townhouse: See *Dwelling, Townhouse*.

Treatment Center: A *building*, other than a prison, providing housing facilities for persons who need specialized housing, treatment and/or counseling because of:

i) Criminal rehabilitation, such as a criminal half-way house or a treatment/housing center for persons convicted of driving under the influence of alcohol,

ii) Addiction to alcohol and/or a controlled substance, or

iii) A type of mental illness that involves or has involved behavior *related* to violent felony crime. See also the definition of *Group Home* in this section.

Utility: Any entity which operates systems providing or offering to the public water filtration and supply, wastewater or stormwater collection and /or treatment, electric power, natural gas, telecommunications, or similar services.

Variance: A modification only of density, bulk or area requirements of this Zoning Ordinance where such modification will not be contrary to the public interest and where owing to conditions peculiar to the property, and not the results of any action taken by the applicant, a literal enforcement of the Ordinance would result in practical difficulty.

Variance, Administrative: A *variance* that is issued by the Community Development Director, Section 1.18C(4).

Warehouse: A use primarily involving the manufactured products, supplies, equipment, and/or commodities held for a) indoor storage and subsequent distribution to other *commercial* entities or locations for sale or resale, and/or b) long term indoor *commercial* storage.

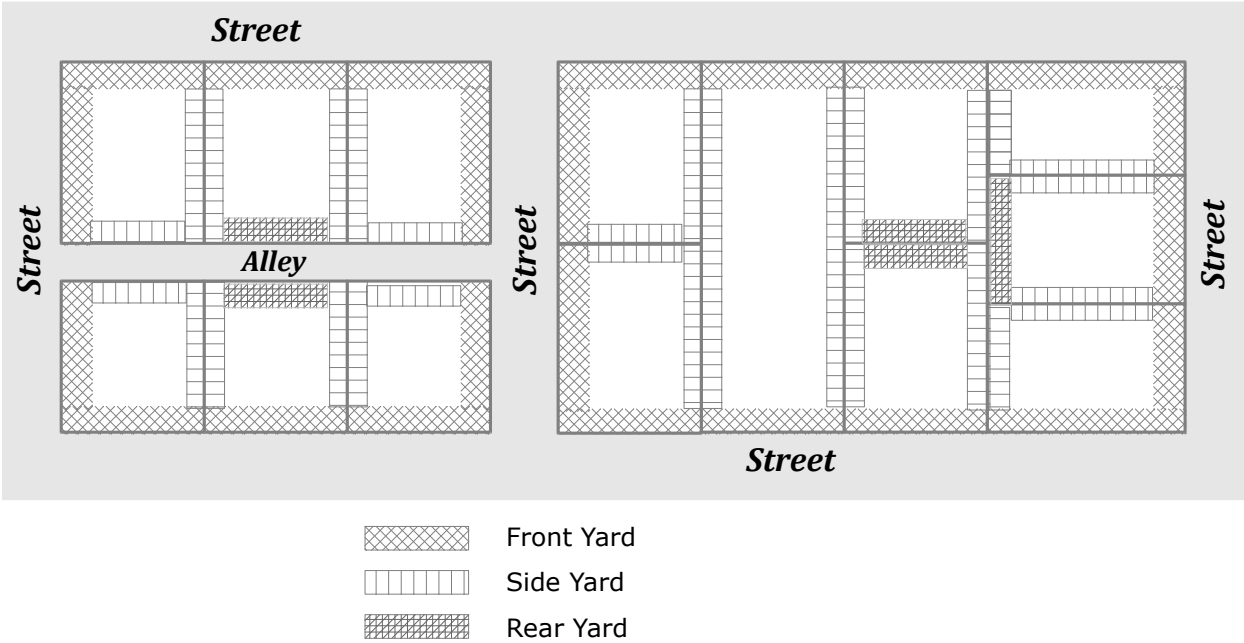
Waste disposal site: A facility or location where waste, refuse, and/or discarded materials are accommodated or left to be recycled.

Waterway, Intermittent: a stream that does not have flowing surface water during dry periods of the year, but may have groundwater-based surface flow at other times.

Waterway, Perennial: a stream or part of a stream that flows continuously all of the calendar year as a result of ground water discharge or surface runoff.

Wind Energy System: A *structure* and *related* devices not to exceed 75' in height designed to convert kinetic wind energy to electric power to be installed on property containing or proposed to contain a permitted use but not attached to any existing or proposed *building* or other *structure*, installed for the purpose of direct consumption either on the subject property or for connection to the electric power grid to offset the cost of power to be consumed solely on the subject property. In addition, *Wind Energy System*s as defined herein are not to be considered *essential services* as defined in Section 1.12 herein.

Yard: A required open space unoccupied and unobstructed by any *structure* or portion of a *structure* from 30 inches above the general ground level of the graded *lot* upward, provided however, that *fence*s and walls may be permitted in any *yard* subject to height limitation as indicated herein.



Yard, Front: An area bounded by the front *yard* setback line, the *front lot line* and the side *lot* line.

Yard, Rear: An area bounded by the rear setback line and the side setback line.

Yard, Side: An area bounded by the front set back line, the *rear lot line,* and the side set back line.

Part 3. PRIMARY DISTRICT REGULATIONS

Use Regulations Table

Use Description	Zoning Districts										
	R1*	**R2***	**R2-A***	**R3**	**R4***	**RO**	**C1**	**C2**	**C3**	**C4**	**T-LI**
Residential											
Single Family Dwellings	P	P	P	P	P	P	P	P	SE		
Primary Dwelling with Accessory Apartment	P	P	P	P	P	P	P	P	SE		
Twin Dwellings	SE	P	P	P	P	P	P	P	SE		
Townhouse Dwelling	SE[1]	SE[1]	SE[1]	P[1]	P[1]	SE[1]	P[1]	SE[1]	SE[1]		
Two Family Dwellings		SE	SE	P	P	P	P	SE	SE		
Multi Family Dwellings			SE	P	P		P	SE	P[1]		
Boarding Units		SE	SE	SE	SE	SE	SE	SE	SE		
Group Homes	P[1]	P[1]	P[1]	P[1]	P[1]	P[1]	P[1]	P[1]			P[1]
Bed and Breakfasts		SE	SE	SE	SE	P	P	P	P		
Mobile Home Parks				SE			SE				
Treatment Centers											P
Home Occupations (Accessory Use)	*See Section 8.1*										

Key:
P- Permitted Use SE - Special Exception
Blank Cell indicates use is not permitted

* No more than 2 unrelated persons per unit
[1] Subject to additional provisions in text

Table above is provided for convenience, in the event that the table and text of this Ordinance conflict, the text shall take precedence

Use Regulations Table

Use Description	Zoning Districts										
	R1*	**R2***	**R2-A***	**R3**	**R4***	**RO**	**C1**	**C2**	**C3**	**C4**	**T-LI**
Institutional											
Adult Day Care Center	SE	SE	SE	SE	SE	SE	SE	P	P		P
Assisted Living Centers or Nursing Homes		SE	SE	SE	SE	SE			P		P
Cemeteries	SE	SE	SE	SE	SE	P	P	P	P		
Child Care Centers	SE	SE	SE	SE	SE	SE	SE	P	P		
Churches and Places of Worship	SE	SE	SE	SE	SE	P	P	P	P		
Civic & Service Clubs, Fraternal Organizations						SE		P	P		
Colleges, Trade, or Hobby Schools							SE	SE	P		P
Community Centers	SE	SE	SE	SE	SE	P	P	P	P		
Funeral Homes		SE	SE	SE	SE	P		P	P		
Hospices									P		P
Hospitals									P		P
Libraries		SE	SE	SE	SE	P	P	P	P		
Private Primary or Secondary Schools	SE	SE	SE	SE	SE	SE	P	P	P		
Programmed Open Space	SE	SE	SE	SE	SE	P	P	P	P		

Key:
P- Permitted Use SE - Special Exception
Blank Cell indicates use is not permitted

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[1] Subject to additional provisions in text

Table above is provided for convenience, in the event that the table and text of this Ordinance conflict, the text shall take precedence

Use Regulations Table

Use Description	Zoning Districts										
	R1*	**R2***	**R2-A***	**R3**	**R4***	**RO**	**C1**	**C2**	**C3**	**C4**	**T-LI**
Retail & Amusement											
Adult Use											SE
Auction Houses								P	SE		
Bars, Lounges, Taverns								SE	P		
Bowling Alleys, Billiard Parlors, Arcades & similar indoor amusement							SE	P	P		
Building/Lumber Sales and Storage								P			P
Clubs and Lodges, Dance Halls, Nightclubs								SE	P		
Country Clubs, golf, tennis, & swim clubs					SE						
Gambling											SE
Restaurant, Standard				SE	SE		P[1]	P	P	P	
Restaurant, Fast Food				SE	SE		P[1]	P	P	P	
Restaurant, Drive-in or Drive-thru								SE	SE[1]	P	
Retail				SE	SE		P[1]	P	P	P	
Supermarkets, Farmers Markets, and Grocery				SE	SE		P	P	P	P	
Theatres							SE	P	P		

Key:
P- Permitted Use SE - Special Exception
Blank Cell indicates use is not permitted

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[1] Subject to additional provisions in text

Table above is provided for convenience, in the event that the table and text of this Ordinance conflict, the text shall take precedence

Use Regulations Table

Use Description	Zoning Districts										
	R1*	**R2***	**R2-A***	**R3**	**R4***	**RO**	**C1**	**C2**	**C3**	**C4**	**T-LI**
Service											
Animal Groomers				SE			P	P	P		
Automobile Parking Lots and Decks							SE	P	SE		
Automobile Service Stations and Repair Garages								P		P	
Banks/ Financial Institutions (with drive through service)								SE	SE	P	
Banks/ Financial Institutions (without drive through service)				SE	SE		P	P	P	P	
Beauty shop, barber shop, nail salon, tanning, spas				SE	SE		P	P	P		
Body Art Studios								SE	SE		
Cleaners, Laundromats, etc.				SE	SE		P	P	P		
Contractor Offices									P		P
Fitness Centers							SE	P	SE		
Kennels								P[1]			SE
Medical Laboratories								P	SE		P
Medical or Dental Services					SE	P	P	P	P		
Motels and Hotels								P	P	P	
Personal service				SE	SE		P		P		
Professional Offices					SE	P	P	P	P		
Sales, Service, Commercial Washing of Motor Vehicles								P	SE		
Truck Stops and Rest Areas										P	
Veterinary Services								P			

Key:
P- Permitted Use SE - Special Exception
Blank Cell indicates use is not permitted

* No more than 2 unrelated persons per unit
[1] Subject to additional provisions in text

Table above is provided for convenience, in the event that the table and text of this Ordinance conflict, the text shall take precedence

Use Regulations Table

Use Description	Zoning Districts										
	R1*	**R2***	**R2-A***	**R3**	**R4***	**RO**	**C1**	**C2**	**C3**	**C4**	**T-LI**
Industrial/Technology											
Light wholesale and distribution establishments								SE	SE		P
Manufacturing and Incidental Sales											P
Research, Experimental, or Testing Laboratories											P
Technological or Communication Enterprises											P
Warehousing											P
Wind Energy Systems	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE

Key:
P- Permitted Use SE - Special Exception
Blank Cell indicates use is not permitted

* No more than 2 unrelated persons per unit
[1] Subject to additional provisions in text

Table above is provided for convenience, in the event that the table and text of this Ordinance conflict, the text shall take precedence

Section 3.1 "R1" SINGLE FAMILY RESIDENTIAL DISTRICT

A. This *district* is intended to provide single-*household* residential uses of low density and to protect those existing areas where custom and usage have established this pattern

B. **Principal Permitted Uses and Structures**. Only the following *principal use*s and *structures* are permitted in the "R1" *district,* provided that any *dwelling unit* shall be limited to occupancy by a single *family* or up to two (2) un*related* persons unless permitted otherwise by Section 1.22:

(1) *Single family detached dwelling*.

(2) *Primary dwelling with accessory apartment*.

(3) *Group home*s complying with regulations set forth in Section 8.4.

C. **Special Exceptions**. Only the following *principal use*s and *structure*s are permitted as *special exception*s after approval by the *Board of Zoning Appeals*:

(1) *Twin dwellings*.

(2) *Townhouse dwellings* subject to the provisions set forth in Section 8.2

(3) *Churches and places of worship*, which may include up to two (2) accessory *dwelling unit*s on the *lot*; and provided that any new church or similar place of worship shall be located on a minimum *lot* area of 20,000 square feet.

(4) Community centers.

(5) Primary or secondary schools.

(6) Programmed open space.

(7) *Wind energy system*s complying with regulations found in Section 8.7.

D. **Accessory Uses and Structures**. The following *accessory uses and structures* shall be permitted in the "R1" *district*:

(1) Uses that are clearly customarily accessory and directly incidental to the *permitted principal use*s and *structure*s.

(2) Private *garage* and parking areas, swimming pools (see enclosure requirements in Section 6.4) and other customary residential outbuilding and *structure*s.

(3) Temporary *buildings* and *structure*s as provided for and regulated by Section 6.6.

(4) *Sign*s complying with Part 7.

(5) *Home occupations* in accordance with Section 8.1.

E. **Lot, Yard and Height Requirements**. The following requirements shall apply to all uses and *structure*s in the "R1" *district*, except as superseded by more restrictive provisions elsewhere in this Ordinance:

	Single Family & Other	*Twin Dwelling**	*Townhouse**
Minimum *Lot* Area	12,000 sq. ft.	8,000 sq. ft./unit	6,000 sq. ft./unit
Minimum *Front Yard*	30 ft, 10 ft of which can be an unenclosed front porch		
Minimum *Rear Yard*	50 ft, 20 ft of which may include an unenclosed deck or patio		
Minimum Side *Yard*	10 ft	10 ft on unattached side	
Minimum *Lot* Width	*street* line:80 ft front *building* line: 80 ft cul-de-sac:30 ft	*street* line: 40 ft /unit front *building* line: 40 ft/unit cul-de-sac: 20 ft/unit	*street* line: 20 ft/unit front *building* line: 20 ft /unit cul-de-sac: 10 ft/unit
Maximum *Lot Coverage*	50%		
Maximum Height	3 stories /35 feet, except institutional uses *building*s may be 4 stories/ 45 feet if approved by the *Board of Zoning Appeals*		

*Use permitted by *Special Exception* only

Section 3.2 "R2" NEIGHBORHOOD RESIDENTIAL DISTRICT

A. **Purpose.** To maintain, preserve and protect neighborhoods of generally medium low density, and maintain a primarily single *family* detached residential character. This *district* is intended to avoid the conversion of existing single *family* homes into additional numbers of *dwelling unit*s in order to maintain stability and avoid increased parking problems.

B. **Principal Permitted Uses and Structures**. Only the following *principal use*s and *structure*s are permitted in the "R2" *district*, provided that any *dwelling unit* shall be limited to occupancy by a single *family* or up to two (2) un*related* persons unless permitted otherwise by Section 1.22:

(1) *Single family detached dwellings*

(2) *Primary dwelling with accessory apartment*

(3) *Twin dwellings*

(4) *Group home*s complying with regulations set forth in Section 8.4.

C. **Special Exceptions**. Only the following *principal uses* and *structure*s are permitted as *special exception*s after approval by *Board of Zoning Appeals:*

(1) *Townhouse dwellings* subject to the provisions set forth in Section 8.2.

(2) *Two family dwellings.*

(3) *Boarding units.*

(4) *Bed and breakfasts*. See Section 8.3.

(5) *Adult day care centers.*

(6) *Assisted living centers* or *nursing homes.*

(7) Cemeteries.

(8) *Childcare centers*.

(9) *Churches and places of worship*, which may include up to two (2) accessory *dwelling unit*s on the *lot*, provided that any new church or similar place of worship shall be located on a minimum *lot* area of 20,000 square feet.

(10) Community centers.

(11) Funeral homes.

(12) Libraries.

(13) Primary or secondary schools.

(14) Programmed open space.

(15) *Wind energy system*s complying with regulations found in Section 8.7.

D. **Accessory Uses and Structures**. The following *accessory uses and structures* shall be permitted in the "R2" *district*:

(1) Private *garage* and parking areas, swimming pools, and other customary residential outbuildings and *structure*s.

(2) *Home occupations* in accordance with Section 8.1

(3) Temporary *buildings* and *structure*s as provided for and regulated by Section 6.6.

(4) *Sign*s complying with Part 7.

E. **Lot, Yard and Height Requirements**. The following requirements shall apply to all uses and *structure*s in the "R2" *district*, except as superseded by more restrictive provisions elsewhere in ordinance.

	Single Family & Other	*Twin Dwelling*	*Townhouse**	*Two-family**
Minimum *Lot* Area	7,500 sq. ft.	4,000 sq. ft./unit	3,000 sq ft/unit	4,000sq. ft./unit
Min. *Front Yard*	20 ft, 10 ft of which can be an unenclosed front porch			
Min. *Rear Yard*	40 ft, 20 ft of which may include an unenclosed deck or patio			
Min. Side *Yard*	5 ft	5 ft on unattached side		5 ft
Minimum *Lot* Width	*street* line: 50 ft front *building* line: 50 ft cul-de-sac:20 ft	*street* line: 40 ft/unit front *building* line: 40 ft/unit cul-de-sac: 15 ft/unit	*street* line: 18 ft/unit front *building* line: 18 ft/unit cul-de-sac: 12 ft/unit	*street* line: 50 ft front *building* line: 50 ft cul-de-sac: 20 ft
Max. *Lot Coverage*	50%			
Maximum Height	3 stories /35 feet, except institutional uses *building*s may be 6 stories/ 75 feet if approved by the *Board of Zoning Appeals*			

*Use permitted by *Special Exception* only

Section 3.3 "R2-A" TOWN RESIDENTIAL DISTRICT

A. **Purpose.** To provide for neighborhoods at an overall moderate density while keeping with the residential character of the district.

B. **Principal Permitted Uses and Structures**. Only the following *principal use*s and *structure*s are permitted in the "R2-A" *district*, provided that any *dwelling unit* shall be limited to occupancy by a single *family* unless permitted otherwise by Section 1.22:

(1) *Single family detached dwellings*

(2) *Primary dwelling with accessory apartment*

(3) *Twin dwellings*

(4) *Group home*s complying with regulations set forth in Section 8.4.

C. **Special Exceptions**. Only the following *principal uses* and *structure*s are permitted as *special exception*s after approval by *Board of Zoning Appeals:*

(1) *Townhouse dwellings* subject to the provisions set forth in Section 8.2.

(2) *Two family dwellings.*

(3) *Multi-family dwelling*s.

(4) *Boarding units.*

(5) *Bed and breakfasts*. See Section 8.3.

(6) *Adult day care centers.*

(7) *Assisted living centers* or *nursing homes.*

(8) Cemeteries.

(9) *Childcare centers*.

(10) *Churches and places of worship*, which may include up to two (2) accessory *dwelling unit*s on the *lot*, provided that any new church or similar place of worship shall be located on a minimum *lot* area of 20,000 square feet.

(11) Community centers.

(12) Funeral homes.

(13) Libraries.

(14) Primary or secondary schools.

(15) Programmed open space.

(16) *Wind energy system*s complying with regulations found in Section 8.7.

D. **Accessory Uses and Structures**. The following *accessory uses and structures* shall be permitted in the "R2-A" *district*:

(1) Private *garage* and parking areas, swimming pools, and other customary residential outbuildings and *structure*s.

(2) *Home occupations* in accordance with Section 8.1

(3) Temporary *buildings* and *structure*s as provided for and regulated by Section 6.6.

(4) *Sign*s complying with Part 7.

E. **Lot, Yard and Height Requirements**. The following requirements shall apply to all uses and *structure*s in the "R2-A" *district*, except as superseded by more restrictive provisions elsewhere in ordinance.

	Single Family & Other	*Twin Dwelling*	*Townhouse**	*Two-family**	*Multi-Family**
Minimum *Lot* Area	7,000 sq. ft.	3,500 sq. ft./unit	2,500 sq. ft./unit	3,500 sq. ft./unit	2,000 sq. ft. / 1-bedroom units
					2,400 sq. ft./ 2-bedroom units
					2,900 sq. ft./ 3-bedroom units
					3,500 sq. ft./ 4-bedroom units
Minimum *Front Yard*	20 ft, 10 ft of which can be an unenclosed front porch				
Minimum *Rear Yard*	40 ft, 20 ft of which may include an unenclosed deck or patio				
Minimum Side *Yard*	5 ft	5 ft on unattached side		5 ft	

Minimum *Lot* Width	*street* line: 50 ft front *building* line: 50 ft cul-de-sac: 25 ft	*street* line: 40 ft/unit front *building* line: 40 ft/unit cul-de-sac: 20 ft/unit	*street* line: 18 ft/unit, front *building* line, 18 ft unit cul-de-sac: 12/ft unit	*street* line: 50 ft front *building* line: 50 ft cul-de-sac: 25 ft
Maximum *Lot Coverage*	60 %			
Maximum Height	3 stories /35 feet, except institutional uses *building*s may be 6 stories/ 75 feet if approved by the *Board of Zoning Appeals*			

*Use permitted by *Special Exception* only

Section 3.4 "R3" GENERAL RESIDENTIAL DISTRICT

A. **Purposes.** To provide for residential neighborhoods containing a moderate density including an emphasis on multi-unit development.

B. **Principal Permitted Uses and Structures.** Only the following *principal use*s and *structure*s are permitted in the "R3" *district*, provided that each *dwelling unit* shall be limited to occupancy by a single *family* unless permitted otherwise by Section 1.22.

(1) *Single family detached dwellings.*

(2) *Primary dwelling with accessory apartment.*

(3) *Twin dwellings.*

(4) *Townhouse dwellings* subject to the provisions set forth in Section 8.2.

(5) *Two-family dwellings*.

(6) *Multi-family dwelling*s.

(7) *Group home*s complying with regulations set forth in Section 8.4.

C. **Special Exceptions**. Only the following *principal use*s and *structure*s are permitted as *special exception*s after approval by the *Board of Zoning Appeals*:

(1) Boarding units.

(2) *Bed and breakfasts*. See Section 8.3.

(3) *Mobile home park*s meeting the provisions of Section 8.5.

(4) *Adult day care centers.*

(5) *Assisted Living Centers or Nursing Homes*.

(6) Cemeteries.

(7) *Childcare centers.*

(8) *Churches and places of worship*, which may include up to two (2) accessory *dwelling unit*s for full-time religious employees and their families, provided that any new such use shall be located on a minimum *lot* area of 20,000 square feet

(9) Community centers.

(10) Funeral homes.

(11) Libraries.

(12) Primary or secondary schools.

(13) Programmed open space.

(14) Any of the following uses, provided that the *total floor area* of all *structure*s or portions thereof devoted or intended for such uses shall not to exceed 3,000 square feet (in addition to any *basement* areas used solely for storage). Any new such use shall be limited to a detached *building* at the corner of two (2) or more public *street*s. Any such use shall not be open to the public between the hours of 10 p.m. and 7 a.m.

(a) Retail stores such as hardware, grocery, drug, variety, baked goods, antique, craft and gift, but not including sale of alcoholic beverages.

(b) Personal service businesses such as shoe repair, beauty parlors, barbers, and self-service laundries and dry cleaning stores which are pick up stations only.

(c) *Restaurant*s, not including drive-through service.

(d) Banks and other financial institutions, not including drive-through service.

(15) *Wind Energy System*s complying with Section 8.7.

(16) Automobile Parking Lots and Decks.

D. **Accessory Uses and Structures.** The following *accessory uses* and *structure*s shall be permitted in the "R3" *district*:

(1) Private *garage* and parking areas, swimming pools and other customary residential outbuildings and *structure*s.

(2) *Home occupations* in accordance with Section 8.1

(3) Temporary *building*s and *structure*s as provided for and regulated by Section 6.6.

(4) *Sign*s complying with Part 7.

E. **Lot, Yard and Height Requirements.** The following requirements shall apply to all uses and *structures* in the "R3" *district*, except as superseded by more restrictive provisions of this Ordinance.

