ORDINANCE 2026 - 08

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF FROSTBURG, MARYLAND ENTITLED "AN ORDINANCE TO REPEAL AND RE-ENACT WITH AMENDMENTS SECTIONS 1.15, 1.16, 1.18, 1.22, 2.1 AND THE USE REGULATIONS TABLE AT THE BEGINNING OF PART 3 AND TO ENACT SECTION 8.10, ALL IN THE ZONING ORDINANCE OF THE CITY OF FROSTBURG (APPENDIX A OF THE FROSTBURG CITY CODE), FOR THE PURPOSE OF INCORPORATING AND ADOPTING PROVISIONS PERTAINING TO ACCESSORY DWELLING UNITS, AS REQUIRED BY THE ACCESSORY DWELLING UNITS ACT OF 2025 (HOUSE BILL 1466 AND SENATE BILL 891)".

WHEREAS, the City of Frostburg is a municipal corporation of the State of Maryland, organized and operating under a charter ("Charter") adopted in accordance with the laws of the State of Maryland;

WHEREAS, Article V, Sections 501 and 502 of the Charter empower the City of Frostburg to regulate zoning matters within the City;

WHEREAS, the City of Frostburg Zoning Ordinance (the "Zoning Ordinance") is set forth in Appendix A to the Frostburg Code;

WHEREAS, it is the policy of the State of Maryland to promote and encourage accessory dwelling units on land with a single-family detached dwelling unit as the primary dwelling unit to help address the State's affordable housing shortage and meet its housing needs;

WHEREAS, the City can play an important role in reducing barriers that prevent homeowners from building accessory dwellings;

WHEREAS, State law, i.e., the Accessory Dwelling Units Act of 2025 (House Bill 1466 and Senate Bill 891), requires local jurisdictions with zoning authority to adopt regulations pertaining to accessory dwelling units in furtherance of the aforementioned State policy;

WHEREAS, the Frostburg Planning Commission reviewed the proposed amendments to Sections 1.15, 1.16, 1.18, 1.22, and 2.1, as well as the Use Regulations Table at the beginning of Part 3 of the Zoning Ordinance, and the text of Section 8.10, a new section of the Zoning Ordinance, at its public meeting held September 9, 2026, and voted to recommend that the Mayor and City Council adopt them;

WHEREAS, a public hearing on this Ordinance was held on the 20th day of October, 2026, at the Mayor and City Council's regular monthly meeting; and

WHEREAS, the Mayor and City Council reviewed the Planning Commission's recommendations and, having considered the testimony at the public hearing, if any, voted to adopt them as set forth hereinafter.

NOW THEREFORE:

SECTION 1: BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF FROSTBURG that Sections 1.15, 1.16, 1.18, 1.22, and 2.1, as well as the Use Regulations Table at the beginning of Part 3 of the City of Frostburg Zoning Ordinance (Appendix A to the City Code), are repealed and reenacted with amendments to read as is set forth in Exhibit A attached hereto and incorporated by reference herein. (NOTE: The attached Exhibit B is a text-edited version of the aforesaid sections of the City Code, showing the amendments effected by this Ordinance.)

SECTION 2: BE IT FURTHER ORDAINED that Section 8.10 of the Zoning Ordinance is hereby enacted, to read as follows:

Sec. 8.10. Accessory Dwelling Units (ADUs).

A. An accessory dwelling unit is permitted on any lot with an existing single-family detached dwelling unit, provided it meets all other standards for accessory structures.

B. An accessory dwelling unit is exempt from the calculation of density for the lot, parcel, or tract upon which it is located. The construction of accessory dwelling units is not restricted by any City of Frostburg ordinance, policy, or program intended to limit residential growth.
C. The rear and side lot line setback requirements for accessory dwelling units are the same as accessory structures for the zoning district in which the lot, parcel, or tract is located.
D. The conversion of an accessory structure as an accessory dwelling unit is prohibited if the only vehicular access to the accessory structure is from an alley.

