

SUPPLEMENT NO. 2

INSERTION GUIDE

CITY OF FREDERICK LAND MANAGEMENT CODE

This supplement consists of reprinted pages replacing existing pages in the City of Frederick Land Management Code.

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THE
CITY OF FREDERICK

LAND
MANAGEMENT
CODE

ADOPTED JULY 21, 2005
ORDINANCE NO. G-05-12
With Supp. No. 1 thru 2

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(m)⁵ Modification to Requirements May be Granted by the Commission

- (1) At the time of site plan review, the Planning Commission or Department may modify certain designated site plan review criteria, subject to the standards established below.
- (2) The Planning Commission may modify the following for a major site plan:
 - A. landscaping (§605);
 - B. access points (§601);
 - C. loading (§607(g) and (h));
 - D. parks and open space (§608);
 - E. yard size (§405(a));
 - F. lot areas (§405(a));
 - G. height (405(b)); and
 - H. parking (§607(a) through (f)).
- (3) The Planning Department may modify the following for a minor site plan:
 - A. landscaping (§605); and
 - B. loading (§607(g) and -(h)).
- (4) No modification may be granted unless the Planning Commission or Department finds that:
 - A. the modification will not be contrary to the purpose and intent of the Code; and
 - B. the modification is consistent with the Comprehensive Plan; and
 - C. the application includes compensating design or architectural features so as to meet overall objectives of the particular requirement.
- (5) In addition, the Commission may grant a modification in order to retain forest or protect individual trees when there is an approved Forest Conservation Plan for minimum lot areas and yards (see §606(i)(3)); and for landscaping and screening (see §605(k)); and for parking and loading requirements (see §607(c)(6)).

(n) *Deferral of required improvements*

In such instances where it is not possible or reasonable to require the installation of the required public improvements at the time of final site plan approval, the Commission may recommend to the Mayor and Board of Aldermen deferral of required public improvements. The Commission may approve the final site plan conditioned upon the applicant entering into an agreement with the City to make the required improvements at specified condition or time in the future. Prior to unconditional site plan approval, the Mayor and Board of Aldermen shall approve and record with the clerk of the Frederick County Circuit Court the agreement identifying the required public improvements and identifying the property or properties responsible for making said improvements.

(o) *Phased or Staged Developments*

For all site plan applications using a phased or staged development technique, the Planning Commission or Department may require that the site plan indicate all requirements as they apply in each step of the phasing or staged process. Each phase or stage of the project shall commence construction pursuant to an approved building permit within three (3) years after completion of the previous stage or phase of the project.

(p) *Consultants May be Hired to Evaluate Development Proposals*

The Planning Commission, if deemed necessary, may require the applicant to provide analysis and recommendations of experts qualified to evaluate any potentially adverse aspect of a proposed use or development. The applicant must submit the consultant's findings for review and evaluation by the Planning Department and City Engineer. The Commission shall provide the applicant with a list of qualified consultants or shall review and approve the qualifications of an expert hired by the applicant prior to acceptance of the report. The Commission shall consider the following criteria in determining whether to approve the consultant:

- (1) whether the consultant has professional qualifications and training relative to preparing similar analyses or recommendations; and
- (2) the prior experience of the consultant in preparing analysis and recommendations for similar projects.

- (2) In commercial or industrial zoning districts:
 - A. The Zoning Administrator may approve a height encroachment for a feature not expressly listed in Table 405-2 if he finds that the manufacturing process or use requires a greater height.
 - B. No structure shall exceed 150 feet in total height above ground.
 - C. All such structures above the heights otherwise permitted in the district shall not occupy more than 25 percent of the area of the lot, and shall be located at least 25 feet in all parts from every lot line other than a street lot line.

- (3) The building height limitations of this Code shall not apply to churches, schools, institutional buildings, or public utility buildings and structures, if:
 - A. The building or structure is located at least 600 feet from any Residential, DR, PB, or DB-O district; and
 - B. for each three feet by which the height of such building or structure exceeds the maximum height otherwise permitted in the district, its side and rear yards, where required, shall be increased in width or depth by an additional foot over the minimum side and rear yards required for the highest building otherwise permitted in the district; and
 - C. where not otherwise required, a side yard on each side and a rear yard shall be provided equal in width or depth to one foot for each three feet of such excess height.

- (4)⁸ The building height limitation of this Code for buildings or structures in the M1 and M2 districts may be modified by the Planning Commission provided the following conditions are met:
 - A. The building or structure is located at least 600 feet from any Residential, DR, PB, or DB-O district; and
 - B. for each three feet by which the height of such building or structure exceeds the maximum height otherwise permitted in the district, its side and rear yards, where required, shall be increased in width or depth by an additional foot over the minimum side and rear yards required for the highest building otherwise permitted in the district; and

- C. where not otherwise required, a side yard on each side and a rear yard shall be provided equal in width or depth to one foot for each three feet of such excess height.
- (5) Within the Historic District Overlay (HDO) or the Carroll Creek Overlay (CCO), no height encroachment listed in subsections (1) – (4) is permitted unless it is approved by the Reviewing Authority. A copy of the approved HDC Level I Plan shall be submitted to the Planning Commission for review at the time of submittal of the site plan.
- (6) In the R16 and R20 districts, building heights exceeding the maximum prescribed by Table 405-1 are authorized as a conditional use if 3 additional feet of side yard setback is provided for each story in excess of three.