<table>
<tr><th></th><th>Single Family & Other</th><th>Twin Dwelling</th><th>Townhouse</th><th>Two-family</th><th>Multi-Family</th></tr>
<tr><td rowspan="4">Minimum Lot Area</td><td rowspan="4">6,000 sq. ft.</td><td rowspan="4">3,000 sq. ft./unit</td><td rowspan="4">2,000 sq. ft./unit</td><td rowspan="4">3,000 sq. ft./unit</td><td>1,500 sq. ft. / 1-bedroom units</td></tr>
<tr><td>1,875 sq. ft./ 2-bedroom units</td></tr>
<tr><td>2,400 sq. ft./ 3-bedroom units</td></tr>
<tr><td>3,000 sq. ft./ 4-bedroom units</td></tr>
<tr><td>Minimum Front Yard</td><td colspan="5">20 ft, 10 ft of which can be an unenclosed front porch</td></tr>
<tr><td>Minimum Rear Yard</td><td colspan="5">40 ft, 20 ft of which may include an unenclosed deck or patio</td></tr>
<tr><td>Minimum Side Yard</td><td>5 ft</td><td colspan="2">5 ft on unattached side</td><td colspan="2">5 ft</td></tr>
<tr><td>Minimum Lot Width</td><td>street line: 50 ft
front building line: 50 ft
cul-de-sac: 25 ft</td><td>street line: 40 ft/unit
front building line: 40 ft/unit
cul-de-sac: 20 ft/unit</td><td>street line: 18 ft/unit, front building line, 18 ft unit
cul-de-sac: 12/ft unit</td><td colspan="2">street line: 50 ft
front building line: 50 ft
cul-de-sac: 25 ft</td></tr>
<tr><td>Maximum Lot Coverage</td><td colspan="5">65 %</td></tr>
<tr><td>Maximum Height</td><td colspan="5">3 stories /35 feet, except institutional uses buildings may be 6 stories/ 75 feet if approved by the Board of Zoning Appeals</td></tr>
</table>

Section 3.5 "R4" GATEWAY RESIDENTIAL DISTRICT

A. **Purpose**. To provide for residential neighborhoods located outside of historically residential *district*s and near gateway transportation corridors incorporating a wide variety of dwelling types and densities as may be intermixed with low impact, small-scale *commercial* uses.

B. **Principal Permitted Uses and Structures**. Only the following *principal use*s and *structure*s are permitted in the "R4" *district*, provided that any *dwelling unit* shall be limited to occupancy by a single *family* or up to two (2) un*related* persons unless permitted otherwise by Section 1.22.

(1) *Single family detached dwellings.*

(2) *Primary dwelling with accessory apartment.*

(3) *Twin dwellings.*

(4) *Townhouse dwellings* subject to the provisions set forth in Section 8.2.

(5) *Two family dwellings.*

(6) *Multi-family dwelling*s.

(7) *Group home*s complying with regulations set forth in Section 8.4.

C. **Special Exceptions**. Only the following *principal use*s and *structure*s are permitted as *special exception*s after approval by the *Board of Zoning Appeals*:

(1) *Boarding units.*

(2) *Bed and breakfast* uses meeting the provisions of Section 8.3.

(3) *Adult day care centers.*

(4) *Assisted living centers or nursing homes*.

(5) Cemeteries.

(6) *Childcare centers*.

(7) *Churches and places of worship*, which may include up to two (2) accessory *dwelling units*, provided that any new such use shall be located on a minimum *lot* area of 20,000 square feet.

(8) Community centers.

(9) Funeral homes.

(10) Libraries.

(11) Primary or secondary schools.

(12) Programmed Open Space.

(13) Country clubs, golf and tennis clubs.

(14) Offices for professional, business or governmental purposes, including, but not limited to, medical, law, real estate, insurance, and manufacturer's representatives offices.

(15) Any of the following uses, provided that the *total floor area* of all *structure*s or portions thereof devoted or intended for such uses shall not exceed 3,000 square feet of a *structure*. Any such use shall not be open to the public between the hours of 10:00 PM and 7:00 AM.

(a) Retail stores such as hardware, grocery, drug, variety, baked goods, antique, craft and gift, but not including the sale of alcoholic beverages.

(b) Personal service businesses such as shoe repair, beauty parlors, barbers, and self-service laundries and dry cleaning stores which are pick up stations only.

(c) *Restaurant*s, not including drive-through service.

(d) Banks and other financial institutions, not including drive-through service.

(16) *Wind Energy System*s complying with regulations found in Section 8.7

D. **Accessory Uses and Structures**. The following *accessory uses and structures* shall be permitted in the "R4" *district*:

(1) Private *garage* and parking areas, swimming pools and other customary residential outbuildings and *structure*s.

(2) *Home occupations* in accordance with Section 8.1.

(3) Temporary *building*s and *structure*s as provided for and regulated by Section 6.6.

(4) *Sign*s complying with Part 7.

E. **Yard and Height Requirements.** The following requirements shall apply to all uses and *structures* in the "R4" *district*, except as superseded by more restrictive provisions of the Ordinance.

	Single Family & Other	*Twin Dwelling*	*Townhouse*	*2 & Multifamily*
Minimum *Lot* Area	6,000 sq. ft.	2,000 sq. ft./unit		
Minimum *Front Yard*	20 ft, 10 ft of which can be an unenclosed front porch			
Minimum *Rear Yard*	30 ft, 15 ft of which may include an unenclosed deck or patio			
Minimum Side *Yard*	5 ft	5 ft on unattached side		5 ft
Minimum *Lot* Width	*street* line: 50 ft front *building* line: 50 ft cul-de-sac: 25 ft	*street* line: 40 ft/unit front *building* line: 40 ft/unit cul-de-sac: 20 ft/unit	*street* line: 18 ft/unit front *building* line: 18 ft/unit cul-de-sac: 10 ft/unit	*street* line: 50 ft front *building* line: 50 ft cul-de-sac: 25 ft
Maximum *Lot Coverage*	60 %			
Maximum Height	3 stories/ 35 feet, except institutional uses *buildings* may be 6 stories/ 75 feet if approved by the *Board of Zoning Appeals*			

Section 3.6 "RO" RESIDENTIAL OFFICE DISTRICT

A. **Purpose.** To provide for professional and business offices and related uses, in addition to moderate density housing, along certain major *streets* and in a manner that is compatible with adjacent and surrounding residential uses.

B. **Principal Permitted Uses and Structures**. Only the following *principal use*s and *structure*s are permitted in the "RO" *district*, provided that each *dwelling unit* shall be limited to occupancy by a single *family*, unless permitted otherwise by Section 1.22:

(1) *Single family detached dwellings.*

(2) *Primary dwelling with accessory apartment.*

(3) *Twin dwellings.*

(4) *Two family dwellings*.

(5) *Group home*s complying with regulations set forth in Section 8.4;

(6) Cemeteries

(7) *Churches and places of worship*, which may include up to two (2) accessory *dwelling unit*s on the *lot*, provided that any new church or similar place of worship shall be located on a minimum *lot* area of 20,000 square feet.

(8) Community centers.

(9) Funeral homes.

(10) Libraries.

(11) Programmed open space.

(12) Offices for professional, business or governmental purposes, including, but not limited to, medical, law, real estate, insurance, and manufacturer's representatives offices.

(13) *Bed and breakfasts* meeting the provisions of Section 8.3.

C. **Special Exceptions**; Only the following *principal use*s and *structure*s are permitted as *special exceptions* after approval by the *Board of Zoning Appeals*.

(1) *Townhouse dwellings* subject to the provisions set forth in Section 8.2.

(2) *Boarding Units.*

(3) *Adult day care centers*.

(4) *Assisted living centers or nursing homes.*

(5) *Childcare centers*.

(6) Civic and service clubs, fraternal organizations.

(7) Primary and secondary schools.

(8) *Wind energy system*s complying with regulations found in Section 8.7B.

D. **Accessory Uses and Structures.** The following *accessory uses and structures* shall be permitted in the "RO" *district*:

(1) Private *garage* and parking areas, swimming pools, and other customary residential outbuildings and *structure*s.

(2) *Home occupations* in accordance with Section 8.1.

(3) Temporary *building*s and *structure*s as provided for regulated by Section 6.6.

(4) *Sign*s permitted by Part 7.

	Single Family & Other	*Twin and 2-Family Dwelling*	*Townhouse Dwelling**
Minimum *Lot* Area	6,000 sq. ft.	3,000 sq. ft./unit	3,000 sq. ft./unit
Minimum *Front Yard*	20 ft, 10 ft of which can be an unenclosed front porch		20 ft, 10 ft of which can be an unenclosed front porch
Minimum *Rear Yard*	30 ft, 15 ft of which may include an unenclosed wood deck		30 ft, 15 ft of which may include an unenclosed wood deck
Minimum Side *Yard*	5 ft		5 ft on unattached side
Minimum *Lot* Width	*street* line: 50 ft front *building* line: 50 ft cul-de-sac: 25 ft		*street* line: 18 ft/unit front *building* line: 18 ft/unit cul-de-sac: 10 ft/unit

Maximum *Lot Coverage*	50 %	50%
Maximum Height	3 stories/ 35 feet, except institutional uses *building*s may be 6 stories/ 75 feet if approved by the *Board of Zoning Appeals*	3 stories/ 35 feet

E. **Lot, Yard and Height Requirements**: The following requirements shall apply to all uses and *structure*s in the "RO" *district*, except as superseded by more restrictive provisions elsewhere in this Ordinance.

* Use permitted by *Special Exception* only

Section 3.7 "C1" UNIVERSITY CORRIDOR / MIXED USE DISTRICT

A. **Purpose.** To provide for small-scale retail, service, and residential uses in a mixed-use setting designed at a pedestrian scale to encourage walking and bicycling, which will serve the needs of the neighborhood residents as well the University population. .

B. **Permitted Uses.** Only the following *principal use*s and *structure*s are permitted in the "C1" *district*:

(1) All principal and accessory residential uses permitted in the R3 *district* under the same restrictions as would apply in that *district*.

(2) *Group home*s consistent with Section 8.4.

(3) *Bed and breakfasts* meeting the provisions of Section 8.3.

(4) Cemeteries.

(5) *Churches and places of worship*, which may include up to two (2) accessory *dwelling unit*s on the *lot*, provided that any new church or place of worship shall be located on a minimum *lot* area of 20,000 square feet.

(6) Community centers.

(7) Libraries.

(8) Primary or secondary schools.

(9) Programmed open space.

(10) *Restaurant*s and cafes. Drive-through service is prohibited.

(11) Retail stores that do not sell alcohol or would otherwise require a liquor license.

(12) Supermarkets, farmers markets, and grocery stores.

(13) Animal groomers.

(14) Banks and other financial institutions. Drive-through service is prohibited.

(15) Beauty shops, barber shops, nail salons, tanning spas.

(16) Cleaners and Laundromats.

(17) Medical or dental offices.

(18) Personal service businesses such as shoe repair, beauty parlors, barbers, and self-service laundries and dry cleaning stores which are pick up stations only.

(19) Offices for professional, governmental or business purposes, including but not limited to law, real estate, insurance, and manufacturer's representatives offices.

C. **Special Exceptions**. The following uses are permitted as *special exception*s after approval by the *Board of Zoning Appeals*:

(1) *Adult day care centers.*

(2) *Childcare centers.*

(3) Colleges, trade or hobby schools.

(4) Bowling alleys, billiard parlors, arcades and similar places of indoor amusement.

(5) *Restaurant*s and cafes requiring a liquor license for onsite consumption only.

(6) Theatres.

(7) Automobile parking lots and decks as a principle use.

(8) Fitness centers.

(9) *Wind energy system*s complying with regulations found in Section 8.7B.

D. **Accessory Uses and Structures.** The following *accessory uses and structures* shall be permitted in the "C1" *district*:

(1) All accessory uses and *structures* permitted in the R3 *district* under the same restrictions as would apply in that *district*.

(2) Temporary *building*s and *structure*s in accordance with Section 6.6.

(3) *Sign*s in accordance with Part 7of this Ordinance.

(4) *Accessory uses and structures* that are clearly customarily accessory and directly incidental to the *permitted principal use*s and *structure*s.

E. **Specifically Prohibited Uses**. The following uses are specifically prohibited within the "C1" *district*:

(1) Bars, lounges, and taverns.

(2) Liquor stores.

(3) *Commercial* sales of motor vehicles.

(4) Adult uses

(5) Gambling.

F. **Lot, Yard, and Height Requirements**: The following requirements shall apply to all uses and *structure*s in the "C1" *district*, except as superseded by more restrictive provisions of this Ordinance:

	Commercial Use
Minimum *Lot* Area	6,000 sq. ft.
Minimum *Front Yard*	20 ft, 10 ft of which can be an unenclosed front porch
Minimum *Rear Yard*	30 ft, 15 ft of which may include an unenclosed wood deck
Minimum Side *Yard*	Adjoining a C *district*: None, or if side *yard* provided a minimum of 3 ft Adjoining a R *district*: 5 feet minimum
Minimum *Lot* Width	*street* line: 50 ft front *building* line: 50 ft
Maximum *Lot Coverage*	80 %
Maximum Height	4 stories/50 feet, except institutional use *building*s may be 6 stories/ 75 feet if approved by the *Board of Zoning Appeals*

Section 3.8 "C2" HIGHWAY COMMERCIAL DISTRICT

A. **Purpose.** To provide for a wide range of *commercial* uses serving local and regional markets as well as travelers on local highways.

B. **Permitted Uses.** Only the following *principal use*s and *structure*s are permitted in the "C2" *district*:

(1) All residential uses allowed in the R2 *district*, under the same restrictions as would apply in the R2 *district*.

(2) *Bed and breakfasts* meeting the provisions of Section 8.3.

(3) *Group home*s consistent with Section 8.4.

(4) *Adult day care centers*.

(5) Cemeteries.

(6) *Childcare centers*.

(7) *Churches and places of worship*, which may include up to two (2) accessory *dwelling unit*s on the *lot*, provided that any new church or place of worship shall be located on a minimum *lot* area of 20,000 square feet.

(8) Civic and service clubs, fraternal organizations.

(9) Community centers.

(10) Funeral homes.

(11) Libraries.

(12) Primary or secondary schools.

(13) Programmed open space.

(14) Auction houses.

(15) Bowling alleys, billiard parlors, arcades and similar places of indoor amusement.

(16) Building materials and lumber yard sales offices and storage facilities.

(17) *Restaurant*s. Drive through service permitted only by *special exception*.

(18) Retail stores.

(19) Super markets, farmers markets, and grocery stores.

(20) Theatres.

(21) Animal groomers.

(22) Automobile parking lots and decks.

(23) Automobile service stations and/or vehicle repair garages.

(24) Banks and other financial institutions. Drive-through service permitted only by *special exception*.

(25) Beauty shops, barber shops, nail salons, spas.

(26) Cleaners and Laundromats.

(27) Fitness centers.

(28) *Kennel*s. *Kennel*s must be located at least 200 feet from all property lines.

(29) Medical laboratories.

(30) Medical or dental offices.

(31) Motels and hotels.

(32) Offices for professional, governmental, or business purposes, including, but not limited to, law, real estate, insurance, and manufacturer's representatives offices.

(33) Sales, repair, and/or storage of automobiles, *mobile home*s, *recreational trailers* and vehicles, boats and farm machinery, appliances, implements and supplies.

(34) Veterinary Services.

C. **Special Exceptions**. The following uses are permitted as *special exception*s after approval by the *Board of Zoning Appeals*:

(1) All residential uses permitted by *special exception* in the R2 *district*, under the same restrictions as would apply in the R2 *district*.

(2) Bars, Taverns, and Cocktail Lounges.

(3) Colleges, trade or hobby schools.

(4) Clubs and lodges.

(5) *Drive-in* or *drive-through restaurants* provided that ingress and egress points are satisfactory in relation to the major access *streets* and nearby residential areas, and that suitable turning lanes are provided from the access roads.

(6) Liquor Stores.

(7) *Body art studios*.

(8) *Light wholesale and distribution establishments*.

(9) *Wind energy systems* complying with regulations found in Section 8.7.

D. **Accessory Uses and Structures.** The following *accessory uses and structures* shall be permitted in the "C2" *district*:

(1) All accessory uses and *structures* permitted in the R2 *district* under the same restrictions as would apply in that *district*.

(2) Temporary *building*s and *structure*s in accordance with Section 6.6.

(3) *Sign*s in accordance with Part 7of this Ordinance.

(4) *Accessory uses and structures* that are clearly customarily accessory and directly incidental to the *permitted principal use*s and *structure*s.

E. **Specifically Prohibited Uses**. The following uses are specifically prohibited within the C2 *district*:

(1) Junkyards.

(2) Adult Uses.

(3) Gambling.

F. **Lot, Yard, and Height Requirements**: The following requirements shall apply to all uses and *structures* in the "C2" *district*, except as superseded by more restrictive provisions of this Ordinance:

	Commercial Use
Min. *Lot* Area	6,000 sq. ft.
Min. *Front Yard*	30 ft, 10 ft of which can be an unenclosed front porch
Min. *Rear Yard*	20 ft, 10 of which may include an unenclosed wood deck
Minimum Side *Yard*	Adjoining a C *district*: None, or if side *yard* provided a minimum of 3 ft Adjoining a R *district*: Side *yard* required in adjoining *district*
Minimum *Lot* Width	*street* line: 50 ft front *building* line: 50 ft
Max. *Lot Coverage*	80 %
Maximum Height	4 stories/50 feet, except institutional use *building*s may be 6 stories/ 75 feet if approved by the *Board of Zoning Appeals*

Section 3.9 "C3" TOWN CENTER DISTRICT

A. **Purpose**. To provide for a strong town center that includes a balanced mix of *commercial*, office, institutional and residential uses, while emphasizing a pedestrian orientation, and while avoiding intense auto-related uses that would harm the urban fabric of the City's downtown area.

B. **Principal Permitted Uses and Structure.** Only the following *principal use*s and *structure*s are permitted in the "C3" *district* ":

(1) *Multi- family dwelling unit*s, provided that any *lot* adjacent to Main Street shall include a permitted *commercial* use on at least the front of the ground level floor adjacent to Main Street.

(2) *Bed and breakfasts* meeting the provisions of Section 8.3.

(3) *Adult day care centers.*

(4) *Assisted living centers and nursing homes*.

(5) Cemeteries.

(6) *Childcare centers*.

(7) *Churches and places of worship*, which may include up to two (2) accessory *dwelling unit*s on the *lot*, provided that any new church or place of worship shall be located on a minimum *lot* area of 20,000 square feet.

(8) Civic and service clubs, fraternal organizations.

(9) Colleges, trade or hobby schools.

(10) Community centers.

(11) Funeral homes.

(12) Hospices and hospitals.

(13) Libraries.

(14) Primary and secondary schools.

(15) Programmed Open Space.

(16) Bars, cocktail lounges, and *restaurant*s without drive- through service.

(17) *Clubs and lodges*, dance halls.

(18) Bowling alleys, billiard parlors, and similar places of indoor amusement.

(19) Retail.

(20) Super markets, farmers markets, and grocery stores.

(21) Theatres.

(22) Animal groomers.

(23) Banks and other financial institutions. Drive-through service permitted only by *special exception*.

(24) Beauty shop, barber shop, nail salon, tanning, spas.

(25) Cleaners and Laundromats.

(26) Contractor offices, including but not limited to: carpenter, cabinet, plumbing, or electrical shops.

(27) Medical and dental offices.

(28) Motels and Hotels.

(29) Personal service businesses such as shoe repair, beauty parlors, barbers, and self-service laundries and dry cleaning stores which are pick up stations only. Drive-through service permitted by special exception only.

(30) Professional offices.

C. **Special Exception Uses.** Only the following *principal use*s are permitted as *special exception*s after approval by the *Board of Zoning Appeals*:

(1) *Single Family Detached Dwellings.*

(2) *Primary Dwelling with Accessory Apartment.*

(3) *Twin Dwellings.*

(4) *Townhouse Dwellings* subject to the provisions set forth in Section 8.2.

(5) *Two Family Dwellings.*

(6) *Boarding Units.* Drive-through service as part of a bank or other business use, provided that the use will not cause demolition or *alteration* of a contributing *structure* within the Historic *District*, will not adversely affect pedestrian access to businesses or residences and will not cause unsafe conditions for pedestrians on Main Street.

(7) *Drive-in and drive-through restaurants.*

(8) Automobile parking lots and decks, provided parking is not adjacent to Main Street and will not cause demolition of a contributing *structure* in the Historic *District*.

(9) *Body art studios*.

(10) Fitness centers.

(11) Medical laboratories.

(12) Sales, service or *commercial* washing of motor vehicles, provided the *lot* is not adjacent to Main *Street*.

(13) *Light wholesale and distribution establishments*.

(14) *Wind energy system*s complying with regulations found in Section 8.7B.

(15) Any use or *structure* which the applicant proves to the satisfaction of the *Board of Zoning Appeals* to be of the same general character as the above permitted uses and fully in accordance with the provisions of Section 1.18C(3), but not including uses that are specifically prohibited in the C3 *district*.

D. **Accessory Uses and Structures**. The following *accessory uses and structures* shall be permitted in the "C3" *district*:

(1) Temporary *building*s and *structure*s in accordance with Section 6.6.

(2) *Sign*s in accordance with Part 7of this Ordinance.

(3) *Accessory uses and structures* that are clearly customarily accessory and directly incidental to the *permitted principal use*s and *structure*s.

(4) *Home occupations* in accordance with Section 8.1.

E. **Specifically Prohibited Uses**. The following uses are prohibited within the C3 Town Center *District*, other than lawful *non-conforming use*s permitted by Section 1.22:

(1) Sales, service or *commercial* washing of motor vehicles and outdoor storage on a *lot* adjacent to Main Street.

(2) Any use that will involve or result from the demolition of one (1) or more existing *principal building*(s) that will result in new *off-street parking space*s fronting on Main Street or between Main Street and the *principal building.*

(3) *Adult uses*.

(4) *Gambling establishments.*

(5) *Warehouses*.

F. **Lot, Yard and Height Requirements**. The following minimum requirements shall apply to all uses and *structure*s in the "C3" *district*, except as superseded by more restrictive provisions elsewhere in this Ordinance.

	Commercial Use
Minimum *Lot* Area	1,000 sq. ft. 2,000 sq. ft. per *dwelling unit*
Minimum *Front Yard*	None
Minimum *Rear Yard*	10 ft
Minimum Side *Yard*	Adjoining a C *district*: None, or if side *yard* provided a minimum of 3 ft Adjoining a R *district*: Side *yard* required in adjoining *district*
Minimum *Lot* Width	front *building* line: 10 ft
Maximum Height	4 stories/ 50 feet, except institutional use *building*s may be 6 stories/ 75 feet if approved by the *Board of Zoning Appeals*

Section 3.10 "C4" GATEWAY COMMERCIAL DISTRICT

A. **Purpose.** To provide for a wide variety of *commercial* uses that are targeted toward interstate travelers and attractively planned to welcome visitors.

B. **Permitted Uses**. Only the following *principal use*s and *structure*s are permitted in the "C4" *district*:

(1) *Restaurant*s, including, but not limited to, those offering drive-through service.

(2) Retail stores.

(3) Supermarkets, farmers markets, and grocery stores.

(4) Automobile service stations.

(5) Banks and other Financial Institutions, including, but not limited to, those offering drive-through service.

(6) Motels and hotels.

C. **Special Exceptions**. The following uses are permitted as *special exception*s after approval by the *Board of Zoning Appeals*:

(1) Building materials, and lumber yard sales offices and storage facilities.

(2) Sales, repair, and/or storage of automobiles, *mobile home*s, *recreational trailer* and vehicles, boats and farm machinery, appliances, implements and supplies.

(3) Off-premises advertising *sign*s.

(4) A use or *structure* that the applicant proves to the satisfaction of the *Board of Zoning Appeals* to be of the same general character as above permitted uses, in accordance with the provisions of Section 1.18C(3).

D. **Accessory Uses and Structures**. The following *accessory uses and structures* shall be permitted in the "C4" *district*:

(1) Temporary *building*s and *structure*s in accordance with Section 6.6.

(2) *Sign*s in accordance with Part 7 of this Ordinance.

(3) *Accessory uses and structures* that are clearly customarily accessory and directly incidental to the *permitted principal use*s and *structure*s.