SECTION 4: BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF FROSTBURG that this Ordinance shall take effect twenty (20) days from the date of its passage.

Passed this _____ day of _____, 2026.

_____
Todd Logsdon, Mayor

ATTEST

_____
Patrick O'Brien, City Administrator

Introduced:	October 20, 2026
Public Hearing:	November 17, 2026
Adopted:	_____
Effective:	_____

EXHIBIT A

Sec. 1.15. Building permits, zoning occupancy and land use permits.

A. Building Permits.

(1) 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] Construction or installation of an ADU

[k] Installation of a permanent sign regulated by this Ordinance.

[l] Renovations to accommodate a change in type of use.

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

[n] 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 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 buildings 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. If the work described in any building permit has not begun within one (1) year from the date of issuance, said permit shall expire and it shall be canceled by the Development Staff.

(4) 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.

(5) Completion. If the work described in any building permit issued for other than a nonresidential 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 nonresidential 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 buildings or land conforms to the requirements 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 alterations 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.

Sec. 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, an ADU, 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 one thousand (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 buildings, 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 stormwater 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 acknowledge receipt of a request for an extension and shall render a decision thereon not more than thirty (30) days after its filing.

Sec. 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 thirty (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 thirty (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 exceptions 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 variances 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, infrastructure, 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 lots 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 fifty percent (50%) or less in lot size or width.

[b] An administrative variance of fifty percent (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 seventy-five percent (75%) or less in side or rear yard setbacks for accessory structures and ADUs.

(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 variances 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 uses 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 ninety (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.

Sec. 1.22. Non-conformities.

A. *Non-Conformities in General.*

(1) Definition of Non-conformities. Lots, structures, signs, 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.

(2) Purposes. To seek the gradual conversion of non-conforming uses 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 structures 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 subsection, 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 dwellings are permitted, a single-family detached dwelling, customary accessory structure or ADU 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, provided that all applicable requirements of this Ordinance (including but not limited to required yards) 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 lots in the same ownership, have an absolute minimum lot area of one thousand (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 nonconformity. No non-conforming structure or sign may be enlarged or altered in such a way as to increase its nonconformity.

(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) Damage. If a non-conforming structure or sign is damaged or destroyed to an extent of more than fifty percent (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 one hundred (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 ninety (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 one hundred (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 fifty percent (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 nonconformity is created,

(ii) No existing dimensional nonconformity is made more severe, and

(iii) No additional non-conforming dwelling units 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 one hundred (100) square feet of floor area is discontinued or abandoned for twelve (12) consecutive months or for a minimum of eighteen (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 structures 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 fifty percent (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 within 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 units 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 nonconformity 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.

Sec. 2.1. Meaning of terms.

Accessory Dwelling Unit or *ADU:* a secondary dwelling unit that is on the same lot, parcel, or tract as a primary single-family detached dwelling unit and not greater than 75% of the size of and subordinate in use to the primary single-family detached dwelling unit. “Accessory dwelling unit” includes a structure that is separate from the primary single-family detached dwelling unit or attached as an addition, to the primary single-family detached dwelling unit. See standards in Section 8.10.

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. This definition specifically excludes ADUs.

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 premises. 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:

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

(b) 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 merchandise, 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 twenty (20) feet.

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

Bed and Breakfast: A private owner-occupied, single-family detached residential dwelling containing as the primary use, an aggregate of lodging rooms offered for rent with breakfast service to transient guests 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 an 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 yards.

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 twenty-four (24)-hour basis on a regular schedule, and at least twice a week, offers or provides childcare 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 thirteen (13) years or to any developmentally disabled person under the age of twenty-one (21) years, in place of parental care for less than twenty-four (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) lots.

Dwelling, Multifamily: 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 units 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, Multifamily Apartments: A multifamily residential use other than a multifamily conversion or townhouse.

Dwelling, Primary with Accessory Apartment: See Accessory Dwelling Unit.

