

## ARTICLE 2 - ADMINISTRATIVE AGENCIES

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*¶ Purpose: this Article addresses the administrative agencies that administer the various provisions of the Land Management Code. Each section:*

- *formally establishes the agency or official or cites to statutory or local provisions that establish the agency or official, and*
- *establishes the jurisdiction, authority and duties of the agency or official.*

### **Sec. 201 MAYOR AND BOARD OF ALDERMEN**

The Mayor and Board of Aldermen have the following powers and duties pursuant to the LMC:

- To render final decisions pertaining to amendments to the Comprehensive Plan and this Code; and
- To render final decisions pertaining to applications for development approval where such authority is assigned pursuant to this Code; and
- To adopt the Comprehensive Plan and all Elements of the Comprehensive Plan; and
- To appoint members of the Planning Commission, Zoning Board of Appeals, and Historic Preservation Commission; and
- To accept and/or appropriate funds for the expenses of the Planning Commission; and

- (f) To adopt, amend, and review an official map for the location of established, future or proposed public streets, alleys, walkways, waterways, and public areas; and
- (g) To adopt and amend subdivision regulations (incorporated into Article 5 of the LMC) upon the recommendation of the Planning Commission; and
- (h) To exercise all additional authority, power and duties granted by Maryland law.

## **Sec. 202 PLANNING COMMISSION**

See §§176-179 of the City Charter (describing composition; appointment; term; removal; filling of vacancies; powers and duties; and compensation of the Planning Commission.)

### **(a) Establishment**

With the enactment of the LMC the Planning Commission, as currently established and appointed under provisions of the City Charter is hereby reestablished and reappointed.

### **(b) Role**

In accordance with the provisions of this article, the City has the power to plan and zone the city with the general purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the city. Among other things, this planning and zoning authority may be used to promote the health, safety, morals, order, convenience, prosperity, and general welfare of the city; to provide good civic design and arrangement; to promote the wise and efficient expenditure of public funds; to make adequate provisions for traffic; to secure safety from fire, panic, and other dangers; to prevent the overcrowding of land and to avoid undue concentration of population; to provide adequate light and air; and to make adequate provision for public utilities, water, sewage disposal, parks, and other public requirements.

### **(c) Powers and Duties**

The Planning Commission has the power and duties:

- (1) To make, amend, add and endorse a Comprehensive Plan for the physical development of the city, which is then recommended for adoption to the Mayor and Board of Aldermen.
- (2) To exercise control over subdividing in the city.
- (3) To draft for the Board of Aldermen an official map of the city.

- (4) To prepare and endorse a zoning map or disapprove a proposed changed in the map, which is then recommended for adoption to the Mayor and Board of Aldermen.
- (5) To review and recommend proposed annexations into the City.
- (6) To review, approve, approve with modifications, or deny development applications.

### **Sec. 203 ZONING BOARD OF APPEALS**

See §§186-188 of the City Charter (describing composition; appointment; term; removal; vacancies; compensation; meetings; decisions and appeals of the Zoning Board of Appeals.)

#### **(a) Establishment**

With the enactment of the LMC the Zoning Board of Appeals, as currently established and appointed under provisions of the Charter of the City of Frederick, is hereby reestablished and reappointed.

#### **(b) Role**

The Zoning Board of Appeals shall consider applications for conditional uses, requests for variances and modifications, and administrative appeals.

#### **(c) Powers and Duties**

The Board of Zoning Appeals shall have the following power and duties.

- (1) To hear and determine appeals from refusal of building permits and/or use of land.
- (2) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination of this LMC.
- (3) To hear and decide conditional uses as provided for by this LMC.
- (4) To hear and authorize upon appeal, in specific cases, a variance from the terms of this Code.
- (5) To hear and authorize temporary uses that are not in conformance with this LMC, as provided in Section 867 (Temporary or Seasonal Uses).

- (6) To hear and authorize intensification of lawful nonconforming uses in accordance with Section 909 of the LMC.
- (7) To hear and authorize the substitution of one nonconforming use for another nonconforming use in accordance with Section 905 of the LMC.
- (8) To determine, after notice to the property owners affected and after a public hearing, the boundaries of zoning districts in any of the following situations:
  - A. Where a street or lot layout, actually on the ground or as recorded, differs from street or lot lines as shown on the zoning maps, the Board shall interpret the maps in such a way as to carry out the intent and purpose of the Code.
  - B. Where a district line divides a lot of record, as of the effective date of this Code, the Board may permit the extension of a district, but not more than one hundred (100) feet beyond the district boundary line.
- (9) To hear and decide appeals of any decision made by the Planning Department on the preliminary archeological assessment requirement of §603 (Archeological Protection).