E. **Specifically Prohibited Uses**. The following uses are specifically prohibited within the C4 *district*:

(1) *Adult uses.*

(2) *Gambling establishments.*

F. **Lot, Yard, and Height Requirements**. The following requirements shall apply to all uses and *structures* in the "C4" *district*, except as superseded by more restrictive provisions of this Ordinance:

	Commercial Use
Minimum *Lot* Area	15,000 sq. ft.
Minimum *Front Yard*	30 ft
Minimum *Rear Yard*	20 ft
Minimum Side *Yard*	Adjoining a C *district*: None, or if side *yard* provided a minimum of 20 ft Adjoining a R *district*: 20 ft
Minimum *Lot* Width	*street* line: 50 ft front *building* line: 50 ft
Maximum *Lot Coverage*	80 %
Maximum Height	5 stories/ 55 feet

Section 3.11 "T- LI"' TECHNOLOGY/ LIGHT INDUSTRIAL DISTRICT

A. **Purpose.** To provide for *commercial* and light industrial uses which are compatible with residential, *commercial* and institutional uses in adjacent areas of the City. This *district* is designed to accommodate planned business parks or substantial tracts of land suitable for business and industry with a focus on the technology sector. This *district* shall provide for flexibility, but requires well-planned access and design.

B. **Principal Permitted Uses and Structures**. The following *principal use*s and *structure*s are permitted in the "T-LI" *district*:

(1) *Group home*s consistent with Section 8.4.

(2) *Treatment centers*.

(3) *Adult day care centers.*

(4) *Assisted living centers and nursing homes*.

(5) Colleges, trade or hobby schools.

(6) Hospices and hospitals.

(7) Building material sales yard, including the sale of rock, sand, gravel, and the like, and tradesperson's equipment storage yard or headquarters.

(8) Contractor offices.

(9) Fitness centers.

(10) Medical Laboratories.

(11) Wholesale business, *warehouse*, trucking terminals, and similar non-processing storage and distribution uses, but not including prohibited uses.

(12) Manufacturing, compounding, processing, or packaging of food and food products, and cosmetics, toiletries, and pharmaceuticals.

(13) Manufacturing, compounding or assembling of articles using the following or similar prepared materials: bone or shell, cellophane, fur, glass, leather, plastic, precious or semiprecious metals or stones, rubber, textiles or cloth products, tobacco, wood or wood products.

(14) Manufacturing of ceramic or glass products.

(15) Manufacturing or assembling from prepared materials of the following or similar items: musical instruments, clocks or watches, toys or novelties, electrical appliances, scientific or electronic devices, light sheet metal products, machine tool, office equipment.

(16) Incidental sales of products manufacturing or stored on the *premises*.

(17) Technological or communication based enterprises.

(18) Agriculture, limited to cropland, nurseries and greenhouses.

C. **Special Exceptions**. The following *principal uses* are permitted as *special exceptions* after approval by the *Board of Zoning Appeals*:

(1) *Adult uses*.

(2) *Gambling establishments.*

(3) *Body art studios*.

(4) *Wind energy system*s complying with regulations found in Section 8.7.

D. **Accessory Uses and Structures**. The following *accessory uses and structures* shall be permitted in the "T-LI" *district*:

(1) Temporary *building*s and *structure*s in accordance with Section 6.6.

(2) *Sign*s in accordance with Part 7of this Ordinance.

(3) *Accessory uses and structures* that are clearly customarily accessory and directly incidental to the *permitted principal use*s and *structure*s.

E. **Prohibited Uses**. The following uses are prohibited in the T-LI *district*:

(1) Extraction of minerals and petroleum products.

F. **Lot, Yard and Height Requirements**: The following minimum requirements shall apply to all uses and *structure*s in the "T-LI" *district*, except as superseded by more restrictive provisions of this Ordinance.

	Commercial Use
Minimum *Lot* Area	6,000 sq. ft.
Minimum *Front Yard*	30 ft
Minimum *Rear Yard*	10 ft
Minimum Side *Yard*	Adjoining a C *district*: None, or if side *yard* provided a minimum of 10 ft Adjoining a R *district*: 10 ft
Minimum *Lot* Width	*street* line: 50 ft front *building* line: 50 ft
Maximum *Lot Coverage*	80 %
Maximum Height	4 stories/ 50 feet

Section 3.12 PROHIBITED USES IN ALL DISTRICTS

A. The following uses and structures shall be prohibited within the City of Frostburg:

(1) Bulk storage, manufacturing, or processing of highly hazardous chemicals, petroleum products, or any other flammable, explosive, or noxious material.

(2) Animal rendering or concentrated animal feeding operations (CAFOs).

(3) Junkyards.

Part 4. OVERLAY DISTRICTS

Section 4.1 "HP" HISTORIC PRESERVATION OVERLAY DISTRICT

A. HISTORIC DISTRICT DEFINITIONS

Alteration: Any exterior change that would affect the historic, archeological, or architectural significance of a designated site or *structure*, any portion of which is visible or intended to be visible from a public way, including, but not limited to, construction, reconstruction, moving or demolition.

Commission: For the purposes of Section 4.1, shall mean the Historic District Commission of the City of Frostburg, Allegany County, Maryland.

Demolition: Any willful neglect in maintenance and repair of a *structure* that does not result from financial inability to maintain and repair the *structure* and that threatens to result in any substantial deterioration of the exterior features of the *structure*.

Demolition by Neglect: Improper maintenance or lack of maintenance of any property in a historic district, or any historic landmark or landmark site, which results in substantial deterioration of such a property and threatens its continued stability and preservation.

Historic District: A designated area with a significant concentration, linkage or continuity of sites, *structure*s or objects united historically or aesthetically by plan or physical development.

Routine Maintenance: Work that does not alter the exterior fabric or features of a site or *structure* and has no material effect on the historic, archeological or architectural significance of the historical site or *structure*.

Site: The location of an event of historic significance or a *structure*, whether ruined or standing, which possesses historic or architectural significance.

Structure: A combination of materials to form a construction that is stable, including, but not limited to, *building*s, communications towers, water tanks, paving, sheds, shelters, *fence*s and display *sign*s visible or intended to be visible from a street. The term shall be construed as if followed by the words "or part thereof".

B. **Purpose.** It is the intent hereof to provide as authorized by Title 8 of the Maryland Land Use Article of the Annotated Code of Maryland, for the preservation of *structure*s in the City of Frostburg which have historic value and/or significance together with their appurtenances and environmental settings in order to:

(1) Safeguard the heritage of the City by preserving the *site*s, *structure*s or *district*(s) therein which reflect elements of its cultural, social, economic, political, or architectural history

(2) Stabilize and improve property values of such *site*s, *structure*s and *district*(s);

(3) Foster civic beauty;

(4) Strengthen the local economy; and

(5) Promote the preservation and appreciation of the *site*s, *structure*s and *district*(s) for the education and welfare of the residents of the City.

C. **Power to Establish Districts.** For the purposes of this section, the *Mayor and Council* may designate boundaries for *site*s, *structure*s or *district*s which are deemed to be of historic, archeological or architectural significance, following the procedures which are set forth in Section 1.9 of this Ordinance for the *reclassification* of zoning. Such *district*s may include *structure*s, *lot*s, and tracts of land, as well as portions thereof.

D. **Provisions are in Addition to Other District Provisions**. The provisions of this Part relative to the HP *district* are in addition to the *district* regulations set forth in the other portions of this Ordinance. In all cases of conflicting requirements, the provision which represents the greater restriction upon the property or higher standard shall govern.

E. **Membership of Historic District Commission**. The *Historic District Commission* shall have either five (5) or seven (7) members, appointed by the *Mayor and Council*.

(1) Qualifications. Each member appointed after the adoption of this Ordinance shall possess a demonstrated special interest, specific knowledge or professional or academic training in such fields as hi*story*, architecture, architectural hi*story*, planning, archeology, anthropology, curation, conservation, landscape architecture, historic preservation, urban design or *related* disciplines.

(a) The requirement for *Commission* membership under the category of demonstrated special interest may be satisfied either by formal training in one (1) of the above listed fields, or active membership in a preservation-*related* organization, or past or present membership on a *Historic District Commission* or *Planning Commission* or City Council or *Board of Zoning Appeals*, or active participation in activities or proceedings of a *Historic District Commission*, or active membership in downtown or neighborhood-based community activities and programs.

(b) The requirement for membership under the categories of specific knowledge or professional or academic training may be satisfied by post-secondary education, employment and/or practical experience in one (1) or more of the above-listed fields.

(2) Residency. A majority of the members of the *Commission* shall be residents of the City of Frostburg. The City may grant preference in membership to residents of the City.

(3) Compensation. The members shall serve without compensation.

(4) Terms. The *Commission*-members shall be appointed for staggered terms of three (3) years each, with existing terms of office being continued. Members of the *Historic District Commission* shall be eligible for reappointment. Any vacancy on the *Historic District Commission* shall be filled by the *Mayor and Council* for the unexpired term of the particular position. The *Mayor and Council* may consult private societies, agencies, or organizations to request the names of possible members to serve on the *Historic District Commission*.

(5) Finances. The *Historic District Commission* shall have the right to accept and use grants and gifts from whatever source for the exercise of its functions. The *Mayor and Council* will have final approval of the *Historic District Commission*'s budget.

F. **Powers and Duties.** The *Historic District Commission* shall have the following powers and duties:

(1) To direct studies, reports, and surveys to identify historical, archeological, or architecturally significant *site*s, *structure*s, and *district*s that exemplify the cultural, social, economic, political, or architectural hi*story* of the *City of Frostburg*;

(2) Consistent with the *City's* charter, ordinances, resolutions, local public law, policies and procedures regarding the acceptance and use of gifts by public officials, to accept and use gifts for the exercise of its functions;

(3) To prescribe appropriate rules and regulations for transaction of its business;

(4) To recommend for adoption by the *Mayor and Council* rehabilitation and new construction design guidelines and criteria for construction, *alteration*, reconstruction, moving, and *demolition* of designated landmarks, *site*s, *structure*s, and *district*s which are consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties (36 CFR Part 68). Guidelines may include design characteristics intended to meet the needs of particular types of *site*s, *structure*s, and *district*s, and may identify categories of changes that, because they are minimal in nature do not affect historic, archeological, or architectural significance, do not require review by the *Commission*. These guidelines shall be used in the *Commission*'s review of applications.

(5) Consistent with the *City's* charter, ordinances, resolutions, local public law, policies and procedures governing the acquisition of easements, to accept or otherwise acquire historic preservation easements on designated landmarks, *structure*s, or *site*s and, when deemed appropriate by the *Commission*, *site*s or *structure*s located in, or adjacent to, a designated *district*; and to undertake any other action or activity necessary or appropriate to the implementation of its powers and duties or the implementation of the purpose of this article.

G. **Report by Maryland Historical Trust**. The Maryland Historical Trust may be designated by the *Historic District Commission* to make an analysis of and recommendation concerning the preservation of *structure*s of historic and architectural value/significance within the area served by the *Historic District Commission*. Such report may include proposed boundaries of *district*s as well as identify and designate particular *structure*s recommended to be preserved and protected.

H. **Architectural Easements**. The *Historic District Commission* may acquire easements in connection with individual *site*s or *structure*s located in or adjacent to any *historic district*. Such easement may grant to the *Historic District Commission*, the residents of the *historic district*, and the general public, the perpetual right to ensure that any *site* or *structure* and surrounding property upon which it is applied is protected, in perpetuity, from changes which would affect its historic, archeological or architectural significance.

I. **Application for Permission to Alter a Site or Structure.** Before the construction, *alteration*, reconstruction, or *demolition* of any *site* or *structure* or portion thereof as defined in Section 4.1A, including additions to or moving of an existing *structure*, is begun within the Historic Preservation Overlay *District*, if any changes are involved which would affect the exterior appearance of said *site* or *structure* that are visible or intended to be visible from a public *street*, the person proposing to make the construction or change shall file with the *Historic District Commission* an application for permission to build, alter, reconstruct, move, demolish, or construct the addition.

(1) Every such application shall be submitted in accordance with the Rules of Procedure of the *Historic District Commission*. This application shall be accepted or rejected by the *Historic District Commission* as provided herein.

J. **Factors for Consideration in Reviewing Plans for Construction or Alteration:**

(1) In reviewing the plan for any such construction or change, the *Historic District Commission* shall give consideration to:

(a) The historic or architectural significance of the *building* and its relationship to the historic and architectural significance of the surrounding area

(b) The relationship of the exterior architectural features of a *building* to the remainder of the *structure* and to the surrounding area;

(c) The general compatibility of exterior design, scale, proportion, arrangement, texture, and materials proposed to be used; and

(d) The appearance or view of proposed changes from the *street*.

(e) Any other factors including aesthetic factors which the *Historic District Commission* deems to be pertinent.

(2) The *Historic District Commission* shall also consider the following design guidelines and criteria, as applicable:

(a) The Secretary of the Interior's Standards for the Treatment of Historic Properties (36 CFR Part 68), as amended, which are hereby incorporated by reference, and accompanying explanatory guidelines and reports, as officially issued by the National Park Service;

(b) The proportional relationship between the width and the height of the front of the *building*;

(c) The proportional relationship between the width and the height of windows and location of windows;

(d) The maintenance of a rhythm and ratio of solid wall areas and windows and doors;

(e) The maintenance of any rhythm of *building* masses to spaces between them, if such a rhythm exists along a *street*;

(f) The maintenance of a rhythm of entrances and *building* projections and roof lines;

(g) The use of exterior materials that are closely similar in appearance to original materials of significant *building*s in the *District*;

(h) The discouragement of the use of colors that are clearly and seriously incompatible;

(i) The maintenance and continuance of architectural details, such as cornices, arches, chimneys, porch railings, and other porch details;

(j) The use of compatible roof shapes and lines;

(k) The continuance of *building setback*s from the *street* that are similar to historic *building*s along that block;

(l) The continuance of any predominately vertical or horizontal orientation of windows, doors and *building* shape;

(m) The use of units of construction and architectural details that provide a scale *related* to the size of people; and

(n) The avoidance of *building* walls that have few or no windows or doors along sidewalks.

(3) The *Commission* may establish additional written guidelines and criteria to provide guidance in its decisions.

(4) In specific cases, such as where the proposed work involves substantially identical replacement "in kind," or as delegated by the Commission, the staff of the Department, in consultation with the Community Development Director, may determine that an application meets all requirements of these regulations, in which case a historic district certificate of approval may be issued at the administrative level and Commission review and approval shall not be required.

K. **Limitations on Regulations**:

(1) The *Commission* shall not regulate features that are not visible or intended to be visible from a public *street* or sidewalk, and shall not regulate interior arrangements, but may offer preservation advice in such matters.

(2) Features that are only visible from an *alley* shall not be regulated by this Section 4.1.

(3) The Commission may not stipulate colors, but colors shall be chosen from a manufacturer's collection of historic colors, or be a palette approved by the Commission. Use of bright, metallic, or other non-historic colors is generally not acceptable. The *Commission* shall not disapprove an application except in consideration of some or all of the factors specified in this Section 4.1.

L. **Strictness and Leniency in Judgment of Plans**. Limiting Architectural Style to one (1) Period: The *Historic District Commission* shall be strict in its judgment of plans for *site*s or *structure*s determined by research to be of historic or architectural significance. The *Historic District Commission* shall be lenient in its judgment of plans for *site*s or *structure*s of little historic or architectural significance, or for plans involving new construction, unless such plans would seriously impair the historic or architectural significance of surrounding *site*s or *structure*s. The *Historic District Commission* is not required to limit construction, reconstruction, or *alteration* to the architectural style of any one (1) period.

M. **Application for Changes to Structures of Unusual Importance**.

(1) If an application under Section 4.1I affects a *site* or the exterior of a *building* that the *Historic District Commission* considers to be of unusual importance to the County or the City or unusual importance to the entire State or nation, the *Historic District Commission* shall:

(a) attempt with the owner of the *building* to formulate an economically feasible plan for the preservation of the *site* or *building*

(b) reject the application unless the *Commission* is satisfied that the proposed construction, *alteration* or reconstruction will not materially impair the historic or architectural significance of the *site* or *building*.

(i) In such case, if the application is rejected, the *Commission* shall file a copy of its rejection with the Community Development Director.

(2) For a *site* or *building* that the *Commission* determines to be of unusual importance, if the *Historic District Commission* concludes that no economically feasible plan can be formulated, the *Commission* shall have 90 days from the time it so concludes to negotiate further with the owner, and other parties, in an effort to find a means of preserving the *site* or *building*.

N. **Approval under Certain Circumstances.** In the case of a *site* or *building* considered to be valuable for its historic or architectural significance, the *Historic District Commission* may approve the proposed construction, reconstruction, alterations, moving, or demolition despite the provisions of Section 4.1M if:

(1) The *site* or *structure* is a deterrent to a major improvement program which will be of substantial benefit to the City;

(2) Retention of the *site* or *structure* would cause undue financial hardship to the owner, and the level of rehabilitation required is so extensive and costly that it could be construed as a "taking." Financial hardship is not related to the income or wealth of the applicant, nor is it applicable when a property owner has willfully neglected his or her property; or

(3) The retention of the *site* or *structure* would not be to the best interest of a majority of persons in the City as determined through an advertised public hearing. .

O. **Commission Meetings.** The *Commission* shall adopt such rules and regulations as may be necessary for the proper transaction of its business. Any interested person or a person's representative is entitled to appear and be heard at any public hearing conducted by the *Commission*.

P. **Certificate of Approval, Modification or Rejection of Application and Plans**. The *Historic District Commission* shall file with the Community Development Director a certificate of its approval, modification or rejection of applications and plans submitted to it for review. Work shall not be commenced on any such change project until such a certificate of approval has been filed, and no *building* permit for such change or construction shall be issued unless and until such a certificate of approval has been received.

(1) The failure of the *Historic District Commission* to act upon a completed application within 45 days from the date the completed application was filed shall be deemed to constitute automatic approval of the proposed change unless an extension of this 45-day period is agreed upon mutually by the applicant and the *Historic District Commission*.

(2) The *Commission* may request that the Community Development Director institute any of the remedies and penalties provided by law for any violation of this Section 4.1.

Q. **Limit on Approval Period.**

(1) Certificate of Approval shall only be valid for a period of 24 months.

(a) <u>Extension.</u> A Certificate of Approval may be extended for no more than one (1) additional six (6) month period for a good cause as determined by the Development Staff.

(2) If a permit is required, the permit shall be obtained prior to the expiration of the Certificate of Approval.

R. **Routine Maintenance Not Affected**. Completion of Work Under Prior Permit: Nothing in this Section 4.1 shall be taken or construed to prevent "*routine maintenance*" (as defined below), customary farming operations or landscaping which will have no material effect on the historic or architectural significance of a designated *site*, *structure* or *district*. Nothing in this Section 4.1 affects the right to complete any work covered by a permit issued prior to the date upon which such *historic district*(s) or designation(s) was established.

S. **Appeals.** An applicant may appeal a decision from the *Historic District Commission* to the *Board of Zoning Appeals* on the sole grounds of alleged "hardship." Any other appeal of a decision from the *Historic District Commission* or any decision regarding "hardship" by the *Board of Zoning Appeals* may be appealed to the courts in the same manner as any other appeal of a decision by the *Board of Zoning Appeals*.

T. **Violations**.

(1) Any willful violation of the provisions of this article, by willfully performing or allowing any work to be performed without first obtaining a Certificate of Appropriateness, or for failing to comply with a Final Notice issued pursuant to this article, or disregarding a decision of the *Commission* will be in violation of this Ordinance. Violations are subject to the penalties defined in Section 1.21.

Section 4.2 "ID" INFILL DEVELOPMENT OVERLAY DISTRICT

A. **Purpose.** It is the general intent of the Infill Development Overlay District to:

(1) Accommodate growth in the City of Frostburg by encouraging and facilitating new development on vacant, bypassed, blighted, and/or underutilized land where such development is found to be compatible with the existing neighborhood.

(2) Encourage efficient use of land and public services in the context of existing communities.

(3) Stimulate economic investment and development in older established neighborhoods.

(4) Provide developers and property owners flexibility so that they can achieve high quality design and develop infill projects that strengthen existing neighborhoods.

(5) Create a high quality neighborhood compatible with the community environment.

(6) Implement the goals, objectives, and policies of the *Comprehensive Plan*.

(7) Encourage compact development that is pedestrian scaled.

The district standards encourage appropriate infill development or redevelopment of underutilized properties and consolidation of developable land where it will achieve a more efficient land use and improved site design that is compatible with the existing neighborhood. Design standards promote compatible infill and redevelopment by, among other things, allowing development on sites that may not meet minimum land area and dimension requirements of the underlying zoning district.

B. **Applicability.** The provisions of this district apply to all parcels designated ID on the official zoning map. All land uses and development, including buildings, drives, parking areas, landscaping, streets, alleys, greenways, pedestrian/bicycle ways, shall be located and developed in accordance with the applicable provisions of the zoning ordinance and land development regulations, except as modified by this Section. For a proposed development to be considered under the ID district development standards, the project must accomplish the purposes identified in Section 4.2A; otherwise, the applicant may seek approval to develop land through the normal construction authorization process or through the *variance* process, if applicable.

C. **Public Notice.**

(1) Public notice of the proposed infill development shall be made in accordance with Section 1.10A through Section 1.10A(6) of this *Ordinance.*

(2) The *Planning Commission* must hold a public hearing prior to approving a plan under the *ID Overlay Zone,* in accordance with Section 1.10A(8).

D. **General Requirements.** To the extent not inconsistent with neighborhood conditions development plans shall incorporate the following elements to enhance compatibility with the surrounding community:

(1) Sidewalks that connect to the adjacent sidewalk system;

(2) Public streets that connect to the adjacent street pattern;

(3) Preservation of architecturally significant *structures* whenever feasible;

(4) Inclusion of, or relationship to, public spaces, parks, community centers, etc.;

(5) Street furniture, lighting and landscaping that is primarily oriented to pedestrian use; and

(6) Building types, setbacks, building envelopes, use, and parking compatible with the surrounding community.

(7) All new *buildings* (except *accessory structures*) shall have the primary entrance oriented to the street or public walkway, with direct, barrier-free and convenient pedestrian connections.

E. **Permitted Uses.** Permitted uses shall be limited to those allowed in the underlying zoning district.

F. **Development Standards.** Density, design, materials, use, and scale should reflect local style, climate, heritage and materials unique to the City of Frostburg.

(1) Flexible development standards to reduce lot areas, widths, and yards and to increase building heights may be permitted for infill developments at the discretion of the *Planning Commission,* subject to proof of good cause and benefit to the development and the community and to address difficult sites which incorporate infill and redevelopment or rehabilitation. Building height and coverage may vary so long as the project average is consistent with the neighborhood scale and architectural rhythm and does not constitute a disruptive condition in the identity of the area. (see Section 4.2F(7) compatibility standards)

(2) In the case of applications for infill or redevelopment plan approval on properties already developed, for example and application for a construction authorization for an addition to an existing building, the applicant shall be required to comply with the provisions of this Section to the extent possible as determined by the *Planning Commission*. For the purposed of this Section the term "to the extent possible" shall not preclude the *Planning Commission* from requiring existing pavement be removed for establishment of bufferyards, that entrances/exists and site traffic circulation be modified to improve channelization of traffic and reduction and/or consolidation of entrances/exits, or removal and/or replacement of existing *signs* and associated lighting.

(3) Density: Density may exceed the maximum density of the underlying zoning district for the purpose of creating a neighborhood having a variety of housing types consistent with Section 4.2A above. Occupancy shall be limited to that which is permitted in the underlying zoning.

(a) Total number of dwelling units, as well as location, is to be established at the time of preliminary plan approval.

(b) Lot Size. Lot areas established in the preliminary plan shall be dependent on proposed densities, floor area, setbacks, building heights, and community compatibility.

(4) Building Height.

(a) *Buildings* restricted to the height limit established for the district, or the average of adjacent *buildings* along the block face.

(b) If the average of adjacent *buildings* is greater than the maximum height allowed in the district, the proposed *building* or *structure* must meet the follow criteria for community compatibility:

(i) Neighborhood scale.

(ii) Privacy.