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 units, 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 units 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 units, but not including a primary dwelling with an accessory apartment. If two (2) dwelling units share a common wall, even the wall of an attached garage or porch, the dwelling units shall be considered to be a two (2)-family dwelling.

Dwelling Unit: A single unit providing complete living facilities for at least one individual, but no more than one (1) "family" (as defined by this Section) unless specifically stated otherwise, including, at a minimum, provisions for sanitation, cooking, eating, and sleeping. 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) buildings or enclosed structures greater than one thousand (1,000) SF in area; b) utility storage yards; 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 noncommercial 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 Homes 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 homes, machinery, motor vehicles and their parts, and building materials.

(a) 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 ninety (90) days previously.

(b) 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 yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, and may consist of:

(a) A single lot of record;

(b) A portion of a lot of record;

(c) A combination of complete lots of record, or complete lots of record and portions of lots of record.

(d) A parcel of land described by metes and bounds, provided that no case of division of lots or combination of lots 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.

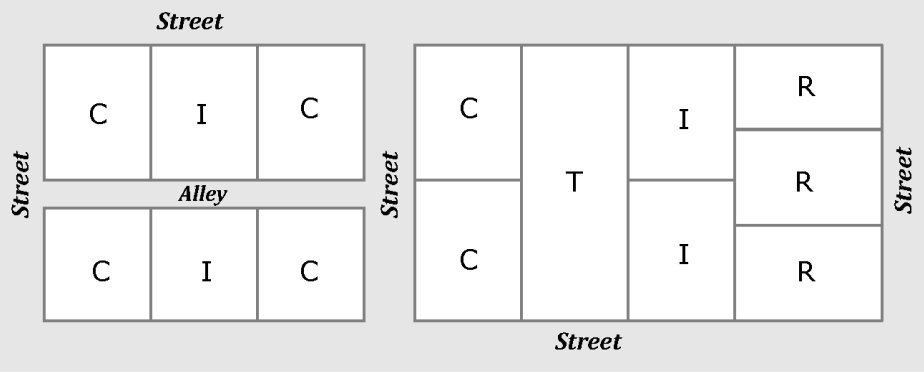
Lot Frontage: The front of a lot shall be the portion abutting or adjacent to the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot abutting or adjacent to streets shall be considered frontage, and front yards shall be provided along each street.

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 streets, 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

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

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

Lot, Reverse Frontage: 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.

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

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 rooms, 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 structures and uses.

Outdoor Storage: The storage of merchandise, material or equipment of any type, in conjunction with a permitted primary use, stored within view of any residential property or public right-of-way, and in accordance with Section 6.7 of this Ordinance.

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 structures and buildings 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, 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.

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, 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 non-profit community swimming pool, playground or park, operated solely for the convenience of its patrons shall not be considered a restaurant.

Self-Storage Facility: A commercial facility or structure in which the primary use is to provide separate indoor storage areas for personal or business use designed to allow private access by the tenant.

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.

Short-term Vacation Rentals: A dwelling unit in which the entire unit or separate portions thereof is available for rent for periods of less than forty-five (45) consecutive days to transient guests. Short-term vacation rentals shall conform to all applicable requirements set forth in the Short-Term Vacation Rental regulations set forth in Section 8.4 of the Zoning Ordinance.

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 rooms.

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:

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

(b) Addiction to alcohol and/or a controlled substance, or

(c) 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.