## **Sec. 204 HISTORIC PRESERVATION COMMISSION**

See also §§2-35 – 2-41 of the City Code (describing composition; membership criteria; alternates; terms; officers; vacancies; removal; meetings; and duties of the Historic Preservation Commission.)

### **(a) Establishment**

The Historic Preservation Commission is established in §2-34 of the Frederick City Code.

### **(b) Role of the Historic Preservation Commission**

The Historic Preservation Commission may, after making full and proper study, recommend any area within the limits of The City of Frederick for designation as a site, structure, or district of historic, archeological, or architectural significance. The Historic Preservation Commission may also recommend boundaries for such sites, structures or districts. The recommendations shall be submitted to the Planning Commission in accordance with the procedures established by the Historic Preservation Commission.

**(c) Powers and Duties**

**(1) Powers**

The Historic Preservation Commission may:

- A. Direct studies, reports, and surveys to identify historical, archeological, or architecturally significant sites, structures, and districts that exemplify the cultural, social, economic, political or architectural history of The City of Frederick, the State of Maryland, or the United States and recommend their designation to the Planning Commission and the Mayor and Board of Aldermen, per §423 (Historic District Overlay regulations);
- B. Request that The City of Frederick institute any of the available remedies for violations of the Historic District Overlay regulations (see §423); and
- C. Acquire easements in connection with individual sites or structures, or with sites or structures located in or adjacent to a locally or nationally designated historic district, subject to any requirements of The City of Frederick governing the acquisition of easements. Such easements may grant to the Historic Preservation Commission, the residents of the historic district(s) and the general public the right to ensure that any site or any structure and surrounding property upon which it is applied is protected, in perpetuity, from changes which would affect its historic, archeological or architectural significance; and
- D. Provide planning staff any recommendations relative to archeological significance of a site.
- E. Undertake any other action or activity necessary or appropriate to the implementation of its powers and duties or the implementation of the purpose of this Section or §423 (Historic District Overlay regulations) of the LMC.

**(2) Duties**

The Historic Preservation Commission shall:

- A. Prescribe appropriate rules and regulations for the transaction of its business; and
- B. Adopt and use in its review of applications the guidelines and criteria for construction, alteration, reconstruction, moving and demolition of designated sites, structures and districts that are consistent with the Secretary of the Interior's Standards for Rehabilitation. Guidelines may include design characteristics intended to meet the needs of particular types of sites, structures and districts and may identify categories of changes that, because they are minimal in nature, do not affect the historic, archeological, or architectural significance of such sites, structures and districts and do not require review by the Historic Preservation Commission.

**<sup>2</sup>Sec. 205 RESERVED**

**Sec. 206 RECREATION AND PARKS COMMISSION**

See also §§2-29 – 2-32 of the City Code (describing composition; appointments; compensation; officers; duties; and park enforcement agent of the Recreation and Parks Commission.)

**(a) Establishment**

With the enactment of this Code the Recreation and Parks Commission, as currently established and appointed under provisions of Chapter 2-28 of the Frederick City Code, is hereby reestablished and reappointed.

**(b) Role**

The Recreation and Parks Commission shall make recommendations to the Mayor and Board of Aldermen on requested waiver of fees for use of the parks; new park design; policies concerning park use, and recognition of "Friends Of" groups. The Recreation and Parks Commission also makes recommendations to the Planning Commission an acceptance of fee-in-lieu of parkland dedication and park design.

**(c) Powers and Duties**

The Recreation and Parks Commission shall have the authority and duty to develop and recommend to the Planning Commission and the Mayor and Board of Aldermen a master parks plan, updated by individual park plans, and to make recommendations to the Mayor and Board of

Aldermen concerning the equipment, design, supervision and operation of all city parks, recreation areas and facilities, in consultation with the city staff. The Recreation and Parks Commission shall have the authority to approve the use of all city parks, recreation areas and facilities provided the use will not require the expenditure of city funds and to recommend approval of the use of all city parks, recreation areas and facilities should the use require the expenditure of city funds.

### **Sec. 207 ZONING ADMINISTRATOR**

The Director of Planning shall act as or appoint a City Zoning Administrator. It is the duty of the Zoning Administrator or his/her representative(s) to coordinate the administration and enforcement of provisions of the LMC in accordance with its administrative provisions.

### **Sec. 208 ENGINEERING DEPARTMENT**

The Engineering Department has the authority to review, comment upon, and/or to render a final decision relating to certain aspects of subdivision plat, site plan, master plan and concept plan approval where provided in the LMC. *See Chapter 2, Article II, Division 2 of the City Code.* .

**End Notes:**

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<sup>1</sup> Supp. No. 1, Ord. No. G-05-15, § 1, 9-05

<sup>2</sup> Supp. No. 8, Ord. No. G-09-25, § 1, 12-14-09

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