(iii) Light and shadow.

(iv) Views.

(v) Architectural compatibility.

(5) Building setback.

(a) The Planning Commission may allow for a reduction of the *front yard* setback to the average *front yard* setback for the existing structures on the subject block. Infill and redevelopment structures shall be located within two (2) feet of either side of the average *front yard* setback, except that no structure shall be located closer than five (5) feet to the street or public right-of-way.

(b) The Planning Commission may relax *yard* requirements to facilitate interesting and innovative design solutions, provided that the encroachment into the setback does not adversely affect storm drainage, privacy, sunlight or views of the adjacent property, nor restrain the potential of the adjacent property for future development.

(6) Bulk and Scale. *Building* bulk and scale shall be similar to and consistent with the surrounding neighborhood as evaluated by the bulk of *buildings* adjacent, abutting, and surrounding the proposed development. Larger *buildings* should be designed to adhere to the existing architectural pattern of the surrounding neighborhood.

(7) Compatibility Standards. Provides exemplary site design, architectural design and high quality materials that are compatible with, and does not negatively alter the character of, the existing neighborhood.

(a) All permitted uses conform to the purposed of the *Zoning Ordinance* and are compatible with existing uses in the general vicinity of the proposed development. The following requirements shall apply:

(i) Building Size, Height, Bulk, Mass, Scale. *Buildings* should be similar in height and size or be designed in such way that they appear similar in height and size, creating an overall mass that is consistent with the prevalent mass of other *structures* in the area, e.g., by dividing walls into units of similar proportions to adjacent *structures*.

(ii) Building Orientation. Primary facades and entries face the adjacent street with a connecting walkway that does not require pedestrians to walk through parking lots or across driveways and that maintain the integrity of the existing streetscape.

(iii) Privacy. Optimize privacy of residents and minimize infringement on the privacy of adjoining land uses by considering appropriate bufferyards, the placement of windows and door entrances. Create opportunities for interactions among neighbors in common pedestrian circulation areas of the project.

(iv) *Building* materials shall be similar to materials of the surrounding neighborhood or use other characteristics such as scale, form, architectural detailing, etc., to establish compatibility.

(b) All planned uses, *building* types, and landscaping swill be included on the preliminary plan and will demonstrate the relationships of the proposed development with existing off-site development in the context of the adjacent community. Compliance with these requirements shall in and of itself been deemed to create a presumption of compatibility.

(8) Open Space and Landscaping. All open space, recreation amenities and landscaped areas shall be shown on the plan.

(9) Public Facilities and Utilities. Existing and planned public facilities should be shown on development plans.

(a) All public streets, walkways, and alleyways shall be shown on development plans. All through street and walkways must be public. The local street and walkway system shall be safe, efficient, convenient, attractive, and shall accommodate use by all segments of the population.

(b) The street and walkway system provides multiple, direct and continuous intra- and inter-neighborhood connections between destinations.

(c) The street network shall include sidewalks on both sides of the street.

(d) Closed street systems are prohibited, but short cul-de-sacs less than 220 feet long that connect to the main grid system are allowed when consistent with the surrounding community.

(e) Street widths should be consistent with the surrounding community and sized to promote walkability and multi-modal use (i.e., pedestrians, bikes, cars, trucks, buses, etc.).

(f) Roads, lighting, sidewalk, street furniture, utilities, and other public facilities should enhance pedestrian circulation.

(10) Parking. The standards for parking as set forth in Section 6.12 apply, however, the Planning Commission may be flexible in the application of the standards, in terms of arrangement and location:

(a) Parking for private automobiles is provided based on safety, convenience, pedestrian and vehicular circulation and proximity of public transportation.

(b) The parking plan may provide a combination of off-street and on-street spaces.

(c) Shared parking is encouraged. Shared drives serving no more than two (2) dwellings may be permitted.

(d) As is practicable, at-grade off-street parking areas should be provided on the proposed development site. When possible, off-street parking should be located at the rear of the dwelling with alley access. When off-street parking cannot be located to the rear of the dwelling, it should be provided in a manner that is consistent with existing off-street parking patterns along the block face or immediate surrounding area.

(e) All parking spaces shall be shown on the site plan.

(f) Bicycle spaces shall be provided in accordance with Section 6.12.

(11) Limitations. Notwithstanding the aforementioned provisions of this Section, the *Planning Commission* shall only accept modifications to the requirements of the underlying *district* as follows:

(a) Density (units per area) may not be increased by more than 66%;

(b) *Lot* size, length, and/or width may not be reduced by more than 50%;

(c) *Building* height may not be increased by more than 33%;

(d) *Side and rear yard* setbacks may not be reduced more than 66%.

(12) At least 50% of the required parking must be off-street; the Planning Commission may require a higher percentage based on existing on-street parking conditions.

(13) Findings Required. The *Planning Commission* shall approve the plan upon finding that:

(a) The plan accomplishes the purposes, objectives, and minimum standards and requirements of the overlay district;

(b) The plan is in accordance with the *Comprehensive Plan*;

(c) The plan in internally and externally compatible and harmonious with existing and planned land uses in the area;

(d) Existing or planned public facilities are adequate to service the proposed development;

(e) The development schedule is adequate in relation to the provision of public facilities and private amenities to service the proposed development; and

(f) The plan is consistent with the purposes and provision of the State of Maryland Smart Growth legislation.

G. **Information Required**

(1) Burden of Proof. The information provided must be sufficient for the *Planning Commission* to make the findings required in Section 4.2F(13). The applicant has the full burden of proof to demonstrate the proposed infill or redevelopment proposal meets or exceeds the development standards in Section 4.2 herein.

(2) Application information should include adequate information to address this burden of proof requirement and shall, at a minimum, include the following:

(a) A description of the proposed development site, i.e., a plot plan or survey plot.

(b) A description of existing conditions in the vicinity of the proposed development site. These descriptions shall include documenting photographs and analysis of the prominent architectural features, and as applicable, address the following:

(i) Site location and topography;

(ii) Street connections;

(iii) Pedestrian pathways;

(iv) Lot coverage;

(v) Impervious surfaces;

(vi) *Building* orientation;

(vii) Roofs;

(viii) Building size and proportion of architectural features;

(ix) Entryways;

(x) Windows;

(xi) Garage doors;

(xii) Finishes and materials;

(xiii) Ornamentation;

(xiv) Roof detail; and

(xv) Color scheme of *building(s*) and other exterior surfaces

(xvi) Loading facilities, as warranted

(xvii) Trash facilities, as warranted.

(c) A description of the proposed infill or redevelopment including:

(i) Elevations or architectural renderings of all proposed *buildings* in the context of the neighborhood;

(ii) Plot plans showing the existing and proposed footprint or *structures* on the property;

(iii) A description of how the proposed infill or redevelopment is compatible with the features described in Section 4.2G(2)(b) above. A statement of how the proposed infill or redevelopment meets the development standards and findings requirements as set forth in Section 4.2F.

Section 4.3 "CMP" CAMPING OVERLAY DISTRICT

A. **Purpose.** The intent of the CMP overlay district is to implement the recommendation of the *Planning Commission* to create an appropriate tourism environment, including permission for tent camping in response to the Allegheny Highlands Trail and Frostburg Trail projects as is consistent with the *Comprehensive Plan*. The CMP is intended to be established as an overlay district that may be located in any area of the City that contains land suitable for tent camping as a *commercial* enterprise, including appropriate protections for adjoining uses.

(1) No property shall have a CMP overlay district except upon approved application under the terms of this Ordinance. An application for CMP overlay approval shall only be accepted from the property owner or the owner's agent. The City of Frostburg shall not take unilateral action to amend the official Zoning Map by affixing any CMP designation lacking an affirmative *Planning Commission* recommendation based on the process found in Section 4.3E.

(2) This Section is not intended to regulate or eliminate back*yard* camping by *family* and friends; nor is it intended to preclude the use of the City of Frostburg facilities for camping by individuals or groups that have followed proper procedure and received permission to use City property for this use.

B. **Goals and Objectives**.

(1) To create outdoor tent camping areas that will accommodate hiker and biker travelers using the Great Allegheny Passage or other local trails, as well as other transient tent campers.

(2) To accommodate tent camping in a manner that is beneficial to the community and will not create a public nuisance.

C. **Principal Permitted Uses.** The following uses shall be permitted by right in the CMP zones, subject to the design provisions found in Section 4.3D of this ordinance.

(1) Tent camping sites.

(2) Restroom facilities.

(3) Campfires.

(4) Uses and *structure*s that are directly related but incidental or accessory to the *permitted principal use*s and *structure*s allowed herein.

D. **Design Provisions**.

(1) The minimum area for a CMP overlay zone shall be one-half acre.

(2) The maximum number of tent camping sites and occupancy to be allowed at each camping site is to be determined by the *Planning Commission* on a case by case basis based on a review of each property owner's CMP overlay zone request.

(3) The number and location of restroom facilities shall be determined by the *Planning Commission* on a case by case basis based on a review of each property owner's CMP overlay zone application.

(4) The number and location of campfire sites shall be closely regulated by the *Planning Commission* in consultation with the Frostburg Volunteer Fire Company based on a review of each property owner's CMP overlay zone application.

(5) The *Planning Commission* shall review and shall have final approval authority with respect to all other aspects of a CMP development that may affect the public, including access, parking, natural buffers, landscaping, etc., on a case by case basis based on a review of each property owner's CMP overlay zone application.

E. **Site Plan and CMP Approval.**

(1) An approved site plan for the CMP development shall be required prior to official City action and shall follow the procedural and substantive requirements for plan submittal, review, and approval as set forth in Section V of the City of Frostburg's Subdivision and Land Development Ordinance.

(2) Official City action to approve a CMP overlay zone as an amendment to the official zoning map shall only be made in compliance with the requirements of this section and following prior approval of the *Planning Commission* based on a determination that the application for CMP:

(a) Satisfies the stated purpose, goals, and objectives of Section 4.3 of this Ordinance;

(b) Is consistent with the *Comprehensive Plan*;

(c) Is consistent with and will not be detrimental to the character of the neighborhood in which it is proposed; and

(d) Will not have adverse impacts on adequacy of public facilities and services in the community.

Part 5. FLOATING DISTRICTS

Section 5.1 "PND" PLANNED NEIGHBORHOOD DEVELOPMENT FLOATING ZONE

A. **Purpose.** The intent of the PND floating zone is to implement sound neighborhood design standards incorporating environmental site design to the maximum extent practical in the context of a planned community to create an attractive and integrated residential living experience.

(1) The PND is established as a floating zone that may be approved by the City of Frostburg with a favorable recommendation from the Frostburg *Planning Commission* for proposed areas containing at least 10 acres of contiguous land under the control and direction of a master developer. Suitable areas shall have readily integrated *utility* and transportation infrastructure and shall be situated in zoning *district*s that promote mixed *commercial* and residential uses or permit a broad range of residential uses so as to support the objectives of the PND floating zone and the *Comprehensive Plan*.

B. **Goals and Objectives**.

(1) To create visually coherent neighborhoods.

(2) To accommodate a mix of housing densities and types with allowance for supporting *commercial* and institutional uses in a manner that encourages interaction among residents and a cohesive neighborhood.

(3) To set aside strategically located *open space* areas that are designed to encourage social interaction, recreation, and sensitive area protection.

(4) To create well-conceived and environmentally-sensitive communities that will serve as an attractive alternative to traditional tract-home sprawl development.

(5) To provide housing for a broad range of *household* types that will be a long term asset for the neighborhood and the City.

(6) To permit flexibility in the review of PND master plans by the *Planning Commission* so that specific requirements of this Section may be altered if the master developer can provide acceptable alternative means of meeting the intent of the PND floating zone within the context of a master plan otherwise meeting the goals and objectives of these regulations. This flexibility will not include deviation from the minimum 10-acre standard establishing the threshold for application.

C. **Process for PND Review.**

(1) The proposed PND floating zone shall be designed in a master plan format and submitted for review by application, a start-up meeting, and a three-stage review process.

(2) A letter application requesting initiation of a floating zone process shall be provided by the proposed master developer to the City, which shall include evidence of permission for this step from all property owners within the proposed PND area. Staff will schedule a planning meeting with all necessary review agencies as a first step.

(3) Following the start-up meeting, an initial concept plan shall be submitted for the *Planning Commission*'s review. This plan shall indicate the proposed development situated within the natural environment, emphasizing watershed management and sensitive area protection.

(4) Following comments on the concept plan, a traditional preliminary and final plan submission will be made in accordance with the process for major site plan review found in the Frostburg Subdivision and Land Development Regulations. These plans will be circulated for review by outside agencies as may be necessary.

(5) As part of the plan review, the *Planning Commission* will hold a public hearing with notice to adjoining property owners prior to making its final recommendation to the *Mayor and Council*. Following the hearing, the final plan may be recommended for approval by motion of the *Planning Commission*. Any such motion shall include a recommendation to the *Mayor and Council* to change the official zoning map by affixing the PND floating zone thereto.

(6) Approval of the PND zone by the *Planning Commission* requires express findings of fact that the application and master plan presented for PND:

(a) Satisfies the stated purpose, goals, and objectives of Section 5.1B of this Ordinance;

(b) Supports and is consistent with the *Comprehensive Plan*;

(c) Will not have adverse impacts on the adequacy of public facilities and services in the community.

(7) After receiving any recommendations of the *Planning Commission* concerning any such amendment to this Ordinance, and before adopting or denying same, the *Mayor and Council* shall hold a public hearing in reference thereto in order that parties of interest and citizens shall have an opportunity to be heard. *The Mayor and Council* shall give public notice of such hearing in accordance with the provisions of Section 1.10 of this Ordinance.

(8) A majority vote of the entire body of the *Mayor and Council* shall be required to pass any amendment to this Ordinance. No amendment shall become effective until at least 20 days after at least one (1) public hearing by the *Mayor and Council*.

D. **Permitted Uses**. The following uses shall be permitted by right in the PND zones:

(1) Single *family* detached homes; two (2) *family* detached homes, *twin dwelling*s, or duplex homes; *townhouse* rows of at least three (3) but not exceeding six (6) attached units; and multi*family* apartment *building*s, including but not limited to condominiums, senior housing, and assisted living units.

(2) Patio Home (Garden Home), defined as a single-*family* home that sits on a smaller than standard *lot* containing one (1) outside wall of the *structure* constructed on a property line. Patio homes have no common structural walls with adjoining properties, but the 'zero *lot* line' wall may form part of a neighbor's back or side *yard* wall. These *structure*s may include a smaller than standard back or side *yard*, but of sufficient size to contain a patio or garden.

(3) *Commercial* uses, to include retail and service businesses and professional offices consistent in use and scale with the purpose, goals, and objectives of the PND zone, including but not limited to:

(a) Services to Other Business Customers

(b) Offices for Professional Services

(c) Medical and Dental Offices

(d) Financial Service Businesses and Banks

(e) Neighborhood Retail Businesses

(f) Shops Providing Personal Services

(g) Restaurants

(h) Antique Shops

(i) Bed and Breakfast

(j) Day Care meeting the requirements of this Zoning Ordinance

(4) Municipal or governmental uses, including public *building*s, public parks and *open space*, and public common spaces including squares or greens.

(5) Institutional uses providing community services to the neighborhood, including senior centers, community centers, churches, schools, and non-*commercial* recreation facilities.

E. **Permitted Density and Lot Size**.

(1) Residential Density. Density will be determined based on a calculation of the Net Buildable Land and Gross Land Area. Gross Land Area is defined as the surveyed area within the proposed master plan area. Net Buildable Area is defined as Gross Land Area less land area reserved for essential public infra*structure* and accompanying rights-of-way and/or easements, and less proposed *open space* intended to meet the requirements of this Section. Calculation of Net Buildable Area begins with total surveyed area in the proposed master plan area and subtracts out:

(a) area of proposed and/or existing public and private *street*s and rights-of-way;

(b) area of proposed and/or existing permanent *utility* easements;

(c) area of proposed and/or existing stormwater management facilities; and

(d) area of land proposed for *open space* as must meet or exceed requirements found herein.

(2) Existing vacant land and annexation areas recommended in the Growth Management Plan Element of the *Comprehensive Plan* may develop under the PND zone at a minimum density of four (4) (4) *dwelling unit*s per acre, up to a maximum density of twelve (12) *dwelling unit*s per acre of Net Buildable Land as defined above.

(3) *Lot* Size. The PND zone does not establish or require a minimum *lot* size and replaces any *lot* size requirement found in base zoning when approved.

F. **Supplemental Lot Requirements and Land Use Guidelines**: *Lot*, *Yard* and Height Requirements

	PND Development
Minimum *Front Yard*	15 feet
Minimum *Rear Yard*	0-20 feet for all residential and accessory *building*s, except for zero *lot* line' development and patio homes *Garage*s accessed through a rear *alley* shall have a minimum 5-foot setback, which may be reduced if a safe turning radius and safe lines of sight for neighbors can be demonstrated
Minimum Side *Yard*	0-10 feet; may be allocated to one (1) side for a combined minimum of 10 feet per *lot*.
Parking and Aisle Setback	Parking facilities or areas and their drive aisles must have at least a 5-foot setback, except for 'zero *lot* line' development including patio homes
Maximum *Lot Coverage*	60 %
Maximum Height	3 stories/ 35 feet, except multi-*family* or institutional uses may be 6 stories /75 feet if based on careful master plan siting, screening, and consideration of neighboring land uses.

1. Land use guidelines, subject to *Planning Commission* review:
2. At least 15% of the gross area of the land in the PND shall be set aside for *open space*, subject to *Planning Commission* review of environmental site conditions indicated on the concept plan.
   a. At least 70% of the Net Buildable Land shall be designated for residential uses other than multi-family apartment buildings of three (3) or more units, including but not limited to condominiums, senior housing, and assisted living units.
3. No more than 5% of Net Buildable Land shall be reserved for *commercial* uses.
4. No more than 15% of Net Buildable Land shall be reserved for institutional uses.
5. Approximately 15% of Net Buildable Land should be allocated for two-*family* or multi-*family* dwellings.
6. Different types of residential dwellings may be mixed on the same block. Residential *building*s may be mixed with nonresidential *building*s on the same block or *lot*. A residential use may be mixed with nonresidential uses in the same *building*.

G. **Provisions for Streets and Access Improvements**

(1) A comprehensive pedestrian and bicycle circulation system is to be presented as a discussion item during *Planning Commission* review. This system would link uses and sections within the planned neighborhood and where feasible to nearby pedestrian and bike corridors to minimize walking distances and reduce dependence on the private automobile for internal travel and access to off-site destinations. Based on the discussion, the *Planning Commission* shall determine if construction of a pedestrian and bicycle circulation system is required.

(2) A sidewalk and curb system is to be presented as a discussion item during *Planning Commission* review, so that the master developer can demonstrate whether these improvements will be beneficial within the planned community or any of its sub-sections in furtherance of the purpose, goals, and objectives of this Section 5.1. Based on the discussion, the *Planning Commission* shall determine if a sidewalk and curb system is to be constructed as part of the overall development.

(3) The width of *street* paving shall be determined by the topography, use, and traffic pattern anticipated for each road. Low volume *street* construction may be allowed where appropriate.

(4) No less than 75% of *commercial* parking spaces shall be to the rear of the *building*. The *Planning Commission* may reduce or waive on-site parking requirements where suitable and adequate parking will be achieved off-site or on-*street*.

(5) When use of a cul-de-sac *street* is proposed, the terminus of the public *street* shall be at least 80 feet in diameter of pavement and 100 feet of property diameter to allow drivers to reverse direction without backing up. No cul-de-sac *street* shall be longer than 500 feet. This shall be measured from a point beginning at the centerline of the cul-de-sac *street* intersecting with a line extending along the curb face or edge of pavement of the intersecting *street* where the cul-de-sac *street* begins to the furthest edge of the property reserved for the cul-de-sac, including the shoulder area. This requirement may be waived by the *Planning Commission* for those areas where a low volume *street* system is approved.

H. **Open Space Ownership and Management**. All lands and improvements in designated *open space* shall be established, managed, and maintained in accordance with the following guidelines:

(1) Designated *open space* shall be surveyed and legally described as a separate parcel or parcels.

(2) Designated *open space* must be restricted from further development by a conservation easement. The conservation easement must be submitted with the preliminary site plan and approved by the *Planning Commission* prior to a final recommendation to the *Mayor and Council*. The status of designated *open space* placed in conservation by easement may be adjusted by later review of the *Planning Commission* if the Commission finds that the adjustment is consistent with the design of the approved master plan and the master plan maintains the minimum *open space* area required pursuant to this Section 5.1.

(3) Fee ownership of land containing any parcel designated for *open space* within the PND master plan must be subject to the terms of a conservation easement. Conservation easements may be held by:

(a) A common ownership association, individual members of which own non-*open space* land within a subdivision contained within the proposed master plan area and in which membership in the association by all property owners in the subdivision shall be mandatory;

(b) Any individual who will use the land in accordance with the terms of the conservation easement;

(c) The City of Frostburg or other governmental agency;

(d) A private, nonprofit organization designated by the Internal Revenue Service as qualifying under section 501(c)(3) of the Internal Revenue Code with articles of incorporation authorizing such ownership; or

(e) A combination of the entities in subsection (a—d) above.

(4) The conservation easement must specify:

(a) what entity will maintain the designated open space;

(b) the purposes of the conservation easement and the conservation values of the property;

(c) the legal description of the land under the easement;

(d) the restrictions of the use of the land;

(e) to what standards the open space will be maintained; and

(f) who will have access to the open space.

(5) The owner of the underlying land shall be responsible for the payment of taxes and assessments on any designated *open space* parcel.

I. **Process for Amending a PND Master Plan**:

(1) Once the *Mayor and Council* has acted to approve a PND floating district under Section 5.1 and the measure has gone into effect, the final master plan map and accompanying stipulations as recommended by the *Planning Commission* as may be amended by the *Mayor and Council*, shall be considered to be a primary contributing element to and part and parcel of the official zoning *district* regulations in effect within the floating area, superseding the underlying zoning *district* regulations where noted. In that regard, core characteristics of the master plan shall not be changed or removed without due process under a zoning text amendment process in accordance with Section 1.9A of this Ordinance and the Land Use Article of the Annotated Code of Maryland.

(2) Core characteristics of the master plan that would require a zoning map change pursuant to Section 1.9B of this Zoning Ordinance prior to approval of any subdivision or site plan process wherein the developer requests modifications of these characteristics within the master plan area are as follows:

(a) Removal of *Open Space* to a point below 15% of gross area of the land in the PND;

(b) Deletion of any identified community amenity within the Net Buildable Area, including but not limited to improved recreation areas, *building*s for community or recreational use, public squares or greens, or connecting pathways for pedestrian or bicycle users within the PND area; or

(c) Construction of multifamily apartment buildings of three (3) or more units, including but not limited to condominiums, senior housing, and assisted living units to a point beyond 30% of Net Buildable Area.

(d) Other characteristics of the master plan if specified by the *Planning Commission* at the conclusion of the final plan review process if approved by the *Mayor and Council*.

(3) Nothing herein shall interfere with the *Planning Commission*'s or the City of Frostburg's authority to allow the master developer or any secondary developer to propose modifications of form or dimension proposed in the master plan during a subdivision or major site plan review process as long as core characteristics are maintained and no other Federal, State, or local laws are violated by such modifications.

Part 6. GENERAL PROVISIONS & PARKING

Section 6.1 LOT REQUIREMENTS

A. **Definitions**. See the definitions for the different types of *lot* measurements under the terms "*Lot*" and "*Yard*" in the definitions, Section 2.1.

B. **Lot Requirements**. Except as otherwise provided by this Ordinance, every *building* or group of *related building*s shall be located on a *lot*, as hereby defined having at least the area, width, *lot* area per *family*, and *yard*s herein prescribed for the *district* in which such *building* or *building*s are located.

C. **Lot Area Requirement Modification**. In any *district*, where both public water service and public sanitary sewage service will not be provided prior to occupancy of any principal *building*, the otherwise specified *lot* area and *lot* width requirements, where less than the following, shall be increased to a minimum *lot* area of 30,000 square feet and a minimum *lot* width of 100 feet, except:

(1) Where either public water service or public sanitary sewage service will be provided, these requirements shall be 15,000 square feet and 100 feet respectively.