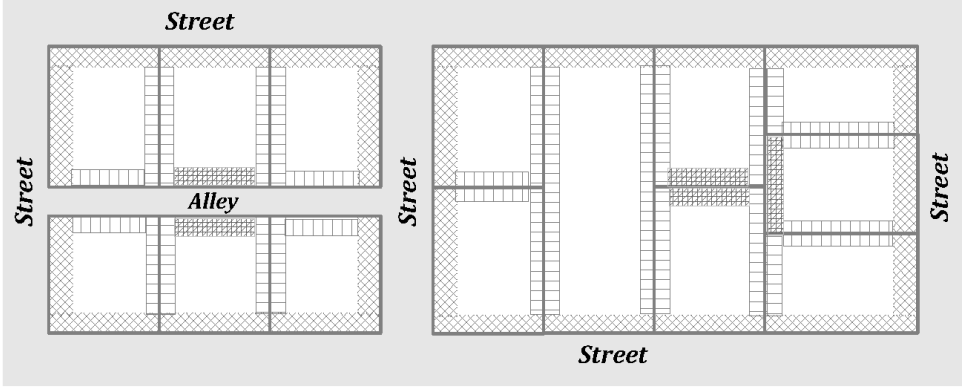
Waste Disposal Site: A facility or location where waste, refuse, and/or discarded materials are accommodated or left to be recycled.

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 seventy-five feet (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 Systems 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 thirty (30) inches above the general ground level of the graded lot upward, provided however, that fences 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 setback line, the rear lot line, and the side setback 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		
Multifamily 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]	P1			P[1]
Bed and Breakfasts		SE	SE	SE	SE	P	P	P	P		
Short-term Vacation Rentals		SE	P	P		SE	P	P	P		
Mobile Home Parks				SE			SE				
Treatment Centers											P
Home Occupations (Accessory Use)	See Section 8.1										

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		
Childcare 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		

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-through								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		

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	P	
Body Art Studios				SE	SE		P	P	P	P	
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			

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

Note:

1. The above Use Regulations Table is provided for convenience only. In the event it conflicts with the text of this Ordinance, the text shall take precedence.
2. Accessory dwelling units are excluded from the Use Regulations Table. They are addressed in Section 8.10 hereinafter.

EXHIBIT B

Sec. 1.15. Building permits, zoning occupancy and land use permits.

B. ~~A.~~ *Building Permits.*

(2) 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] Construction or installation of an ADU

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

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

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

[n~~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~~2~~)~~[sic]~~ 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 buildings 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~~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~~ permit shall expire and it shall be canceled by the Development Staff.

(4~~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.

(5~~b~~) Completion. If the work described in any building permit issued for other than a nonresidential 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 nonresidential 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 buildings or land conforms to the ~~requirement~~res 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~~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 alterations 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.

Sec. 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, an ADU, 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 one thousand (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 buildings, 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 stormwater 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~~ acknowledge receipt of a request for an extension and shall render a decision thereon not more than thirty (30) days after its filing.

Sec. 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 thirty (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 thirty (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 exceptions 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 variances 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, infrastructure, 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 lots 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 fifty percent (50%) or less in lot size or width.

[b] An administrative variance of fifty percent (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 seventy-five percent (75%) or less in side or rear yard setbacks for accessory structures and ADUs.

(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 variances 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 uses 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 ninety (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.

Sec. 1.22. Non-conformities.

A. *Non-Conformities in General.*

(1) Definition of Non-conformities. Lots, structures, signs, 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.

(2) Purposes. To seek the gradual conversion of non-conforming uses 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 structures 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 subsection, 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 dwellings are permitted, a single-family detached dwelling, ~~and~~ customary accessory ~~structures~~ structure or ADU 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~~ provided that all applicable requirements of this Ordinance (including but not limited to required yards) 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 lots in the same ownership, have an absolute minimum lot area of one thousand (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 nonconformity. No non-conforming structure or sign may be enlarged or altered in such a way as to increase its nonconformity.

(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) Damage. If a non-conforming structure or sign is damaged or destroyed to an extent of more than fifty percent (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 one hundred (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 ninety (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 one hundred (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 fifty percent (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 nonconformity is created,

(ii) No existing dimensional nonconformity is made more severe, and

(iii) No additional non-conforming dwelling units 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 one hundred (100) square feet of floor area is discontinued or abandoned for twelve (12) consecutive months or for a minimum of eighteen (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 structures 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 fifty percent (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 within 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 units 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 nonconformity 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.