(c) MO District – Standards setback and modifications

- (1) Standards
 - A. In the MO district, building setbacks for side and rear yards shall be 30 feet on each side if adjacent to a commercial or employment district and 100 ft. if adjacent to any other district or an Interstate Highway unless modified by the Planning Commission.
 - B. Maximum building coverage on any lot in the MO district shall be 30 percent.
 - C. Minimum landscaped area on any lot in the MO district shall be 20 percent.
 - D. Predominant exterior building materials must not include the following: smooth-faced concrete block, smooth-faced tilt-up concrete panels, or pre-fabricated steel panels. Loading docks, service areas or other similar features shall be screened from view from all public streets and under no circumstances shall outdoor material storage areas be permitted in the MO district. Screening in any portion of the MO district that abuts any “R” district shall be at a minimum, Level II screening. The Planning Commission must approve the landscaping plan and may require screening above the level of Level II screening depending on the type of development within the 100 foot yard and adjacent land uses. To ensure aesthetically pleasing development compatible with adjacent or neighboring buildings, all applications for site plan approval in the MO district shall include architectural renderings or other

- (7) Unimproved properties as of the effective date of this Code that meet the criteria and requirements for the RO district, may be improved with a new structure and converted to professional office use provided it complies with the purpose and intent of the RO district and is compatible with existing residential uses in the area, and is similar in character, appearance and size to other properties in the area.
- (8) Professional offices may not be established in a detached garage located on the property.
- (9) If a dwelling unit is converted to a non-residential use, the applicant shall provide a traffic impact study pursuant to Article 12, §1203. The Zoning Administrator may waive the traffic impact study if the applicant provides a cross-access easement that provides an alternative point of access from any parking or traffic circulation areas on the site.

(c) RC Resource Conservation District Provisions

- (1) Provisions for §309, site plan review shall not apply to construction or alteration to farm buildings or structures, however, a zoning certificate is required per §302 and all setbacks must be observed.
- (2) Farm structures and accessory structures, except for fences, may not be placed in required yards. Fences may be located in any yard notwithstanding Article 7, §720, provided visibility at a public road intersection is not obstructed.
- (3) A farm may include one wall or freestanding sign no larger than 20 square feet.
- (4) The operation of any machinery used in farming procedures and all customary agricultural procedures is permitted.

(d) M1 and M2 Districts

(1) Generally

The M1 or M2 district may, if approved by the Board of Aldermen, be developed pursuant to the MXE Mixed-Use Employment Center Development floating zone, pursuant to the provisions of Section 418 of this Code.

(2) Screening and Landscaping

- A.⁹ The Planning Commission may increase the buffer yard planting minimum height prescribed in §605(d)(2) (landscaping standards) to seven (7) feet. The appropriate tree species shall be selected for mature heights to effectively shield the industrial buildings.
- B. The Planning Commission may increase any fence or wall up to 10 feet in height if the M1 or M2 zoned lot abuts a parcel in a residential zoning district, and the increase is needed to mitigate the impacts of the use on the residential property.
- C. The determination of appropriate screening requirements to be used in the M1 or M2 district that are adjacent to R districts shall be based on the property development status as follows:
 - 1. Any new expansion plan of an existing industrial site shall comply with either Level III or IV, as applicable, and nonconforming lots with existing uses or proposed downtown areas shall use Level III.
 - 2. Any existing recorded lot not developed prior to August 26, 2001 shall be required to use Level IV screening. However, the Planning Commission may approve Level III screening if the associated landscape plan provides an equivalent buffer for the adjacent residential property.

(e) General Commercial (GC) District

In the GC zoning district, buildings that exceed sixty (60) feet in height shall be setback one (1) foot from all property lines for each foot of building height.

(h) Violations

Any person(s) who performs or allows to be performed any work without first obtaining a certificate of approval, fails to comply with any final notice issued pursuant to this article, or disregards a decision of the Historic Preservation Commission will be in violation of the provisions of this article. Any violation of this article is hereby deemed a municipal infraction punishable by a fine not to exceed five-hundred dollars (\$500). Each and every day that the violation continues shall be deemed a separate offense.

In addition to the foregoing penalty, where there is a violation of this article, The City of Frederick may institute permitted action to prevent, enjoin, abate or remove the violation.

(i) Appeals

Any person aggrieved by a decision of the Historic Preservation Commission may file a petition in the Circuit Court for Frederick County for judicial review of said decision, pursuant to the Maryland Rules of Procedure providing for judicial review of administrative agency decisions.

End Notes:

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- ¹ Supp. No. 1, Ord. No. G-05-13, § 1, 9-15-05
 - ² Supp. No. 1, Ord. No. G-05-13, § 2, 9-15-05
 - ³ Supp. No. 1, Ord. No. G-05-13, § 3, 9-15-05
 - ⁴ Supp. No. 1, Ord. No. G-05-13, § 4, 9-15-05
 - ⁸ Supp. No. 2, Ord. No. G-05-17, § 2, 12-19-05
 - ⁵ Supp. No. 1, Ord. No. G-05-13, § 5, 9-15-05
 - ⁹ Supp. No. 2, Ord. No. G-05-17, § 3, 12-19-05
 - ⁶ Supp. No. 1, Ord. No. G-05-15, § 6, 9-15-05
 - ⁷ Supp. No. 1, Ord. No. G-05-15, § 7, 9-15-05

Pages 266-300 RESERVED.