D. **Required Yard Cannot Be Reduced**. No *lot* shall be reduced in area so as to make any *yard* or another *open space* less than the minimum required for this Ordinance. If a *yard* or another required *open space* is already less than the minimum required, said *yard* or *open space* shall not be future reduced, except by approval of the *Board of Zoning Appeals* in accordance with provisions of Section 1.18 hereof. No part of a *yard* or *open space* provided on a *lot* shall be considered as part of a *yard* or *open space* required under this Ordinance for another *lot*.

E. **Front Yard Depth - How Measured**. Every *front yard* depth required by this Ordinance shall be measured as the shortest distance between any point on the *front yard* line as defined herein and any point in the *building*, *structure* or uses subject to such *yard* requirements.

F. **Front Yard Depth Required for All Public Street.** Where a *lot* abuts more than one (1) public *street*, road, or highway (but not an *alley* as defined herein), the required *district front yard* depth shall be required along each such *street*, road, or highway. Where a *lot* abuts an *alley*, the *rear yard* requirement shall apply.

G. **Rear Yard Depth - How Measured.** Every *rear yard* depth required by this Ordinance shall be measured as the shortest distance between any point on the *rear lot line* as defined herein and any point on the *building*, *structure*, or use subject to such *yard* requirements.

H. **Side Yard Depth - How Measured.** Every side *yard* depth required by this Ordinance shall be measured as the shortest distance between any point on the side *lot* line as defined herein and any point on the *building*, *structure*, or use subject to such *yard* requirements.

I. **Lot Width - How Measured.** *Lot* width at the *front lot line* shall be measured as the shortest distance between the two (2) points where the side lot lines intersect the *front lot line*.

(1) *Lot* width at the front *building* line shall be measured as the shortest distance along a straight line which passes through a point on each side *lot* line and the point on the *building*, *structure*, or use, subject to such regulation, nearest to the *front lot line*.

J. **Front Yard Modifications**. In any *district*, where the depth of at least two (2) existing *front yard*s on *lot*s within 100 feet of the *lot* in question and within the same block front are less than the least *front yard* depth prescribed for the *district*, the required depth of the *front yard* on such *lot* may be reduced.

(1) In such case, the reduction shall be not less than the average of said exiting *front yard* on the two (2) *lot*s immediately adjoining, or in the case of a *corner lot*, the depth of the *front yard* on the *lot* immediately adjoining, provided, however, that the depth of a *front yard* on any *lot* shall not be reduced more than one-half the required *front yard* depth prescribed for the *district*.

(2) The following architectural features may project into any required *front yard* or *rear yard* setback a hereinafter set forth:

(a) Cornices, eaves or other architectural features, not a wall may project a distance not exceeding two (2) feet.

(b) Fire escapes may project a distance not exceeding six (6) feet.

(c) An uncovered stair and necessary landing may project a distance not to exceed six (6) feet.

(d) Bay windows, balconies and chimneys may project a distance not to exceed three (3) feet, provided that such features do not occupy, in the aggregate, more than one-third of the length of the wall on which they are located.

(e) *Sign*s specifically permitted to project into a *yard* or right-of-way by Part 7of this *Ordinance.*

(3) Subject to the conditions specified above, the above named features may project into any required side *yard* adjoining an interior side *lot* line a distance not to exceed 1/5 of the width of such side *yard*, but not to exceed six (6) feet in any case.

Section 6.2 HEIGHT REQUIREMENTS

A. **Measurement of Height.** The maximum height shall be measured as the vertical distance from the average finished grade at the front of the *building* line to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the average height level between eaves and ridge for gable, hip, and gambrel roofs.

B. **Structures Permitted Above Height Limit.** The height limitation of this Ordinance shall not apply to:

(1) Agricultural *building*s and *structure*s, but not including dwellings.

(2) Fire or parapet walls, cupolas, steeples, clock towers, flag poles, silos smoke stacks, water tanks, or other roof super*structure*s**.**

(3) Monitors, scenery lofts, or roof *structure*s for housing elevators, stairways, tanks, skylights, ventilating fans, or similar equipment required to operate and maintain the *building*, providing that all such *structure*s above the height otherwise permitted in the *district* shall not occupy more than 25% of the ground area of the *building*.

(4) Towers, monuments, fire, hose, or cooling towers, grain elevators, gas holders, or other *structure*s where the manufacturing process requires a greater height, and *essential services* defined herein, provided that the shall be setback a minimum of 50 feet from every *lot* line.

C. **Wind Energy Systems**. Notwithstanding permissive language for manufacturing processes included in Section 6.2, height limits for *Wind Energy System*s as defined herein shall be governed by regulations found in Section 8.7 of this ordinance; shall in no case exceed 75 feet in height unless a *variance* is granted pursuant to Section 1.18 of this ordinance; and shall be governed by setbacks as set forth in said Section 8.7

Section 6.3 FENCES, WALLS, AND HEDGES

A. *Fence*s, walls, and hedges may be located in required *yard*s subject to the following:

(1) Safe sight distances shall not be obstructed.

(2) *Fence*s and walls not exceeding four (4) feet in height above the elevation of the ground may be located in any *yard*. Any *fence* in the required minimum *front yard* shall include a ratio of 1:1 of open to structural features of the *fence* (such as a picket, wrought iron or split rail *fence*).

(3) *Fence* and walls not exceeding six (6) feet height above the elevation of the ground are permitted provided they are outside of a required minimum *front yard*.

(4) *Fence*s higher than six (6) feet in a required *yard* may be permitted by the Community Development Director if the applicant sufficiently demonstrates that such height and location is necessary to help protect against a safety hazard.

Section 6.4 ACCESSORY STRUCTURES

A. **Location of Accessory Structures**. An *accessory structure* shall not be located within the required minimum *front yard* and also shall be subject to the regulations provided herein:

(1) *Accessory structure*s shall be setback at least three (3) feet from *alley* right-of-ways and from *lot* lines, except:

(a) The setback shall be six (6) feet in the R-1 *district* for *structure*s of over 100 square feet of floor area,

(b) A setback is not required along the same *lot* line along which *building*s (such as *townhouse*s) are attached, and

(c) An animal shelter shall meet the *principal building setback*s for the *district*, unless a more restrictive provision is stated elsewhere in this Ordinance.

(d) If a structure is to be located 5 feet or less from the property line and adjacent to another property, fire rated construction must be used on the side of the building for all material, including siding, roofing, soffit, fascia, etc

(2) <u>Corner Lots</u>. If a *lot* is adjacent to two (2) *street*s, any *accessory structure* shall meet the minimum side *yard* requirements for a *principal building* along the *street* that is not the *front lot line*.

(3) <u>Patio</u>. Ground level residential patios are not required to be setback from *lot* lines.

(4) Satellite Dish Antenna. A freestanding satellite dish antenna with a dish diameter of one (1) foot or greater shall not:

(a) be located within the required minimum *front yard* setback, nor

(b) be located within the required setback for an *accessory structure*.

B. **Recreational Vehicles and Watercraft**. In any *district*, it shall be permissible to store outdoors not more than one (1) *recreational vehicle*, or one (1) *recreational trailer* or one (1) watercraft per *dwelling unit* on a *lot* as an accessory use to the residential *structure*. Such vehicle or trailer may be parked on the *lot* for storage only and shall not be occupied.

(1) Such vehicle, trailer or watercraft shall be placed in the rear or side *yard*s only and shall be located at least six (6) feet from all property lines.

(2) This Section 6.4B shall not apply: a) to such items within permitted completely enclosed *building*s, b) to a *recreational vehicle* or watercraft less than 16 feet in length, or c) to a *recreational vehicle* or watercraft being actively prepared for imminent use.

C. **Swimming Pools and Hot Tubs**

(1) The water surface of a private swimming pool shall be setback at least six (6) feet from the *lot* line of any abutting dwelling.

(2) All pools, spas, and hot tubs shall be subject to the enclosure requirements specified in the *Property Maintenance Code.*

D. **Accessory Structures Not Permitted Prior to Principal Structures**: No *accessory structure* shall be on a *lot*:

(1) Unless the *principal use* or *structure* is in existence previously, or

(2) Until construction has begun on the principal *structure* and construction of the principal *structure* is diligently pursued.

E. **Chicken Coops and Enclosures.**

(1) Subsection A of this section 6.4 shall not apply to chicken coops and enclosures.

(2) Coops may not be placed in the front yard.

(3) Coops and enclosures must be situated at least 15 feet from side yard lot line and 20 feet from rear yard lot line.

(4) For a corner lot or other property where no rear yard exists, a coop or enclosure shall not be located any closer to a public street than the primary residence.

Section 6.5 ACCESSORY USES

A. **Accessory Use**. A permitted *accessory use* shall comply with the *district* provisions set forth in Part 3 of this Ordinance. All such uses must comply with all other sections of this ordinance. A use not listed as a permitted use shall be prohibited unless the use is approved by *Board of Zoning Appeals* in accordance with Section 1.18C(3).

B. **Accessory Uses Not Permitted Prior to Principal Structures.** No *accessory use* shall be on a *lot*:

(1) Unless the *principal use* or *structure* is in existence previously, or

(2) Until construction has begun on the principal *structure* and unless construction of the principal *structure* is diligently pursued.

C. **Keeping of Chickens for Non-commercial purposes.**

(1) Subject to the regulations set forth in the City Code, the keeping of chickens is permitted as an accessory use t**o** *single family detached dwelling, twin dwellings,* and *primary dwellings with accessory apartments* in all areas of the City.

(2) Chickens may only be kept on properties where the resident owns or rents the land and the residential structure referenced in subsection (1) above.

(3) A tenant may not keep chickens at a property without the property owners' written permission to do so.

(4) Coops are not permitted in the interior of any of the structures identified in subsection (1) above.

(5) No more than four (4) chickens may be kept on any lot which is 10,000 square feet in area or less. No more than (6) chickens may be kept on any lot which is more than 10,000 square feet in area.

Section 6.6 TEMPORARY STRUCTURES

A. **Temporary Construction Structures**. Temporary *building*s and *structure*s, including mobile construction trailers, may be erected or placed on sites in all *district*s if such *building*s or *structure*s are incidental to and necessary for construction work actively occurring on the *premises*. Such temporary *building*s or *structure*s shall be placed on a construction site only after the Community Development Director has issued a *building* permit for the proposed on-site construction.

(1) When such construction work is completed or abandoned, when the *building* permit expires or is revoked, or in one (1) year from the date of placement on the site, whichever comes first, such *building* or *structure* shall be removed, unless the Community Development Director grants an extension

B. **Emergency Housing**. If an occupied *detached single-family dwelling* burns, is flooded, or be otherwise damaged or destroyed, by any cause, to a degree so as to make it unsafe or unhealthy for human occupancy, the occupant may place a *mobile home* on the *premises* for the purpose of providing emergency housing for the displaced occupants, providing the *mobile home* shall be removed from the site when the damaged dwelling is restored, or within six (6) months, whichever occurs sooner, unless the Community Development Director grants a maximum of one (1) six (6) month extension.

C. **Other Temporary Structures.** Temporary *structure*s such as portable moving containers or roll off dumpsters may be permitted in all *district*s if such a *structure* is directly incidental to the activity occurring on the site. Such temporary *structure*s shall be removed from the premise immediately following the conclusion of said activity.

(a) Sea containers or other large shipping containers may be permitted by the Community Development Director for a temporary period determined by the Community Development Director. Under no circumstances shall such containers be used on a permanent basis for storage.

Section 6.7 OUTDOOR STORAGE

A. *Outdoor Storage* shall comply with the provisions set forth herein:

(1) All storage must be screened from view of adjacent residential properties and primary public right of ways.

(2) The *Planning Commission* must approve all material utilized for screening.

(3) The material, textures, colors and design of *fence*s, walls and screening shall be compatible with on-site development, adjacent properties and the neighborhood.

(4) When solid walls are required, a planting strip five (5) feet wide, shall also be provided. Such planting shall include trees or shrubs at least two (2) feet tall at time of planting which may be expected to form a year-round screen within three (3) years.

(5) Outside display of merchandise during actual business hours is permitted.

Section 6.8 DUMPSTER SCREENING

A. The provisions set forth herein shall apply to the following:

(1) a solid waste dumpster to serve a new *principal building*;

(2) a pre-existing solid waste dumpster that is located within 10 feet of a *street* (not including an *alley*) or within 30 feet of a primarily residential use on another *lot*, in which case the property-owner shall cause the property to conform to Section 6.8B within 12 months of the adoption date of this Ordinance.

B. A solid waste dumpster subject to Section 6.8 shall meet each of the following requirements:

(1) The dumpster shall be located, within reason, to minimize conflicts with nearby dwellings;

(2) The dumpster shall be screened on three (3) or four (4) sides as needed to screen views from public *street*s or dwellings on abutting *lot*s, with such screening composed of an attractive weather-resistant mostly solid wood *fence*, decorative masonry wall, evergreen plants or *structure* designed to be architecturally compatible with the *principal building*;

(3) The dumpster shall be located more than 10 feet from any *street* (not including an *alley*) and shall not be placed within the right-of-way of any *street*;

(4) The dumpster shall not obstruct safe sight distances for traffic and pedestrians;

(5) The dumpster shall not obstruct view of traffic *sign*s or *street sign*s and shall not be located on a sidewalk; and,

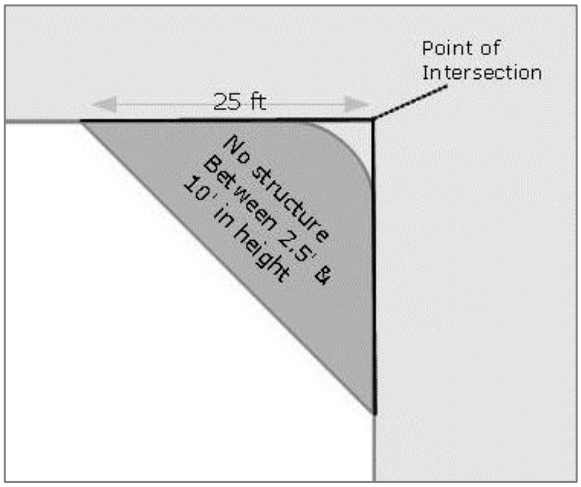
(6) The dumpster shall not be located within 15 feet of a window or door of dwelling on another *lot*.

Section 6.9 ACCESS TO LOTS

A. **Access to Lots**. Hereafter, every *building* constructed, located, enlarged, converted or altered shall be on a *lot* adjacent to a *public street* as defined herein, and all *structure*s shall be so located as to provide safe and convenient access and egress for fire protection equipment.

Section 6.10 TRAFFIC VISIBILITY

A. **Traffic Visibility.** On a *corner lot* in any *district*, except the C3 Town Center *District*, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to impede vision between a height of 2.5 and 10 feet above the center line grades of the intersecting *street*, in the area bounded by the *street* rights-of-way of such *corner lot*s and a line joining points along said *street* lines 25 feet from the point of intersection as depicted in the figure below. A distance of 15 feet shall apply to an intersection between a *street* and an *alley*. . In instances where the intersection is with a Maryland State Highway Route, the requirements of the Maryland State Highway Administration shall supersede the provisions of this *Ordinance.*



Section 6.11 EXTERIOR LIGHTING

A. Exterior lighting shall not adversely affect adjacent, surrounding or nearby properties, as determined by the following:

(1) Direct or directly reflected light is confined to the property in which it is used.

(2) All light sources and light lenses shall be shielded to focus light, including glare or reflection, away from adjoining or facing residential *premises* and from public *streets*.

(3) Applicant shall submit the specifications for the lights, poles fixtures and light sources to the City for approval prior to installation.

(4) The height of the light poles shall not exceed twenty-five (25) feet as measured from the grade at placement unless approved by the City officials and the *Planning Commission*.

(5) Reflective type, blinking, flashing, fluttering, strobe lights or lights with changing intensity, brightness or color are prohibited.

(6) Any light or combination of lights that casts light on a public *street* shall not exceed one (1) foot-candle (meter reading) as measured from the centerline of such *street*. Any light or combination of lights that casts light on land zoned or used for residential purposes shall not exceed 0.4 foot-candles (meter reading) as measured no more than three (3) feet inside the *lot* line.

(7) The City shall conduct an inspection to ensure the above regulations are met after the installation of exterior lighting.

Section 6.12 OFF-STREET PARKING REQUIREMENTS

A. **Numbers of Parking Spaces**. There shall be provided at the time of change of use, erection or enlargement of any *principal building* or *structure*, the following minimum *off-street parking space*s, with adequate provision for ingress and egress:

(1) The City recognizes that the uses listed for parking requirements may not be comprehensive. In instances not specifically listed herein, the parking requirement of the most similar use, as determined by the Community Development Director, shall apply. No building or occupancy permit shall be issued for any new use until the required parking has been evaluated and the requirements satisfied.

Residential

Dwelling Unit	1/occupant ≥ 18 years old + 1/each un*related* person ≥ 18 years old
Bed and Breakfasts	1/bedroom + 1
Boarding Units	1/two occupants
Group Home	1/two occupants
Treatment Center	1/two occupants
*Home Occupation*s (Accessory Use)	2 + required *dwelling unit* spaces

Institutional

Adult Day Care Center	1/four clients
Assisted Living Centers or Nursing Homes	1/five beds
*Child Care Center*s	1/four clients
Churches and Places of Worship	1/four persons permitted by State Fire Marshal
Civic & Service Clubs, Fraternal Organizations	1/three persons permitted by State Fire Marshal
Colleges, Trade or Hobby Schools	1/200 sq ft
Community Centers	1/three persons permitted by State Fire Marshal
Funeral Homes	1/50 sq ft
Hospices	1/five beds
Hospitals	1/five beds
Libraries	1/400 sq ft
Primary School	1/ten classroom seats
Secondary School	1/eight classroom seats

Retail & Amusement

Adult Use	1/300 sq ft
Auction Houses	1/400 sq ft
Bars, Lounges, Taverns	1/three persons permitted by State Fire Marshal

Bowling Alleys, Billiard Parlors, Arcades & similar indoor amusement	3/lane
Building/Lumber Sales and Storage	1/300 sq ft of retail or 1/1,000 sq ft of storage, whichever is greater
Clubs and Lodges, Dance Halls, Nightclubs	1/three persons permitted by State Fire Marshal
Country Clubs, golf, tennis, & swim clubs	1/three persons permitted by State Fire Marshal
*Restaurant*s (with drive-through service)	1/100 sq ft (not including kitchen/storage areas)
*Restaurant*s (without drive-through service)	1/100 sq ft (not including kitchen/storage areas)
Retail	1/250 sq ft
Supermarkets, Farmers Markets, and Grocery	1/300 sq ft
Theatres	1/three persons permitted by State Fire Marshal
Service	
Animal Groomers	1/200 sq ft
Automobile Service Stations and Repair *Garage*s	1/300 sq ft + adequate space for service/fueling
Banks/ Financial Institutions (with drive-through service)	1/200 sq ft
Banks/ Financial Institutions (without drive-through service)	1/200 sq ft
Beauty shop, barber shop, nail salon, tanning, spas	1/100 sq ft
Body Art Studios	1/300 sq ft
Cleaners, Laundromats, etc.	1/200 sq ft
Contractor Offices	1/500 sq ft
Fitness Centers	1/200 sq ft
*Kennel*s	1/300 sq ft of indoor *kennel* space
Medical Laboratories	1/200 sq ft
Medical or Dental Services	1/200 sq ft
*Motel*s and *Hotel*s	1/*sleeping room* + 2
Personal service	1/300 sq ft

Professional Offices	1/300 sq ft
Sales, Service, *Commercial* Washing of Motor Vehicles	1/300 sq ft + adequate space for service/fueling
Truck Stops and Rest Areas	1/300 sq ft + adequate space for service/fueling
Veterinary Services	1/300 sq ft
Industrial/Technology	
Light wholesale and distribution establishments	1/2,000 sq ft
Manufacturing and Incidental Sales	1/1,000 sq ft
Research, Experimental, or Testing Laboratories	1/500 sq ft
Technological or Communication Enterprises	1/300 sq ft
Warehousing	1/2,000 sq ft

B. **Town Center Parking Requirements**

(1) Town Center. In the C3 Town Center *district*, additional numbers of *off-street parking space*s are not required to be provided unless:

(a) A new *principal building* or *building* expansion of over 5,000 square feet of *total floor area* is constructed or

(b) The number of *dwelling unit*s or rooming house units on the *lot* would be increased.

(i) Required *off-street parking* shall be provided to accommodate only the newly added square footage or *dwelling unit*s.

C. **University Corridor Parking Requirements**

(1) University Corridor.

(a) Commercial Uses. In the C1 University Corridor *district,* required *off-street parking spaces* for commercial uses may be reduced by up to 50% of the requirements specified in Section 6.12A.

(b) Residential Uses. In the C1 University Corridor *district,* required *off-street parking spaces* for residential uses shall meet the requirements as set forth in Section 6.12A.

D. **Front Yard Requirements.** All new vehicle parking spaces shall be located outside of the minimum required *front yard*. On a *corner lot*, such restriction shall only apply the *front yard* adjacent to the *street* more frequently traveled, as determined by the Community Development Director.

E. **Location of Parking**. Required *off-street parking space*s shall be located on the same *lot* where the *principal building*s or *structure*s are located, except as provided for herein:

(1) Off-Site Parking. In situations where onsite parking cannot be accommodated due to landscape limitations, the parking requirements may be met through provision of off-site parking on nearby land owned by the property owner or through a lease effective throughout the duration of the use.

(a) Prior to issuance of an occupancy permit or acceptance of a rental housing registration, a copy of the lease must be provided to the Community Development Department.

(b) Off-site parking areas shall be subject to the following restrictions:

(i) Required parking spaces serving residential uses may be placed up to 200 feet from the *lot* containing the residential uses;

(ii) Required parking spaces serving non-residential uses may be placed up to 400 feet from the *lot* containing such uses; and

(iii) Required parking spaces serving non-residential uses in the C3 Town Center *District* may be located up to 800 feet from the *lot* containing such uses.

(c) Revocation of permits. Failure to maintain a lease of the required parking as specified in this subsection shall constitute a violation of this Code and may be cause for revocation of a certificate of occupancy.

(2) Shared Parking. At the request of the developer(s) and owner(s), shared parking facilities may be permitted by the Community Development Director the following structures constructed after the effective date of this Ordinance: *buildings* housing multiple uses, mixed-use developments, *shopping center*s, and/or *accessory structures* relative to the foregoing.. A parking impact study shall be provided by the developer(s) or owner(s) establishing that the estimated peak demand for parking required by the users will be satisfied due to differing hours of peak demand. A shared parking plan approved by the Community Development Director shall be enforced through a written covenant.

(a) Covenant for shared parking plan. A notarized copy of the written covenant made by the owner(s) of record shall be submitted to the Community Development Director, who shall forward a copy to the City Attorney for review. Proof of recordation of the covenant shall be presented to the Community Development Director prior to issuance of a certificate of occupancy. The agreement shall:

(i) List the name(s) and ownership interest of all parties to the agreement and contain the signatures of those parties;

(ii) Provide a legal description of the land;

(iii) Include a site plan showing the area of the parking lot;

(iv) Describe the area of the parking lot and designate and reserve it for shared parking unencumbered by any conditions which would interfere with its use;

(v) Ensure the continued availability of the spaces for joint use and provide assurance that all spaces will be usable to all participating uses;

(vi) Describe the obligations of each party, including the maintenance responsibility for the parking area and any *open space*.

(vii) Incorporate the parking impact study by reference; and

(viii) Describe the method by which the covenant shall, if necessary, be revised or terminated contingent upon approval from the Community Development Director.

(b) Change in use. Should any of the shared parking uses be changed, or should the Community Development Director find that any of the conditions described in the approved parking impact study or agreement no longer exist, the owner shall have the option of submitting a revised parking impact study and an amended shared parking covenant in accordance with the standards of this subsection, or if necessary, provide the number of spaces required for each use as if computed separately.

(c) Revocation of permits. Failure to comply with the shared parking provisions of this subsection shall constitute a violation of this Code and may be cause for revocation of a certificate of occupancy.