PART 2. DEFINITIONS

Sec. 2.1. Meaning of terms.

Accessory Dwelling Unit or *ADU:* a secondary dwelling unit that is on the same lot, parcel, or tract as a primary single-family detached dwelling unit and not greater than 75% of the size of and subordinate in use to the primary single-family detached dwelling unit. "Accessory dwelling unit" includes a structure that is separate from the primary single-family detached dwelling unit or attached as an addition, to the primary single-family detached dwelling unit. See standards in Section 8.10.

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. This definition specifically excludes ADUs.

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 premises. 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:

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

(b~~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~~merchandise, 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 twenty (20) feet.

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

Bed and Breakfast: A private owner-occupied, single-family detached residential dwelling containing as the primary use, an aggregate of lodging rooms offered for rent with breakfast service to transient guests 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 an 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 yards.

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 twenty-four (24)-hour basis on a regular schedule, and at least twice a week, offers or provides childcare 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 thirteen (13) years or to any developmentally disabled person under the age of twenty-one (21) years, in place of parental care for less than twenty-four (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) lots.

Dwelling, Multifamily: 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 units 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, Multifamily Apartments: A multifamily residential use other than a multifamily 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 twenty-five percent (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.~~ See Accessory Dwelling Unit.

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 units, 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 units 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 units, but not including a primary dwelling with an accessory apartment. If two (2) dwelling units share a common wall, even the wall of an attached garage or porch, the dwelling units shall be considered to be a two (2)-family dwelling.

Dwelling Unit: ~~An enclosure containing sleeping, kitchen and complete bathroom facilities designed for and used, or held ready for use,~~A single unit providing complete living facilities for at least one individual, but no more than ~~as a residence by a maximum of only~~ one (1) "family" (as defined by this Section)~~,~~ unless specifically stated otherwise, including, at a minimum, provisions for sanitation, cooking, eating, and sleeping. 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) buildings or enclosed structures greater than one thousand (1,000) SF in area; b) utility storage yards; 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 noncommercial 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 Homes 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 homes, machinery, motor vehicles and their parts, and building materials.

(a)~~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 ninety (90) days previously.

(b)~~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 yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, and may consist of:

(a~~1~~) A single lot of record;

(b~~2~~) A portion of a lot of record;

(c~~3~~) A combination of complete lots of record, or complete lots of record and portions of lots of record.

(d4) A parcel of land described by metes and bounds, provided that no case of division of lots or combination of lots 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.

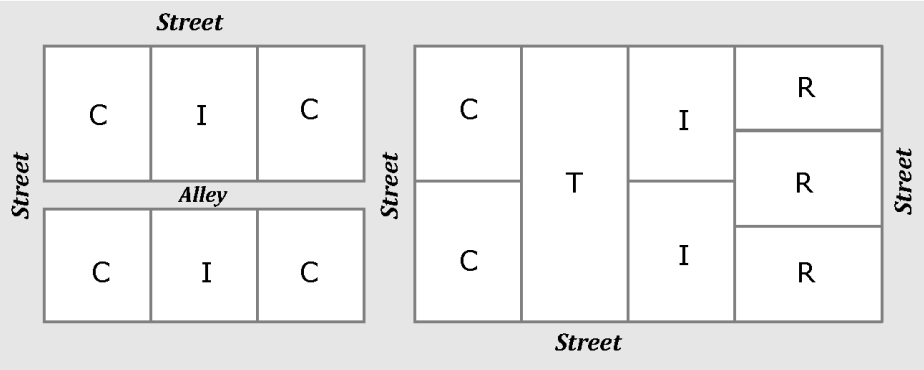
Lot Frontage: The front of a lot shall be the portion abutting or adjacent to the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot abutting or adjacent to streets shall be considered frontage, and front yards shall be provided along each street.

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

~~*Interior Lot*~~*Lot, Interior*: 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*~~*Lot, Reverse Frontage:* 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.

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

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 rooms, 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 structures and uses.