F. **Parking Lot Design and Construction**

(1) Any parking lot consisting of six (6) or more parking spaces that is to be constructed shall be subject to the City of Frostburg Subdivision and Land Development Regulations in addition to the regulations set forth herein.

	Parking Angle				
Aisle Width	0°	30°	45°	60°	90°
One-Way Traffic	15	15	16	18	24
Two-Way Traffic	22	22	22	23	24

(2) All parking areas and *driveway*s shall be surfaced with a dustless and durable material and shall be graded to prevent the accumulation of surface water. If there are six (6) or more parking spaces on a *lot*, all of the parking spaces shall be paved in asphalt, concrete or paving block.

(3) The first 10 feet of length of a *driveway* measured from the edge of paved roadway shall be paved in asphalt or concrete. Asphalt shall not be placed over a concrete sidewalk.

(4) Required parking spaces shall be arranged to allow each vehicle to be moved onto a *street* or *alley* without requiring the movement of any other vehicle. This requirement shall not apply to a *lot* with a single *dwelling unit* in Zoning *District*s where occupancy is limited to two (2) unrelated persons.

(5) No more than two (2) spaces on a *lot* shall be configured in a manner that will cause a vehicle to back onto a *street*. No more than three (3) spaces on a *lot* shall be configured in a manner that will cause a vehicle to back on to an *alley*.

G. **Parking Space and Aisle Sizes**.

(1) Each required *off-street parking space* shall consist of a minimum rectangle of 9 by 18 feet. However, within the C3 Town Center, a maximum of 30% of the required parking spaces may each be a minimum rectangle of 8.5 by 16 feet, provided they are clearly marked as being for "Compact Cars Only."

(2) In configurations in which drive aisles will be created between parking spaces, the parking area drive aisle widths shall conform to the following table, which varies the width requirement according to the angle of parking.

(3) Drive aisles providing access to parking lots shall be not less than ten (10) feet or exceed fifteen (15) feet in width for one-way traffic and less than eighteen (18) feet or exceed thirty (30) feet in width for two-way traffic, except that 10-feet-wide driveways are permissible for two-way-traffic when a.) the drive aisle is not longer than fifty (50) feet, and b.) it provides access to not more than six (6) commercial, or ten (10) residential spaces, and c.) sufficient turning space is provided so the vehicles need not back onto a public street.

H. **Handicapped Parking.** Handicap Parking spaces shall be provided in accordance with the Maryland Accessibility Code Regulations; COMAR 05.02.02.

I. **Bicycle Parking**. Any new use required to provide six (6) or more new *off-street parking spaces* shall include a suitable area for the parking of bicycles, at a quantity equal to 10% of the parking space count or two (2) bicycle spaces, whichever is greater. Such area should allow for locking of bicycles to a secure feature, but shall not result in obstructions to fire exits or handicapped access.

J. **Off-street Loading**

(1) All permitted uses requiring truck loading and unloading space for normal operations shall provide adequate loading space so that no vehicle being loaded or unloaded in connection with the normal operations shall stand in or project into any public *street*.

(2) Size. The minimum loading space size should be 12 feet by 30 feet.

(3) Number. The standards for minimum required *off-street loading spaces* are as follows:

(a) For assisted living centers; nursing homes; colleges, trade, or hobby schools; community centers; hospices; hospitals; primary and secondary schools; auction houses; building/lumber yards sales and storage; general retail; supermarkets and grocery stores; all industrial/technology uses; and other similar uses.

Building area	Minimum *off-street loading spaces* required
Less than 6,000 square feet	0
6,000 to 25,000 square feet	1
25,000 to 75,000 square feet	2
Greater than 75,000 square feet	1 space per additional 50,000 square feet

(b) For bars, lounges, and taverns; *clubs and lodges,* dance halls, and night clubs; country clubs; *restaurants*; theatres; cleaners, Laundromats; contractor offices; medical laboratories; *motels and hotels;* and other similar uses:

Building area	Minimum *off-street loading spaces* required
Less than 25,000 square feet	0
25,000 square feet to 100,000 square feet	1
100,000 square feet to 175,000 square feet	2
Greater than 175,000 square feet	1 space per additional 75,000 square feet

(c) The number of *off-street loading spaces* are standardized requirements. The applicant may provide evidence acceptable to the Community Development Director that the standard number of required *off-street loading spaces* exceeds the requirements of the proposed use, and that the proposed number of spaces will be sufficient for the proposed use.

(d) A reduction in the required *off-street loading spaces* in the C3, Town Center District, may be made by the Community Development Director, provided the applicant offers evidence that the space(s) are unnecessary or loading/unloading can otherwise be accommodated.

K. **Parking Lot Landscaping**

(1) Any parking lot that will include six (6) or more parking spaces, or as otherwise specified by this Ordinance, shall be required to provide shade trees within or adjacent to paved areas.

(2) One deciduous tree shall be required for every six (6) required *off-street parking spaces*.

(3) Trees required by this section shall meet the following standards:

(a) Type of Trees Permitted. Required trees shall be chosen from the list of approved street trees shown on the following page.

(i) A tree not listed on the approved street tree list may be planted if the applicant demonstrates to the Community Development Director or *Planning Commission* that another type of tree is native, would shade paved areas, be resistant to disease, road salt and air pollution and be attractive.

RECOMMENDED TREES TO MEET ORDINANCE REQUIREMENTS

			Plant Characteristics			
	Scientific Name	**Common Name**	**Soil Compaction**	**Salt Tolerant**	**Shade Tolerant**	**Roots**
Large Canopy Trees		***40'-70' Height***				
	Acer rubrum	Red Maple	moderate	high	moderate	shallow
	Acer Saccharum	Sugar Maple	low	low	moderate	fibrous
	Celtis jessoensis	Jesso Hackberry				
	Celtis occidentalis	Common Hackberry	high	high	moderate	moderate
	Fraxinus americana	White Ash	high	moderate	moderate	deep
	Fraxinus pennsylvanica	Green Ash	high	moderate	moderate	deep
	Ginko biloba	Ginko	high	moderate	low	fibrous
	Gleditsia triacanthos	Honey Locust "Moraine" or "Shademaster"	high	high	low	fibrous
	Gymnocladus dioicus	Kentucky Coffee Tree		low	low	deep
	Liquidamber styraciflua	Sweet Gum	high	miderate	low	fibrous
	Platanus acerifolis	London Plane Tree	high	low	moderate	deep
	Quercus alba	White Oak	moderate	moderate	low	deep
	Quercus robur	English Oak	low	high	moderate	deep
	Quercus rubra	Red Oak	low	med	low	deep
	Tilia cordata specxies	Littleleaf Linden	moderate	moderate	moderate	fibrous
	Ulmus parvifolia	Chinese Elm	moderate		low	shallow
	Zelkova serrata	Japanese Zelkova			moderate	deep
Medium Canopy Trees		***25'-40' Height***				
	Acer campestre	Hedge Maple	moderate	moderate	moderate	fibrous
	Crataegus lavellei	Carrier Hawthorn	moderate		moderate	deep
	Crataegus oxyacantha	English Hawthorn			low	deep
	Crataegus phaenopyrum	Washington Hawthorn	high	high	low	deep
	Prunus accolade	Flowering Cherry			low	
	Prunus serrulata	Japanese Cherry			low	
	Sorbus aucuparia	Mountain Ash	low	high	low	fibrous
	Sophora Japonica	Japanese Pagoda Tree	high	high	low	shallow
	Syringa amurensis japonica	Japanese Tree Lilac		moderate	low	fibrous
Small Canopy Trees		***< 25' Height***				
	Acer ginnala	Amur Maple		moderate	low	shallow
	Acer platanoides 'Globosum"	Globe Norway Maple	high	high	low	shallow
	Amelanchier alnifolia	Saskatoon Serviceberry			moderate	fibrous
	Koelreuteria paniculata	Golden Rain Tree			moderate	fibrous
	Malus species	Crabapple	high	high	low	fibrous
	Prunus cerasifera	Flowering Plum	moderate	moderate	low	fibrous
	Pyrus calleryana 'Bradford'	Bradford Pear	moderate	moderate	low	deep

(b) Quality of Trees. Required trees shall be of symmetrical growth and free of insect pests and disease

(c) Minimum Size. The trunk shall be a minimum of one (1) inch DBH (diameter at breast height). *Note- This section only regulates the species of trees that are used to meet requirements of the Parking Regulations per the City's Zoning Ordinance.*

(d) Planting and Maintenance. Required trees shall be:

(i) selected based on minimum tree lawn (the area between the curb and the sidewalk) requirement:

- Three (3) foot lawn - small trees
- Three (3) to six (6) foot lawn - medium trees
- Six (6) to eight (8) foot lawn - large trees

(ii) planted in conformance with good landscaping practices, with adequate unpaved surface around each for water and air,

(iii) properly protected by raised curbs, distance or other devices from damage from vehicles, and

(iv) surrounded by a minimum of 16 square feet of pervious ground that is properly maintained for plant growth.

(e) Where there are overhead wires, trees expected to reach a maximum height of less than 25'-30' in height, should be used. Larger trees can be planted on *lot*s with overhead wires if space is available between *building*s and the sidewalk or *street*. Planting near underground power lines should be avoided.

(f) Trees should not obstruct the vision of drivers at intersections (the setback depends on the size, shape, and growth pattern of the tree.).

(g) A required tree(s) shall not be removed without being replaced within eight (8) months by the current landowner by another tree(s) that meets the requirements of this section.

L. Buffering of Parking and Loading Areas

(1) Buffering of Parking: Any new or expanded parking lot consisting of six (6) or more new parking spaces, shall be buffered from view from any primarily residential use on an immediately abutting *lot* with a row of evergreen plants. Such plants shall be of a species that can reasonably be expected to reach a height of six (6) feet within four (4) years.

(2) Where insufficient room exists for such plants or upon the written request of the adjoining property owners, the Community Development Director may allow the installation of an attractive mostly solid weather-resistant wood *fence* or decorative masonry wall in place of the plants.

M. Parking as a Principal Use. In instances where parking will be the primary *principal use* of a *lot* comprised of six (6) or more new parking spaces, the parking lot shall also be buffered from view from the *street*. The selected plant species should be able to reach a height of six (6) feet within four (4) years. The plants may be placed in the required *front yard* subject to visibility requirements.

N. Main Street. If any new or expanded parking lot results in the development of six (6) or more spaces adjacent to and visible from Main *Street*, it shall be buffered from Main *Street* by an attractive planting strip or a decorative masonry wall.

O. Loading Areas. If any new or expanded loading or unloading area routinely involves the parking of two (2) or more tractor-trailer trucks, such area shall be buffered from view from any primarily residential use on an adjacent *lot* or across the *street* by a row of attractive evergreen plants. Such plants shall be of a species that can reasonably be expected to reach a height of six (6) feet within four (4) years.

P. Where insufficient room exists for such plants, the Community Development Director may allow the installation of an attractive mostly solid weather-resistant wood *fence* or attractive masonry wall in place of the plants.

Section 6.13 ENVIRONMENTAL CONSIDERATIONS

A. Stream Buffers

(1) Setback. No new *principal building*, *off-street parking*, *off-street loading space*, or *commercial* or industrial outdoor storage area shall be located:

(a) within 50 feet of the centerline of a perennial waterway, and

(b) within 25 feet of the centerline of an intermittent waterway.

(2) Crossings. Within 50 feet of the centerline of a perennial waterway, *street*s and *driveway*s shall be limited to those approximately perpendicular crossings that are absolutely necessary for public safety or to provide reasonable use of adjacent properties.

(3) Existing Vegetation. Within the areas specified in Section 6.13, existing natural vegetation shall be preserved to the maximum extent possible. An applicant for a permit for activity within such area shall: a) specify on the plan those trees or areas of trees and other vegetation intended to be preserved, removed or replaced by new trees and vegetation, and b) be accompanied by a detailed soil erosion and sedimentation control plan, which shall be carried out in full.

(4) New Trees and Vegetation**.** If existing trees do not exist along a perennial waterway, and if a new *principal building* and/or vehicle parking area is proposed adjacent to such waterway, then the applicant shall: 1) plant an average of one (1) native deciduous shade tree along such waterway for each 50 feet of distance along the waterway, and b) plant new grass, shrubs or similar vegetation along the bank of the waterway if such does not already exist.

B. **Steep Slopes (> 25%)**

(1) New Slopes. If any new slope will be created of greater than 4:1, the applicant shall provide a written description of the measures that will be used to stabilize such slope, together with a legally binding timetable for the implementation of such measures.

(2) Over 25 Percent Slopes. Any construction of a new *principal building* or a new parking lot on land with an existing natural slope of over 25% shall require a construction plan for the project, regardless of type of use or *structure*. The plans shall meet the requirements set forth in Section 1.16G.

(3) **Slopes on Proposed Lots**

(a) This Section 6.13 shall only apply to a *lot* submitted for subdivision approval after the adoption of this Ordinance and which includes over 500 square feet of natural slopes of over 25%.

(b) As part of the subdivision plan, the applicant shall designate a "buildable area." The buildable area shall be the proposed maximum extent of portions of the *lot* where construction of a *principal building* shall be permitted. The applicant may voluntarily propose a smaller buildable area than is permitted by this Ordinance.

(c) If the subdivision plan shows a buildable area that includes natural slopes over 25%, then the minimum *lot* area for that *lot* shall be increased to twice the size that would otherwise be required.

Part 7. SIGNS

Section 7.1 MEANING OF TERMS

Abandoned Sign: A *sign* which for a period of at least 60 consecutive days no longer advertises or identifies an ongoing business establishment, product or activity.

Alteration: Any change in copy, color, size or shape, which changes appearance of a *sign*, or a change in position, location, construction or supporting structure of a *sign*, except that a copy change on a *sign* is not an *alteration*.

Animated Sign: A *sign* which has any visible moving part, flashing or osculating lights, visible mechanical movement of any description, or other apparent visible movement achieved by any means that move, change, flash, osculate or visibly alters in appearance in a manner that is not permitted by these regulations.

Area of Sign: Refer to measurement standards in Section 7.3A.

Attraction or Reader Board: Any *sign* having *changeable copy* for the purpose of advertising events, sales, services or products provided on the site.

Awning: A shelter extending from the exterior wall of a *building* and composed of non-rigid materials except for the supporting framework.

Awning Sign: Any *sign* painted on or attached to or supported by an *awning*.

Balloon Sign: A lighter-than-air gas-filled *balloon*, tethered in a fixed location that has a *sign* with a message on its surface or attached in any manner to the *balloon*.

Banner Sign: A temporary, lightweight *sign* that contains a message which is attached or imprinted on a flexible surface that deforms under light pressure and that is typically constricted of non-durable materials, including, but not limited to, cardboard, c*lot*h and/or plastic.

Billboard or Poster Panel: An *off-premises sign*.

Building Identification Sign: Any *sign* containing the name or address of a *building* and may include hours of operation and emergency information, such *sign* being located on the same site as the *structure*.

Canopy: A freestanding permanent roof-like shelter not attached to or requiring support from an adjacent *structure*.

Canopy Sign: Any permanent *sign* attached to or constructed underneath a *canopy*. These *sign*s are below a projecting *structure* which extends over the pedestrian walkway which effectively prevents the *wall sign*s for being visible to the pedestrian walking under the *canopy*. See Also *Projecting Sign*.

Changeable Copy Sign: A *sign* or portion thereof on which the copy or symbols change either automatically through electrical or electronic means (for example, time and temperature units), or manually through placement of letters or symbols on a panel mounted in or on a track system.

Construction Sign: A nonpermanent *sign* identifying the persons, firms or business directly connected with a construction project.

Directional Sign: A permanent *instructional sign* located on private property at or near the public right-of-way, directing or guiding vehicular traffic onto the property and/or toward parking or other identified locations on the property.

Freestanding Sign: Any *sign* which is permanently affixed in or upon the ground, supported by one (1) or more structural members, with air space between the ground and the *sign face*.

Footcandle: A measure of illumination on a surface that is one (1) foot from a uniform source of light of one (1) candle and equal to one (1) lumen per square foot.

Governmental Sign: A *sign* erected and maintained pursuant to and in discharge of any governmental functions, or required by law, ordinance or other governmental regulation.

Grade: The level of the site at the property line located at the closest distance to the *sign*.

Height of Sign: Refer to measurement standards in Section 7.3B.

Holiday Decorations: *Sign*s or displays including lighting, which are a nonpermanent installation celebrating national, state, and local holidays or holiday seasons.

Illegal Sign: Any *sign* placed without proper approval or permits as required by this Code at the time of *sign* placement. *Illegal sign* shall also mean any *sign* placed contrary to the terms or time limits of any permit and any non-conforming *sign* which has not been brought into compliance with any applicable provisions of this Code.

Illuminated Sign: Any *sign* for which an artificial source of light is used in order to make readable the *sign*'s message, including internally and externally lighted *sign*s and reflectorized, glowing or radiating *sign*s.

Instructional Signs: A *sign* clearly intended for instructional purposes, as determined by the Zoning Enforcement Officer, shall not be included in the permitted sum of the *sign area* of identification *wall sign*s, provided such *sign* is not larger than necessary to serve the intended instructional purpose, and such *sign* is not in a location, nor includes design characteristics, that constitute or serve the purposes of an identification *sign*.

Length of Frontage:

1. For measurement purposes, the length of any primary or *secondary frontage* as defined in Section 2.1, shall be the sum of all wall lengths parallel, or nearly parallel, to such frontage, excluding any such wall length determined by the Zoning Enforcement Officer or *Planning Commission* as clearly un*related* to the frontage criteria.
2. For *building*s with two (2) or more frontages, the length and allowable *sign area* shall be calculated separately for each such frontage.
3. The *building* frontage for a *building* unit shall be measured from the centerline of the party walls defining the *building* unit.

Logo, Logogram, or Logotype: An emblem, letter, character, pictograph, trademark, or symbol used to represent any firm, organization, entity, or product.

Marquee: A permanent roof-like shelter extending from part or all of a *building* face and constructed of some durable material which may or may not project over a public right-of-way.

Marquee Sign: Any *sign* painted on or attached to or supported by a *marquee*. (Note: Not sure the term is used)

Mural: A picture on an exterior surface of a *structure*. A *mural* is a *sign* only if it is *related* by language, *logo*, or pictorial depiction to the advertisement of any product or service or the identification of any business.

Neon Sign: A *sign* with tubing that is internally illuminated by neon or other electrically charged gas. (Note: Not sure term is needed)

Non-conforming Sign: A *sign* which was legally installed under laws or ordinances in effect at the time of its installation, but which is in conflict with the current provisions of this Code.

Off-Premises Sign: Any *sign* normally used for promoting an interest other than that of a business, individual, products, or service available on the *premises* where the *sign* is located.

On-Premises Sign: Any *sign* used for promoting a business, individual, product or service available on the *premises* where the *sign* is located.

Political and Noncommercial Signs: Any *sign* designed for the purpose of supporting or opposing a candidate, proposition or other measure at an election or for any other non-*commercial* expression not *related* to the advertisement of any product or service or the identification of any business.

Portable Sign: Any movable *sign* not permanently attached to the ground or a *building* and easily removable using ordinary hand tools.

Primary and Secondary Frontage: The frontage of any *building* or site shall include the elevation(s) facing a public *street*, facing a primary parking area for the *building* or tenants, or containing the public entrance(s) to the *building* or *building* units.

1. For multi-tenant *building*s, the portion of such *building* that is owned, or leased by a single tenant, shall be considered a *building* unit.
2. The *primary frontage* shall be considered the portion of any frontage containing the primary public entrance(s) to the *building* or *building* units.

3. The *secondary frontage* shall include frontages containing secondary public entrances to the building or building units, and all walls facing a public *street* or primary parking area not designated as the *primary frontage* by the definition above.

Projecting Sign: A *sign* which projects from and is supported by a wall or parapet of a *building* with the display surface of the *sign* in a plane perpendicular to or approximately perpendicular to the wall. See also *Canopy sign*.

Real Estate Sign: Any nonpermanent *sign* pertaining to the sale, exchange, lease, rental, or availability of land, *building*s, condominium and similar units, or apartments. Such *sign*s may include *building* name and address, price and amenities, identity of seller or broker, and similar information.

Revolving or Rotating Sign: An *animated sign*.

Roof Sign: Any *sign* erected upon a roof, parapet, or roof- mounted equipment *structure* and extending above a roof, parapet, or roof-mounted equipment *structure* of a *building* or *structure*.

Sign: Any name, figure, character, outline, display, announcement, or device, or *structure* supporting the same, or any other device of similar nature designed to attract attention outdoors, and shall include all parts, portions, units, and materials com- posing the same, together with the frame, background, and supports or anchoring thereof. A *sign* shall not include any architectural or landscape features that may also attract attention.

Sign Face: An exterior display surface of a *sign* including non- structural trim exclusive of the supporting *structure*.

Comprehensive Sign Plan (CSP). A coordinated program of all *sign*s, including exempt and *temporary sign*s for a business, or businesses if applicable, located on a development site. The *sign* program shall include, but not be limited to, indications of the locations, dimensions, colors, letter styles and *sign* types of all *sign*s to be installed on a site.

Site: All the contiguous ground area legally assembled into one (1) development location which is a zoning *lot*. A zoning *lot* is defined as a permanent parcel (*lot of record*), multiple *lot*s of record, or a portion of a *lot of record*.

Special Event Sign: Any temporary or non-permanent *sign* advertising or pertaining to any civic, patriotic or special event of general public interest.

Super Graphic: A painted design which covers all or a major portion of a wall, *building* or *structure*. A *super graphic* is a *sign* only if it is *related* by language, *logo*, or pictorial depiction to the advertisement of any product or service or the identification of any business.

Temporary Sign: Any *sign* which is installed for a period not to exceed thirty days.

Vehicle Sign: Any *sign* permanently or temporarily attached to or placed on a vehicle or trailer.

Wall Sign: Any *sign* attached to or painted on the wall of a *building* or *structure* in a plane parallel or approximately parallel to the plane of said wall.

Window, Area of: The area of a single window includes all of the window panes in an area that is separated by mullions, muntins, or other dividers which are less than four (4) inches wide.

Window Sign: Any *sign* viewable through and/or affixed in any manner to a window or exterior glass door such that it is intended to be viewable from the exterior (beyond the sidewalk immediately adjacent to the window), including *sign*s located inside a *building* but visible primarily from the outside of the *building*.

Section 7.2 PURPOSE OF SIGN REGULATIONS

A. To promote the creation of an attractive visual environment that promotes a healthy economy by:

(1) Permitting businesses to inform, identify, and communicate effectively; and

(2) Directing the general public through the use of *sign*s while maintaining attractive and harmonious application of *sign*s on the *building*s and *site*s.

B. To protect and enhance the physical appearance of the community in a lawful manner that recognizes the rights of property owners by:

(1) Encouraging the appropriate design, scale, and placement of *sign*s;

(2) Encouraging the orderly placement of *sign*s on *buildings* while avoiding regulations that are so rigid and inflexible that all *sign*s in a series are monotonously uniform; and

(3) Assuring that the visual information displayed on *signs* is clearly visible, conspicuous, legible and readable so that they achieve their intended purposes.

C. To foster public safety along *street*s within the City by assuring that all *sign*s are in safe and appropriate locations.

D. To have administrative review procedures that are the minimum necessary to:

(1) Balance the City's objectives and regulatory requirements with the reasonable advertising and way finding needs of businesses;

(2) Allow for consistent enforcement of Part 7 of the Zoning Ordinance;

(3) Minimize the time required to review a *sign* application; and

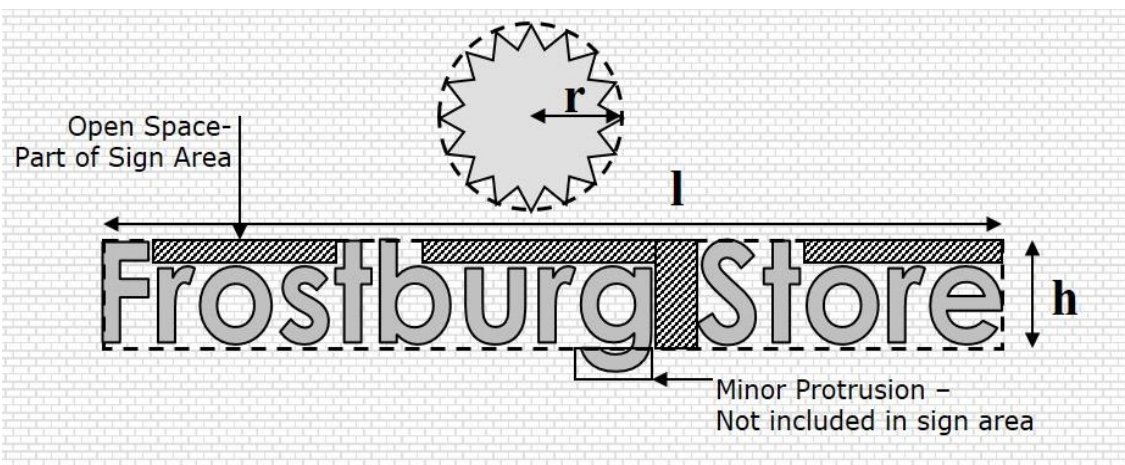
(4) Provide flexibility as to the number and placement of *sign*s so the regulations are able to balance responsiveness to the needs of businesses with the maintenance of community aesthetic standards.

Section 7.3 MEASUREMENT STANDARDS

A. Determining Sign Area and Dimensions

(1) For a *wall sign* which is framed, outlined, painted, or otherwise prepared and intended to provide a background for a *sign* display, the area and dimensions shall include the entire portion within such background or frame.

(2) For a *wall sign* comprised of individual letters, figures, or elements on a wall or similar surface of the *building* or *structure*, the area and dimensions of the *sign* shall encompass a regular geometric shape (rectangle, circle, trapezoid, triangle, etc.), or a combination of regular geometric shapes which form or approximate the perimeter of all elements in the display, frame, and any applied background that is not part of the architecture of the *building*. When separate elements are organized to form a single *sign* but are separated by *open space*, the *sign area* dimensions shall be calculated by determining the geometric form or combination of forms which comprise all of the display areas, including the space between different elements. Minor appendages to a particular regular shape, as determining by the Community Development Director, shall not be included in the total area of the *sign*. An illustration of this calculation is provided below:



$$Sign\ Area = (\pi r^2) + (l \times h)$$

(3) For a *freestanding sign*, the *sign area* shall include the frame, if any, but shall not include:

(a) A pole or other structural support unless such pole or structural support is internally illuminated or otherwise so designed to constitute a display device, or part of a display device.

(b) Architectural features that are either part of the *building* or part of a freestanding *structure*, and not an integral part of the *sign*, and which may consist of landscaping, *building*, or structural forms complementing the *site* in general.

(4) When two (2) identical *sign face*s are placed back to back so that both faces cannot be viewed from any point at the same time and are part of the same *sign structure*, the *sign area* shall be computed as the measurement of one (1) of the two (2) faces. When the *sign* has more than two (2) display surfaces, the area of the *sign* shall be the area of largest display surfaces that are visible from any single direction.

B. **Determining Sign Height**

(1) The height of a *freestanding sign* shall be measured from the base of the *sign* or supportive *structure* at its point of attachment to the ground to the highest point of the *sign*. A *freestanding sign* on a man-made base, including a *grade*d earth mound, shall be measured from the *grade* of the nearest pavement or top of any pavement curb.

(2) Clearance for freestanding and *projecting sign*s shall be measured as the smallest vertical distance between finished *grade* and the lowest point of the *sign* including any framework or other embellishments.

C. **Determining Building Frontages and Frontage Lengths**

(1) Building Unit. The *building* unit is equivalent to the tenant space. The frontage of the tenant space on the first floor shall be the basis for determining permissible *sign area* for *wall sign*s.

(2) Primary and Secondary Frontage. The frontage of any *building* unit shall include the elevation(s) facing a public *street*, facing a primary parking area for the *building* or tenants, or containing the public entrance(s) to the *building* or *building* units.

(a) The *primary frontage* shall be considered the portion on any frontage containing the primary public entrance(s) to the *building* or *building* units.

(b) The *secondary frontage* shall include those frontages containing secondary public entrances to the *building* or *building* units, and all *building* walls facing a public *street* or primary parking area that are not designated as the primary *building* frontage by Section 7.3C(2)(a) above.

D. **Length of Building Frontage**

(1) The length of any primary or secondary *building* frontage as defined in Section 2.1, shall be the sum of all wall lengths parallel, to such frontage.

(2) For *buildings* with two (2) or more frontages, the length of the wall and allowable *sign area* shall be calculated separately for each such *building* frontage.

(3) The *building* frontage for a *building* unit shall be measured from the centerline of the part walls defining the *building* unit.

Section 7.4 SIGNS PERMITTED

The *signs* permitted in each zoning *district* are those indicated in the table below:

	Zoning District										
Sign Type	**C1**	**C2**	**C3**	**C4**	**T-LI**	**R1**	**R2**	**R2-A**	**R3**	**R4**	**RO**
Wall Sign	●	●	●	●	●	♦	♦	♦	♦	♦	♦
Projecting Sign	●	○	●	○	○	♦	♦	♦	♦	♦	♦
Directory Sign	●	●	●	●	●				♦	♦	♦
Signs for Upper Floor Tenants	●		●		●						
Building Identification Signs	●	●	●	●	●				♦	♦	♦
Freestanding Sign - Multiple Businesses*	○	●		●	●						
Freestanding Sign - Single Businesses	○	●		●	●	♦	♦	♦	♦	♦	♦
Freestanding Sign - for the id. of the proj. or development	○	●		●	●	○	○	○	○	○	○
Home Occupation Sign	●	●				♦	●	●	●	●	●

● The sign would be generally permitted

○ These signs could be permitted depending in the design characteristics & whether adequate soace is available

♦ These signs could be permitted if special exception business use is permitted by Board of Zoning Appeals

* In multiple tenant centers, each business may not be entitled to its own free standing sign

Section 7.5 DEVELOPMENT STANDARDS

A. Wall Signs

(1) The basic allowance for *wall sign*s shall be limited to the following *sign area*:
C1, C3, and all R districts:
- 1.75 square feet per lineal foot of *building* frontage

C2, C4, and T-LI districts:
- 2.5 square feet per lineal foot of *building* frontage

(2) Each tenant may have multiple *wall sign*s as long as the total wall area does not exceed the allowances established for *wall sign*s set forth herein subsection 1.

(3) The *wall sign* or *sign*s, shall not be greater than 80% of the length of the tenant space or the length of the *building* frontage for single tenants

(4) The area of any *wall sign* may be increased by 25% when the *building* is setback at least 100 feet from the public right-of-way and may be further increased an additional 25% for each additional 100 feet of setback, or fraction thereof, up to a maximum increase of 100%.

(5) Additional *wall sign area* is permitted for a *secondary frontage* which shall be equal to 100% of the primary *sign area* allowance based on *sign area* allowances specified in Section 7.5A(1).

(6) <u>Other Wall Signs</u>. The following additional *wall sign*s may be permitted:

(a) *Projection signs* are permitted, in addition to the allowances for *wall sign*s when designed and placed for the purpose of identifying the business for a pedestrian walking along the same side of the *street* as the business they seek or under a continuous rain *canopy* projecting from the *building*. Projection *sign*s shall have a maximum area of five (5) square feet; the bottom of the *sign* shall be a minimum of eight (8) feet above the sidewalk; the *sign* shall not project more than three (3) feet from the wall of the *building* in which the *sign* is placed; and adjacent *projecting sign*s shall not be closer than 15 feet.

(7) Additional Wall Signs for Multiple Story Buildings. An additional *building sign* is permitted on each of the *building*'s primary and *secondary frontage*s according to the following:

(a) For a *building* with two (2) floors the additional permitted *sign area* is 25 square feet for each eligible wall.

(b) This additional permitted *sign area* may be increased by 15 square feet for each additional *building* floor.

(c) The *sign* must be placed at the height for which the bonus has been granted.

B. **Freestanding Signs**

(1) The area of a *freestanding sign* shall be limited to the following *sign area* for the *building,* mixed-use development, or *shopping center*:

C1 and R districts (if permitted):
- 60 square feet

C2 district adjacent to Main Street:
- 60 square feet

C2 not adjacent to Main Street and T-LI districts:
- 120 square feet

C4 district:
- 180 square feet

(2) There shall be a maximum height of freestanding *sign*s for each property with the standard established for each *district* as follows:

C1 and R districts (if permitted):
- *eight (8)* feet

C2 district adjacent to Main Street:
- 15 feet

C2 not adjacent to Main Street and T-LI districts:
- 25 feet

C4 district:
- 80 feet

(3) The *sign height* shall be sufficient to assure that the *sign* is visible above parked and moving vehicles and any other obstructions.

(4) No portion of a *free-standing sign* shall be in, or project over, a public right-of-way.

(5) Additional *freestanding sign*s shall be permitted for every 200 feet of *site* frontage, in excess of 200 feet of *lot* frontage and for *corner lot*s. Additional *freestanding signs* shall not obstruct the view of adjacent *freestanding signs.*

(6) The permitted *sign area* may be aggregated into fewer and larger *sign*s, at the election of the property owner/business, provided that the size of any single *sign* does not exceed the area pursuant to subsection 1 or 2 above by more than 50%.

C. **Electronic Message/Changeable Copy Signs**

(1) *Changeable copy* by non-electronic means may be utilized on any permitted *sign*,

(2) Only one (1) electronic message center (EMC) is permitted on a *lot*.

(3) The EMCs shall comply with the provisions set forth in the following table:

			Size Limitation		Location	
Zone	Permitted	Motion Limitation	EMCs as a max % of the total *sign area* permitted on the *site*	EMCs as a max % of a single *sign*	Away from Residential	Confine to a main *street*
C1	N					
C2	Y	4 second minimum	30%	70%	YES	YES
C3	N					
C4	Y	8 second minimum	40%	80%		
T-LI	Y	2 second minimum	30%	70%		
All R *districts*	N					

(4) All EMCs are required to have automatic dimming capabilities that adjusts the brightness to the ambient light at all times of day and night.

E. **Home Occupation Signs**

(1) A maximum of one (1) non-*illuminated sign* is permitted for a permitted *home occupation*.

(2) The *sign* shall not exceed 2.5 square feet in size.

(3) The *sign* shall be flush mounted to the *dwelling unit* or may project from the *dwelling unit* no further than 18 inches. The *sign* shall be located no higher than eight (8) feet above *grade*. Alternatively, the *sign* may be installed on a small decorative post not to exceed five (5) feet in height. The *sign* cannot infringe upon the public way nor shall it interfere with the lines of sight required for traffic visibility as described in Section 6.10.

F. **Window Signs**

(1) Permanent *window sign*s shall not exceed 25% of the area of a window and the total area of all *window sign*s, including both temporary and permanent, shall not exceed 50% of the window area.

G. **Rental Property Signs for Residential and Commercial Use**

(1) *Sign*s advertising "For Rent", the Property Owner, or the Owner's Agent of a rental property shall be limited to one (1) non-*illuminated sign* per property.

(2) The *sign* shall be mounted flush to the *building* or porch railing or within a window.

(3) The *sign* shall be placed on a *basement* or first floor wall, at a maximum height of 12 feet above *grade*.

(4) The *sign* shall not exceed 3 square feet in size.

(5) Other *sign* types may be permitted for new multi-*family* residential developments with submittal of a *sign* application by developer or owner.

H. **Temporary Signs**

(1) Special Events. *Sign*s advertising a special event shall be permitted on a temporary basis and shall be subject to the following provisions:

(a) *Sign*s may be posted up to 30 days prior to the event and shall be removed no more than five (5) days following the event.

(b) Permitted advertising devices shall include only *sign*s, *yard sign*s, *banner*s, and tethered *balloon*s.

(c) No more than two (2) advertising devices shall be placed in one (1) *lot* at the same time.

(d) *Sign*s shall be located outside of the right of way, with the exception that *banner*s may be displayed over City *Street*s with City approval.

(2) Real Estate & Construction Signs. Real estate and *construction sign*s are permitted in all *district*s at all times. *Sign*s shall be removed after completion of construction or sale transaction(s) are complete.

(a) *Sign*s shall be limited to six (6) square feet of *sign area* per side.

(b) Construction projects or Real Estate for sale exceeding $1,000,000 in value, or a recorded subdivision with five (5) or more *lot*s for sale may have a *sign* not to exceed 50 square feet per side.

(3) Political Signs. *Political sign*s are permitted in all *district*s at all times. A *political sign* shall not be placed within any public right-of-way or any property owned by the City of Frostburg.

(4) Sandwich Board Signs. In addition to *sign*s permitted by the provisions of Part 7of this Ordinance, a maximum of one (1) *sandwich board sign* shall be permitted per *lot* in the *commercial district*s. Such *sign* shall only be used to advertise a lawful business on the *premises*. The *sign* shall be subject to the following provisions:

(a) Maximum *sign* size of six (6) square feet per side with a maximum of two (2) sides.

(b) *Sign* may be placed on a public sidewalk; however, the business owner shall be responsible to ensure that the *sign* is located to avoid obstruction pedestrian traffic or obstructing the sight distances of vehicular traffic.

(c) The *sign* shall only be displaced during the hours when the business is open to the public.

Section 7.6 NON-CONFORMING SIGNS

A. General Provisions

(1) *Non-conforming sign*s shall be maintained in good condition pursuant to Section 7.8B.

(2) A *non-conforming sign* shall not be altered, modified, or reconstructed except

(a) When such *alteration*, modification or reconstruction would bring such *sign* into conformity with these regulations;

(b) When the existing use has new ownership which results in a change in the name or *logo* of the use or business on the property, and such change complies with subsection d below;

(c) When the space is reoccupied by a similar use and the new occupant requires no external *building* or *site* renovation, and such change complies with subsection d below;

(d) Any *alteration*, modification, or reconstruction permitted in this section shall be limited to the replacement of a *sign* panel, replacing individual letters and *logo*s within the same area, or repainting a *sign face*, and does not permit changes to the *structure*, framing, erection, or relocation of a *sign* unless such changes conform to subsection a above.

B. **Limitations for Non-Conforming Signs**

(1) A *non-conforming sign* shall be removed upon verification that the use to which such *non-conforming sign* refers has been abandoned for more than 180 180 consecutive days.

Section 7.7 SIGN PERMITS AND REVIEW PROCEDURES

A. **Permit Requirements**

(1) Prior to the erection, enlargement, or *alteration* of any *sign*, the owner or developer shall obtain a permit issued by the Community Development Director, except permits are not required for the following signs, however, these signs must meet the subject requirements referenced herein:

(a) Rental Property *Sign*s for Residential and *Commercial* Use, Section 7.5G;

(b) Temporary Signs, Section 7.5H;

(c) Window signs, Section 7.5F; and,

(d) Instructional or "way-finding" *sign*s, when they are of such size and location that satisfy the intended instruction purpose and based on their size, location, and intended purpose will not constitute additional advertising. *Instructional sign*s shall be allowed without limitation as to number or size and may include the name of the business and *logo*s.

(2) Each application shall be accompanied by drawings to scale and written material showing the area and general appearance of the *sign*, the method of illumination, the exact location of the proposed *sign*, and the method of construction and/or attachment of such *sign* to the *building* or *structure*.

B. **Review Procedure**

(1) Time Limits. All *sign* applications shall be reviewed for compliance with these regulations within ten business days from the time a completed application has been accepted by the Community Development Director.

(2) All appeals and *variance*s regarding the terms of this Part of the Zoning Ordinance shall be heard by the *Board of Zoning Appeals.*

(3) A *Comprehensive Sign Plan* (*CSP)* may be submitted that permits consideration of unique conditions, flexibility and creativity. Such *CSP* is subject to approval by the *Planning Commission.* The application of such a plan cannot be viewed as imposing more restrictive requirements than permitted by the basic standards, but rather, may permit additional *signs* and/or *sign area* based on the applicant's demonstration of unique characteristics of the design*, building,* and/or *site* and appropriate landscaping associated with *freestanding signs*. Once a *CSP* has been approved subsequent applications for specific *signs* shall be approved administratively when the proposed *sign* is in compliance with the approved *CSP.*

(4) If proposed *sign*s do not comply with the provisions of Section 7.8A, the applicant may submit an application to the *Planning Commission* to determine the adjustments, if any, that are appropriate to satisfy the requirements of Section 7.8A.

Section 7.8 SUPPLEMENTAL CONSIDERATIONS

A. **Construction Standards.** The construction, erection, safety and maintenance of all *sign*s shall comply with the *building code*s in effect at the time of construction. As of the adoption date of this Ordinance, the effective code is the 2012 International Building Code.

(1) *Sign*s shall be structurally sound and located so as to pose no reasonable threat to pedestrian or vehicular traffic.

(2) All permanent *freestanding sign*s shall have self-supporting *structure*s erected on, or permanently attached to, concrete foundations.

(3) If possible, *sign*s should not be locations that obscure architectural features such a pilasters, arches, windows, cornices, etc.

(4) The *sign*s should not be in locations that interfere with safe vehicular and pedestrian circulation or public safety *sign*als and *sign*s.

(5) No *sign*s shall be erected, constructed, or maintained so as to obstruct any fire escape, required exit, window, or door opening used as a means of egress.

(6) *Sign*s shall be structurally designed in compliance with ANSI and ASCI standards.

(7) *Sign*s may be illuminated – by external or internal means – provided that:

(a) The brightness and intensity shall not be greater than necessary to meet reasonable needs of the business or use served;

(b) Light sources shall be shielded from all adjacent *building*s and *street*s; and,

(c) The lighting shall not create excessive glare to pedestrians and/or motorists, and will not obstruct traffic control or any other public informational *sign*s.

B. **Maintenance.** All *sign*s shall be maintained in accordance with the following:

(1) The property owner shall maintain the *sign*; in a condition appropriate to the intended use; to all City standards; and has a continuing obligation to comply with all *building code* requirements.

(2) If the *sign* is deemed by the Community Development Director to be in an unsafe condition, the owner of the business shall be immediately notified in writing, and within 48 hours of receipt of such notification, respond to the City with a plan to correct the unsafe condition, remove the unsafe *sign*, or cause it to be removed. If after 28 days, the unsafe condition has not been corrected through repair or removal, the Zoning Enforcement Officer may cause the repair or removal of such *sign*, at the expense of the property owner or lessee. If the total costs are not paid in full with 60 days of the repairs or removal, the amount owed shall be certified as an assessment against the property of the *sign* owner and a lien upon that property.

(3) In cases of emergency, the Community Development Director may cause the immediate removal of a dangerous or defective *sign* without notice.

(4) Whenever any *sign*, either conforming or non-conforming to these regulations, is required to be removed for the purpose of repair, relettering or repainting, the same may be done without a permit or without any payment of fees provided that all of the following conditions are met:

(a) There is no *alteration* or remodeling to the *structure* or the mounting of the *sign* itself;

(b) There is no enlargement or increase in any of the dimensions of the *sign* or its *structure*;

(c) The *sign* is accessory to a legally permitted or *non-conforming use*.

C. **Signs Exempt from the Regulations.** The following *sign*s shall be exempt from regulation under this Zoning Ordinance.

(1) Any public purpose/safety *sign* and any other notice or warning required by a valid an applicable federal, state or local law, regulation or resolution.

(2) Works of art that do not include a *commercial* message.

(3) Religious or other holiday lights and decorations containing no *commercial* message, and displayed only during the appropriate time of the year.

(4) Flags of the United States, the state, foreign nations having diplomatic relations with the United States, and any other flag adopted or sanctioned by an elected legislative body of competent jurisdiction. These flags must be flown in accordance with protocol established by the Congress of the United States for the Stars and Stripes. Any flags not meeting these conditions shall be considered a *sign* and shall be subject to regulations as such.

(5) *Building* Markers.

D. **Prohibited Signs.** The following *sign*s are prohibited in the City:

(1) *Abandoned sign*s, as defined in Section 7.1.

(2) Animated, flashing, *rotating sign*s and festoons as defined in Section 7.1, inflatable *sign*s, tethered *balloon*s, pennants, search lights, streamers, exposed light bulbs, strings of light not permanently mounted to a rigid background, and any clearly similar features, except those specifically exempt from regulation in Section 7.8C, *special event sign*s or *banner*s permitted in Section 7.5H or electronic message centers as permitted in Section 7.5C.

(3) *Sign*s on vehicles when the vehicle is placed in a location not normally expected for such vehicles, and the location apparently has the primary purpose of attracting attention or providing advertising.

(4) *Sign*s containing any words or symbols that would cause confusion because of their resemblance to highway traffic control or direction *sign*als.

(5) Off-premise signs

(6) Merchandise, equipment, products or vehicles or other items which are not available for purchase, but are intended to attract attention, or for identification or advertising purposes.

(7) *Sign*s located on trees, *utility* poles, public benches or any other form of public property or within any public right-of-way unless explicitly permitted.

(8) Other *sign*s or attention getting devices that raise concerns substantially similar to those listed above.

Part 8. SPECIAL REGULATIONS

Section 8.1 HOME OCCUPATIONS

A. The City recognizes the desire and/or need of some citizens to use their residences for business activities in order to reduce travel and provide another economic development tool, but also recognizes the need to protect the surrounding areas from adverse impacts generated by these business activities. The standards in this section are intended to ensure that the home occupation use remains subordinate to the residential use, and that the residential character of the dwelling unit is maintained. The standards recognize that many types of jobs can performed in a home with little or no effect on the surrounding neighborhood.

B. There are two types of *home occupations,* Type A and Type B. Uses are allowed as a *home occupation* only if they comply with all of the requirements of this Section. If necessary, determination of whether a use complies with the parameters of a Type A or B, *home occupation* shall be made by the Community Development Director.

(1) Type A. A Type A *home occupation* is one wherein the residents use their home as a place of work; where, except on rare occasions, no employees other than the residents or customers come to the site.

(2) Type B. A Type B *home occupation* is one where the residents use their home to conduct business in which there may be one employee other than the residents in addition to customers/clients. Examples include a counselor, tutor, architect, *family childcare homes* or art classes.

C. *Home Occupations* are permitted by type, by district, as specified in the table below.

Home Occupation	R1	R2	R2-A	R3	R4	RO	All "C" Districts
Type A	◆	◆	◆	◆	◆	◆	◆
Type B	ǂ	○	○	○	○	○	○

Key:

◆ Permitted by right, no permit required

○ Zoning Occupancy Permit for Home Occupation Required

ǂ Special Exception by Board of Zoning Appeals Required and Zoning Occupancy Permit for Home Occupation Required

D. Permitted *Home Occupations*. Examples of permitted home occupations include, but are not necessarily limited to, the following:

(1) Offices for such professionals as but not limited to, architects, brokers, counselors, clergy, doctors, draftspersons and cartographers, engineers, land planners, insurance agents, lawyers, real estate agents, accountants, editors, publishers, journalists, physiologists, contract management, graphic design, construction contractors, landscape design, cleaning services, salespersons, manufacturer's representatives, and travel agents.

(2) Instructional services, including music, dance, art, and craft classes.

(3) Studios for artists, sculptors, photographers, and authors.

(4) Workroom for tailors, dressmakers, milliners, and craft persons, including weaving, jewelry making, cabinetry, and woodworking.

(5) Home salon for services providing hair cutting, massage, or other cosmetology services.

(6) *Family childcare homes.*

E. **Standards.** *Home Occupations* shall comply with the standards listed below:

(1) Operational Standards

(a) A *home occupation* shall have no more than one (1) nonresident employee on the premises at any one time. The number of nonresident employees working at locations other than the site of the *home occupation* is not limited.

(b) The *home occupation* shall be limited to the parking/storage of one (1) commercial vehicle on the premises, not exceeding a 15,000 pound gross vehicle weight.

(c) The use shall not include on-premises retail sales.

(d) Type A *home occupations* are not required to provide any additional parking beyond what is required for the residential use. Type B *home occupations* shall provide one (1) additional off-street parking space.

(e) The equipment used by the *home occupation* and the operation of the *home occupation* shall not create any vibration, heat, glare, dust, odor, or smoke discernible at the property lines, generate noise exceeding those permitted by State Code and the City Code, create electrical, magnetic, or other interference off the *premises*, consume utility quantities that negatively impact the delivery of those utilities to surrounding properties, or use or store hazardous materials in excess of the quantities permitted in a residential structure.