Outdoor Storage: The storage of merchandise, material or equipment of any type, in conjunction with a permitted primary use, stored within view of any residential property or public right-of-way, and in accordance with Section 6.7 of this Ordinance.

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 structures and buildings 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, 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.

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, 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 non-profit community swimming pool, playground or park, operated solely for the convenience of its patrons shall not be considered a restaurant.

Self-Storage Facility: A commercial facility or structure in which the primary use is to provide separate indoor storage areas for personal or business use designed to allow private access by the tenant.

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.

Short-term Vacation Rentals: A dwelling unit in which the entire unit or separate portions thereof is available for rent for periods of less than forty-five (45) consecutive days to transient guests. Short-term vacation rentals shall conform to all applicable requirements set forth in the Short-Term Vacation Rental regulations set forth in Section 8.4 of the Zoning Ordinance.

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 rooms.

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:

(a~~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,

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

(c~~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.

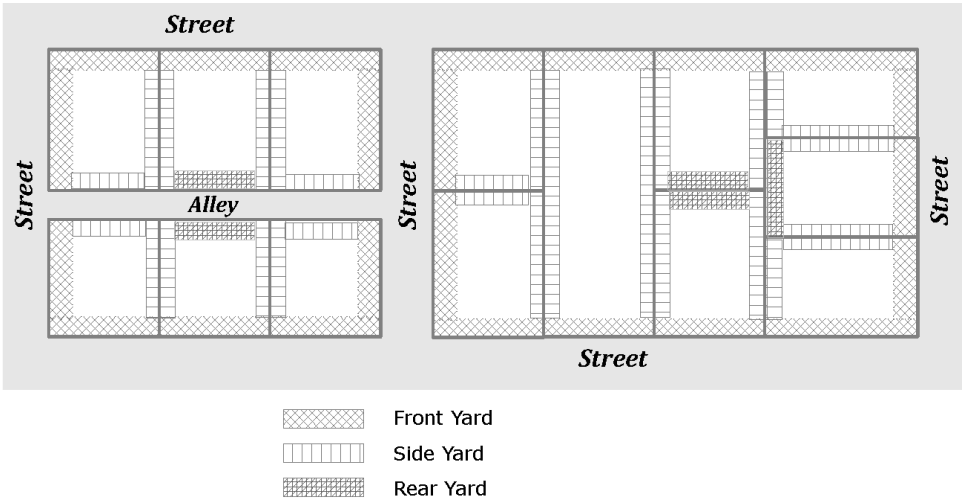
Waste Disposal Site: A facility or location where waste, refuse, and/or discarded materials are accommodated or left to be recycled.

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 seventy-five feet (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 Systems 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 thirty (30) inches above the general ground level of the graded lot upward, provided however, that fences 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 setback line, the rear lot line, and the side setback line.

(Ord. No. 2022-02, §§ 2, 3, 2-17-2022)

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		

Multifamily 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]	P1			P[1]
Bed and Breakfasts		SE	SE	SE	SE	P	P	P	P		
Short-term Vacation Rentals		SE	P	P		SE	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 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		
Childcare 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:~~

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

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-through								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:~~

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

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	P	
Body Art Studios				SE	SE		P	P	P	P	
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			

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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 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

Note:

3. The above Use Regulations Table ~~Table above~~ is provided for convenience only~~, in~~. In the event ~~that the table~~it conflicts with the text of this Ordinance ~~and text of this Ordinance conflict~~, the text shall take precedence.

4. Accessory dwelling units are excluded from the Use Regulations Table. They are addressed in Section 8.10 hereinafter.

~~(Ord. No. 2018-02, § 2, 5-17-2018; Ord. No. 2022-02, § 4, 2-17-2022; Ord. No. 2024-02, § 1, 10-15-2024)~~

~~(Ord. No. 2018-02, § 2, 5-17-2018; Ord. No. 2019-04, § 2, 5-16-2019)~~

~~Editor's note(s)—See editor's note following § 8.3.~~