(2) Site Related Standards

(a) Outdoor activities.

(i) All activities must be contained within completely enclosed structures.

(ii) Exterior storage or display of goods or equipment is prohibited.

(b) Appearance of structure and site. The dwelling and site must remain residential in appearance and characteristics. With the exception of signage which complies with Part 7 of7of the Zoning Ordinance or changes which are expressly contemplated under the terms of this Part, external changes to the dwelling where the *home occupation* is conducted which make it appear less residential in nature or function are prohibited.

(i) The use shall not include the display visible from outside of the dwelling of any goods, stock in trade, or other commodities.

(3) The use shall involve no more than 25% of the *total floor area* of the *dwelling unit* in which the *home occupation* is located. If the *home occupation* is located in an *accessory structure*, the use shall involve no more than 25% of the combined total floor area of the dwelling unit and accessory structure. Notwithstanding the foregoing, in no instance shall a *home occupation* occupy a total of more than 500 square feet of gross floor area.

(4) Hours. A *home occupation* shall not operate between the hours of 9 p.m. and 7 a.m. in such a manner as is discernible from other dwellings.

Section 8.2 TOWNHOUSES

A. See Part 2 for definitions

B. A *townhouse* development may consist of one or more group(s) of *townhouses* in which each group is limited to no more than six attached *dwelling units.*

C. Lot Area. No townhouse lot shall contain an area of less than 1,600 square feet and a minimum lot and building width as specified by the zoning district requirements. The building setbacks shall conform to the requirements of the zoning district. The remaining lot area that would normally be required in the zoning district, per dwelling unit, shall be incorporated into usable and accessible open space, in which up to no more than 30% of the open space may be used as private or common vehicular access or parking area for the townhouse project site.

D. Open space shall be surveyed and legally described as a separate parcel or parcels.

E. The open space parcel(s) shall be contiguous with at least one of the townhome parcels.

F. Open space must be restricted from further development by a conservation easement. The conservation easement shall be presented as part of the preliminary plan to the Planning Commission.

(1) The conservation easement may be held by one or more of the following ownership structures:

(a) A common ownership association, individual members of which own non-open space within the development and in which membership in the association by all property owners in the development shall be mandatory;

(b) Any individual who will use the land in accordance with the terms of the conservation easement.

(2) The conservation easement must specify:

(a) What entity will maintain the designated open space;

(b) The purposes of the conservation easement and the conservation values of the property;

(c) The legal description if the land under the easement;

(d) The restriction of the use of the land;

(e) To what standards the open space will be maintained; and,

(f) Who will have access to the open space.

(3) The owner(s) of the land underlying the conservation easement shall be responsible for the payment of taxes and assessments of any designated open space parcel.

Section 8.3 BED AND BREAKFAST

A. See definition, Section 2.1.

B. *Bed and breakfasts* shall meet the following standards:

(1) No *bed and breakfast* shall contain more than six (6) *sleeping room*s.

(2) Only designated rooms shall be used for sleeping.

(3) A minimum of one (1) full lavatory, toilet and shower or tub or combination thereof shall be available for every two (2) guestrooms as well as one (1) for the owner occupant.

(4) No guestroom shall contain more than two (2) beds.

(5) No cooking facilities shall be permitted in any guestroom.

(6) Upon conversion of an existing *dwelling* to a *bed and breakfast*, no additional entrance shall be permitted in the front facade.

(7) No guest shall be permitted to stay in a *bed and breakfast* for more than ten (10) consecutive nights.

(8) No more than four (4) adult persons shall simultaneously occupy any one (1) guest room in a *bed and breakfast*.

(9) An owner or full-time manager must live in the *bed and breakfast*.

(10) There shall be no more than two (2) nonresident employees in or about the *bed and breakfast*.

(11) *Signs* shall comply with the regulations applicable to *home occupation signs.* See Section 7.5E.

(12) Meal service shall be limited to overnight guests.

(13) A sidewalk shall be placed connecting the parking area to the main *building*.

(14) The *bed and breakfast* shall not be used as a gathering place, meeting hall or dining facility.

Section 8.4 GROUP HOMES AND TREATMENT CENTERS

A. See definitions in Section 2.1. See also provisions in Section 1.18 concerning *special exception*s to comply with Federal law.

B. **Group Homes and Treatment Centers.** *Group home*s and *treatment center*s are subject to the following requirements:

(1) Certification. The use shall receive all applicable governmental licenses and certifications as a condition of City approval. Copies of such licenses and certifications shall be filed with the Community Development Director. The Community Development Director shall be notified in writing within seven (7) days if such licenses or certifications expire, are suspended and/or are withdrawn, or if the type of clients served by the use should change.

(2) Registration. The use shall register its location, general type of treatment/care, maximum number of residents and sponsoring agency/company with the Community Development Director.

(3) Counseling. Any on-site medical or counseling services shall be limited to residents and a maximum of three (3) non-residents per day.

(4) Parking. One (1) *off-street parking space* shall be provided for each employee on duty during peak shifts, plus one (1) space for every two (2) residents with a valid driver's license.

C. **Group Homes**. In addition to the requirements set forth in Section 8.4B, a Group Home shall be subject to the following requirements:

(1) A *group home* shall not meet the definition of a *treatment center*.

(2) A *group home* shall not house persons who can reasonably be considered to be a physical threat to others.

(3) If a *group home* is within a residential *district*: a) it shall be maintained and/or constructed to be closely similar in exterior appearance and condition to other dwellings in the area, and b) no exterior *sign*s shall identify the nature of the use.

(4) *Residents*.

(a) To provide a "reasonable accommodation" under Federal law, the maximum number of residents in a *group home* shall not include and shall not limit the number of bona fide employees who are needed to supervise and care for residents.

(b) A *group home* shall be permitted within any lawful *dwelling unit* provided that the number of residents meets the restrictions on the number of un*related* persons that apply to any other *dwelling unit* through the definition of "*family*" and the applicable *district* regulations, except as provided by "c" below.

(c) To further provide a "reasonable accommodation" under Federal law, the number of un*related* residents in a lawful *group home* may be increased as follows:

(i) *Single family detached dwelling* with a minimum *lot* area of 10,000 square feet in a *district* other than R1: eight (8) un*related* persons

(ii) *Group home* within a lawful *dwelling unit* in a C1, C2 or T-LI *district*: 10 un*related* persons.

D. **Treatment Centers**. In addition to the requirements set forth in Section 8.4C, a treatment center shall be subject to the following requirements:

(1) The applicant shall provide a written description of the type of residents the use is intended to include over the life of the certification (See Section 8.4B(1)). Any future additions or modifications to the list shall require separate *Board of Zoning Appeals* approval as a special exception.

(2) The applicant shall prove to the satisfaction of the *Board of Zoning Appeals* that the use will involve adequate supervision and security measures to protect the public.

(3) The *Board of Zoning Appeals* shall place conditions on the use as necessary to protect public safety, including conditions on the type of residents and security measures.

(4) A *treatment center* shall only be permitted in the C/LI *district*.

Section 8.5 INDIVIDUAL MOBILE HOMES AND PARKS

A. **Mobile Homes**. The following standards shall apply to any *mobile home* placed within the City of Frostburg after the adoption of this Ordinance.

(1) Any *mobile home* used as a *dwelling* shall comply with all requirements of the State of Maryland and the City of Frostburg as to water supply and waste water disposal.

(2) Each *mobile home* shall have not less than 600 square feet of total indoor habitable floor area.

(3) Each *mobile home* shall be securely anchored to substantial concrete piers, concrete footings, a concrete pad or other City-approved construction in a manner intended to significantly reduce the potential for wind damage. Each *mobile home* shall be provided with skirts of a suitable durable material as approved by the Community Development Director.

(4) A *mobile home park*, where permitted, shall comply with all of the same zoning requirements as a subdivision or site built *single family detached dwelling*s, such as off- street parking provisions of Section 6.12 for dwellings, in addition to the requirements of this Section 8.5, unless specifically stated otherwise.

(5) Individual *Mobile Home*s. A *mobile home* shall only be permitted within a City-designated *mobile home park*.

(6) Safety Standards. Any *mobile home* placed within the City of Frostburg after the adoption of this Ordinance shall have been constructed in accordance with the 1976 or later safety and construction standards of the U.S. Department of Urban and Housing Development, or its successor agency.

B. **Mobile Home Parks.** *Mobile home park*s shall comply with the following provisions:

(1) A *mobile home park* shall comply with all of the improvement standards of the City Subdivision and Land Development Regulations.

(2) Each *mobile home park* shall have a minimum *lot* area of four (4) acres.

(3) In any *mobile home park*, *mobile home*s shall be located not less than 50 feet from all property lines and public *street* rights-of-way. Such setback areas shall be attractively landscaped with trees and shrubs to serve as a buffer.

(4) Each *mobile home* site within a park shall contain not less than 6,000 square feet. The maximum overall density of a *mobile home park* shall not exceed five (5) dwelling units per acre. No *mobile home* shall be located within 20 feet of any other *mobile home* or *building* in the park, except *structure*s attached to and incidental to said *mobile home*.

(5) In any *mobile home park*, the *mobile home*s, together with other *building*s on the *lot*, shall not occupy in the aggregate more than 40% of the total *lot* area.

(6) No *mobile home park* shall include any business or merchandising other than what is purely incidental and accessory to the operation of the park and is intended primarily to serve its occupants.

(7) In the granting of *special exception*s for *mobile home park*s, the *Board of Zoning Appeals* may require reasonable conditions to be met, such as additional setback requirements, landscaping and traffic control provisions in order to protect public health and safety and ensure compatibility with adjacent uses.

Section 8.6 ADULT USES AND GAMBLING

A. **Adult Uses.** *Adult uses* shall be subject to the following provisions:

(1) See definition in Section 2.1.

(2) No adult use shall be permitted within the following areas:

(a) Within a 1,000 foot radius from the *lot* line of any library, public park, or other public recreation area, or residential *district*;

(b) Within a 1,500 foot radius from the *lot* line of any primary or secondary school, college or university, *child care center*, church or similar place of worship, or existing *dwelling unit*; or

(c) Within a 500 foot radius from the *lot* line of any other adult use

(3) Only one (1) adult use is permitted per *lot*.

(4) A thirty (30) foot wide buffer shall be provided along the side and *rear lot lines*, within a full screen of evergreen trees if woodland is not preexisting within the buffer area.

(5) No materials that are adult use in nature shall be visible from the outside of the establishment, including, but not limited to, *sign*s.

(6) In accordance with Section 1.15B, an application for an occupancy permit shall be filed in which the application shall list full legal name and home address of the following individuals:

(a) All persons who will have any ownership interest in the use or any ownership interest in any corporation or other entity that controls the use; and,

(b) The on-site manager who shall be personally responsible, in addition to the owners, to ensure that this Ordinance is complied with at all times.

(i) Any changes to the information above shall be reported to the Community Development Director in writing within seven (7) days of said change.

B. **Gambling Establishments.** *Gambling establishments* shall be subject to the following provisions:

(1) See definition, Section 2.1.

(2) No *gambling establishment* shall be located within any of the following, regardless of municipal limits:

(a) 1,000 lineal feet of the lot line of a library, public park or other public recreational area, college or university, or residential district;

(b) 1,500 linear feet of the lot line of a primary or secondary school, child day care center, church or similar place of worship, or existing dwelling unit;

(c) Any district other than T-LI

(3) A thirty (30) foot wide buffer shall be provided along the side and rear lot lines, within a full screen of evergreen trees if woodland is not preexisting within the buffer area.

(4) A minimum lot area of two (2) acres shall be required

(5) Any application for a *gambling establishment* shall include the full legal name and home address of all persons who will or have any ownership interest in the use or any ownership interest in any corporation or other business entity that controls the use.

Section 8.7 SOLAR ENERGY ACCESS AND WIND ENERGY SYSTEMS

A. **Definition of Solar Energy Building**. A *solar energy building* is an existing *principal building* which depends upon an existing substantial solar energy system for a significant portion of its heating, hot water and/or air conditioning needs. To be eligible for protection under this Section, the owner of such a *building* shall provide a written statement in advance to the Community Development Director stating that a substantial solar energy system has been installed and is being used.

(1) Prior to a City permit being issued for the construction of any portion of a proposed *building* that would have a height taller than 25 feet (other than chimneys, antenna and similar narrow vertical projections) or an accessory *building* that would have a height taller than 15 feet within 25 feet of an existing *solar energy building*, the applicant for such proposed *building* shall provide an independent analysis to the Community Development Director concerning the effects of such construction upon the solar energy system of the existing *solar energy building*.

(a) Such analysis shall consider the peak hours of 9 a.m. to 4 p.m. during the period between September 21 to March 21.

(b) If such analysis shows that such *building* would have significant adverse impacts upon the effectiveness of the solar energy system, then the Community Development Director shall limit the maximum heights of proposed *building*s, as necessary, to protect against such adverse impacts. The area in which the Community Development Director may limit the height of the proposed *building* is restricted to the minimum *building setback* plus a distance greater than 15 feet from the property line of the adjacent *solar energy building.*

(c) In no case shall this Section require a *principal building* to have a height less than 25 feet or an accessory *building* to have a height less than 15 feet.

(d) No tree with a mature height of greater than 40 feet shall be planted in a location on private property that would significantly adversely affect solar access of a *solar energy building* on an adjacent *lot*.

(2) Variance. The *Board of Zoning Appeals* shall not grant a *variance* to the dimensional requirements of this Ordinance that would adversely affect the solar energy system of a *solar energy building*.

(3) Exception. Portions of *structure*s that exist solely for the purposes of collecting and storing solar energy and related mounting equipment shall be exempt from the height requirements of this Ordinance.

(4) Easements**.** Where a proposed subdivision includes two (2) or more adjacent proposed *lot*s that are intended to include *building*s using solar energy systems, the applicant is encouraged to establish suitable "solar access easements" on such *lot*s to make sure that adequate solar access is available over time.

B. **Wind Energy Systems**.

(1) *Wind Energy System*s (`WES') as defined herein shall be reviewed as a *special exception* use in all zoning *district*s subject to a limitation that no more than one (1) WES is to be permitted on any *lot of record* and subject to compliance with all of the following:

(a) A minimum setback measured from the center point of the base of the WES structure shall be required to all lot lines whether to a public right-of-way or to any private parcel owned by a party other than the property owner making application for an WES to be the number of linear feet that is determined by multiplying 1.1 times the height in feet of the WES structure as measured from the ground to the highest point of the fixed tower structure plus in addition the length of one (1) rotor blade. This setback may be modified only by documentation of the express written consent of a private property owner or owners that would agree to allow the required setback to extend closer to or onto the adjoining owner's property. In the case of a setback radius extending across a lot line and onto an adjoining owner's property, permission must be set forth in an easement to be recorded in the Land Records of Allegany County and incorporated in an amended deed to the adjoining property prior to issuance of any City building or grading permit for any WES, said easement to be written so as to clearly prohibit construction of any principal or accessory building or structure within the area covered by the easement on the neighboring property as long as the subject WES is physically present. In the case of a setback radius extending across a lot line and onto a public right-of-way, permission must be obtained prior to permit approval by review and approval of the City of Frostburg's Director of Public Works.

(b) The maximum height permitted shall be 75 feet, measured from the ground to the highest point of the fixed tower *structure* plus in addition the length of one (1) rotor blade. The *Board of Zoning Appeals* may consider a *variance* to height restrictions in this part only when 1) the fall radius setback is maintained or an affected owner has agreed to prepare a permissive easement as set forth above; and 2) findings can be made to support the *variance* pursuant to Section 1.18C(4).

(c) Any WES shall be designed so that the lowest point of the area to be swept by the rotor blades shall have a clearance of not less than fifteen (15) feet above the base of the *structure*. The supporting tower shall not be climbable below a point on the WES that is twelve (12) feet above the base of the *structure*. All proposed access doors shall be secured by safety locks.

(d) Guy wires as may support any WES shall be set back at least five (5) feet from all *lot* lines and shall be secured to stationary anchors properly and securely attached to the ground and may not be attached to a tree or a *structure*. Reflective material shall be placed on all guy wires within ten (10) feet of the ground in sufficient quantity and spacing to make the wires visible.

(e) The WES shall be designed with braking, governing, or feathering systems to prevent uncontrolled rotation, over-speeding, and excessive pressure on the components. This standard may be met by providing evidence of review and approval of the proposed WES by the Small Wind Certification Council (SWCC) or any other WES certification program recognized by the State of Maryland.

(f) Any and all exterior electric wiring required to connect the WES to the electric power grid must be placed in underground conduit.

(g) The WES shall not include lighting or illumination of any kind unless required by Federal Aviation Administration (FAA) regulations.

(h) No WES shall contain any lettering, advertisement, or signage of any kind except one (1) manufacturer's label bonded to or painted upon the *structure* and standard warning signage placed by the manufacturer.

(i) The WES shall be designed so that noise levels shall not exceed 55 dBA at the closest point from the WES *structure* to any point on a property line of the *lot* on which the WES is proposed as evidenced by a Manufacturer's noise rating provided with the application.

(j) The WES shall contain a surface coating of non-reflective paint and shall not alter the Manufacturer's default color.

(k) A site plan and drawings must accompany any permit application for a WES that includes the following:

(i) Signature of a licensed engineer indicating compliance with all applicable Federal, State, and local government requirements, including FAA regulations.

(ii) An engineer's certification that the WES has been designed to be in compliance with all applicable structural and electrical codes, and that the installation as shown on the site plan will not compromise the structural integrity of the tower or other WES components.

(l) The property owner's certification affirming that the WES shall:

(i) be constructed in accordance with the design specifications;

(ii) be maintained in good operating condition in compliance with manufacturer's recommended maintenance specifications and applicable government regulations for structural, electrical, and mechanical components and maintenance of the 55 dBA maximum noise standard; and

(iii) be deconstructed and removed if and when the WES becomes inoperable for a period of at least six (6) consecutive months.

(m) Any WES to be connected to the electric power grid must contain a certification signed by the property owner agreeing to comply with all applicable *utility* notification requirements as contained in the State of Maryland's net metering regulations and with the Small Generator Interconnection Rule as promulgated by the Maryland Public Service Commission.

Appendix A - Basic Information required for Zoning and Building Permit Applications

Note: All plats and plans must be clear and legible.

			Development Stage		
				Site Plan	
Item	Description	Sketch/ Concept Plan	Master Plan	Prelim	Final
I.	PROJECT / PLAT INFORMATION				
1	Name, address of owner, applicant, developer and lien-holder, date of application	x	x	x	x
2	Name and address of engineer, land surveyor, architect, planner, and/or landscape architect, as applicable, involved in documentation preparation	x	x	x	x
3	Date of survey			x	x
4	Seal, signature, and license number of engineer, land surveyor, architect, and/or landscape architect, as applicable, involved in document preparation. Each sheet must have a surveyors seal			x	x
5	Title block denoting name and type of application, tax map, parcel, and lot number, and street location	x	x	x	x
6	A vicinity map at a specified scale, no smaller than 1" = 200', showing location of the tract with reference to surrounding properties, streets, landmarks, streams, etc. Show all of the property owned according to the tax map(s) if only part of the property is to be developed.	x	x	x	x
7	Existing and proposed zoning of tract and adjacent property from Official Zoning Map	x	x	x	x
8	Adjacent property owners, names, Liber and Folio	x	x	x	x
9	Title, north arrow, and scale	x	x	x	x
10	Appropriate signature block for Planning Commission Chair, City Engineer, Community Development Director, and Soil Conservation District			x	x
11	Appropriate certification blocks				x
12	Certification and dedication by the owner or owners to the effect that the subdivision as shown on the final plant is made with his or her consent and that it is desired to record the same				x
13	Monumentation, location, and description				x
14	Standardized sheets, 24" x 24" (final - black ink on Mylar)			x	x
15	Metes and bound survey showing dimensions, bearings, curve, data, length of tangents, radii, arc, chord and central angles for all centerlines and rights-of-way, and centerline curves on streets, datum and benchmark, primary central points approved by the City Engineer (Boundary of proposed subdivision can be a deed plot)			x	x
16	Acreage of tract to the nearest thousandth of an acre	x	x	x	x
17	Date of original and all revisions	x	x	x	x

			Development Stage		
				Site Plan	
Item	Description	Sketch/ Concept Plan	Master Plan	Prelim	Final
18	Size and location of any existing or proposed structures with all setbacks dimensions. Include storm drains, culverts, retaining walls, fences, stormwater management facilities, sediment and erosion control structures		x	x	x
19	Number of dwelling units	x	x	x	x
20	Location, dimensions, bearings, names of any existing or proposed roads or streets. The location of pedestrian ways, and driveways, if known, and right-of-way widths	x	x	x	x
21	All proposed lot lines (width and depth) and area of lots in square feet, number of lots, lot numbers			x	x
22	Location and type of utilities			x	x
23	Copy and/or delineation of any existing or proposed deed covenants or restrictions			x	x
24	References to protective covenants governing the maintenance of undedicated public spaces or reservations				x
25	Location and size of designated open spaces, play grounds, and other public areas	x	x	x	x
26	Any existing or proposed easement (drainage and utility) or land reserved for or dedicated to public use. Location dimensions of proposed reservations, right-of-ways, open space, buffers, forested areas along with means by which these areas will be permanently maintained.	x	x	x	x
27	Statement of owner dedicating streets, right-of-way, and any sites for public use				x
28	Development stages or phasing plans. Sections numbered by phase.	x	x		
29	Total number of off-street parking spaces including ration and number of units per space	x	x	x	
30	List of required regulatory approvals/permits	x	x	x	x
31	List of variances required or requested	x	x	x	x
32	Total area of the site that will be temporarily and/or permanent disturbed.			x	
II.	SETTING - ENVIRONMENTAL INFORMATION				
33	All existing streets, water courses, floodplains, wetlands, or other environmentally sensitive areas on or adjacent to site	x	x	x	
34	Existing rights-of-way and/or easements on or immediately adjacent to the tract	x	x	x	x
35	Topographical features of subject property, minimum of 5' contour intervals,(field verified or survey for final)	x	x	x	x
36	General areas of >25% slope shaded and identified as steep slopes	x	x	x	x

			Development Stage		
				Site Plan	
Item	Description	Sketch/ Concept Plan	Master Plan	Prelim	Final
37	Existing system of drainage of subject site and adjacent sites of any larger tract or basin of which it is a part			x	x
38	100-year floodplain as delineated by FEMA	x	x	x	x
39	Wetland delineation based on NWI and field review	x	x	x	
40	Wetland delineation based on field delineation/determination				x
41	Location of sensitive areas and their buffers	x	x	x	x
42	location and width of bufferyards	x	x	x	x
43	Soil types from Allegany County Soil Survey			x	
44	Traffic Impact Study, as required			x	
III.	PLATS, IMPROVEMENT PLANS, AND CONSTRUCTION INFORMATION				
45	Subdivision Plat meeting requirements of Subdivision Regulations				x
46	Grading and drainage plans, including roads, drainage ditches, sediment basins, berms			x	x
47	Existing and proposed contour intervals of 2'			x	x
48	Proposed street grades, typical cross sections and profiles, right-of-way widths, pedestrian ways, total area of roads			x	x
49	Existing and proposed utility infrastructure plans and profiles including sanitary sewer, water, storm drainage and stormwater management			x	x
50	Grades and sizes of sanitary sewers and waterlines			x	x
51	Direction and distance to water and sewer if not available on or adjacent to the site with invert and elevation of sewer.			x	
52	Certification from electric, gas, and communication companies of adequate facilities, if applicable, to serve the development			x	
53	Location of fire hydrants			x	x
54	Construction details as required by Ordinance				x
55	Stormwater Management Plan			x	x
56	Soil Erosion and Sediment Control Plan			x	x
57	Light plan and details, as required				x
58	Landscape plan and details, including required buffer yards			x	x
59	Proposed street names			x	x
60	New block and lot numbers			x	x
61	Required County, State, and or Federal approvals, e.g., SHA, County DPW, Army Corps, MDE, etc.				x
62	Public works agreement and surety instruments				x