



Town of Frederick Board of Trustees Agenda

Frederick Town Hall
Board Chambers
401 Locust Street
Tuesday, January 11, 2022

6:30 P.M. Work Session

7:00 P.M. Regular Meeting

Topic: Board of Trustee Meeting - Work Session, Regular Meeting
Time: Jan 11, 2022 06:30 PM Mountain Time (US and Canada)

Join Zoom Meeting
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Public Comment at a Virtual Meeting Board of Trustee Meeting

Interested parties who would like to address the Board of Trustees during the Public Comment portion of the agenda may address the Board of Trustees virtually or in person. **To address the Board in person, individuals may also appear at Town Hall (401 Locust Street Frederick, CO) and are asked to sign up on the sign-up sheet in the Board Room. Individuals who would like to attend virtually are asked to sign up to speak during public comment by emailing the Town Clerk at mmartinez@frederickco.gov. Individuals are asked to provide the Town Clerk the following information:

1. Name
2. Address
3. Topic for Comment
4. Phone Number or Name that will be utilized in the zoom meeting application
5. Any documents that will be shared in the meeting.

The Town Clerk will verify your attendance prior to the meeting and will test your connection and microphone.

If there are public hearings scheduled for the Board of Trustee meeting, individuals who wish to address the Board of Trustees virtually are asked to contact the Town Clerk via email at mmartinez@frederickco.gov by 5:00 PM on date of the meeting. Individuals are asked to provide the Town Clerk the following information:

1. Name
2. Address
3. Public Hearing Item for Comment
4. Phone Number or Name that will be utilized in the zoom meeting application
5. Any documents that will be shared in the meeting

**Individuals that would like to attend the meeting at Town Hall are asked to sign up on the public comment sheet in the board room.

Any individual who is attending the meeting and wishes to be address the Board of Trustees during Public Comment or a Public Hearing may utilize the “raise your hand” feature in the Zoom Meeting App.

How to raise your hand in Zoom

1. During the meeting, click on the icon labeled “Participants” at the bottom center of your PC or Mac screen
2. At the bottom of the window on the right side of the screen, click on the button labeled “Raise Hand.”



3. Your digital hand is now raised. Lower it by clicking the same button, now labeled “Lower Hand”
4. If you are on a mobile device, simply tap “Raise Hand” at the bottom left corner of the screen. The lower hand icon will turn blue and the text below it will switch to say “Lower Hand” while your hand is raised.



Town of Frederick Board of Trustees Agenda

Frederick Town Hall
Board Chambers
401 Locust Street
Tuesday, January 11, 2022

6:30 P.M.

Work Session

7:00 P.M.

Regular Meeting

Call to Order – Roll Call:

Pledge of Allegiance:

Approval of Agenda:

Special Presentations:

Public Comment: This portion of the agenda is provided to allow members of the audience to provide comments to the Town Board. Please sign in and the Mayor will call you. If you are attending virtually, you may indicate that you would like to provide comments by utilizing the raise your hand function in the Participant Tab of the Zoom Meeting Application. If your comments or concerns require an action, that item(s) will need to be placed on a later Agenda. Please limit the time of your comments to three (3) minutes.

Staff Reports:

- A. Administrative Report – Bryan Ostler, Town Manager
- B. Town Clerk's Report – Meghan Martinez, Town Clerk

Consent Agenda: Consent Agenda items are considered to be routine and will be enacted by one motion and vote. There will be no separate discussion of Consent Agenda Items unless a Board member so requests, in which case the item may be removed from the Consent Agenda and considered at the end of the Consent Agenda.

- C. List of Bills – Jason Leslie, Administrative Services Officer
- D. November 9, 2021 Minutes – Meghan Martinez, Town Clerk
- E. December 7, 2021 Minutes – Meghan Martinez, Town Clerk

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- F. December 14, 2021 Minutes – Meghan Martinez, Town Clerk
- G. Ordinance 1368 Amending Sections of Chapter 2, Article III of the Frederick Municipal Code Concerning Legal Services – Jason Meyers, Town Attorney
- H. Resolution 22-R-01 Accepting Deed of Dedication for Right-of-Way for Maple Street – Jason Berg, Engineer

Action Agenda:

- I. Public Hearing Amendments to the Frederick Land Use Code – Ali vanDeutekom, Senior Planner
 - 1. Ordinance 1369 Amending Article 2 of the Frederick Land Use Code, Specifically Sections 2.6, 2.7, 2.16, and 2.18, to Clarify Driveway Access Standards, Correct Errors with Regard to Spelling, Grammar, and Cross-References, and to Remove Obsolete Standards
 - 2. Ordinance 1370 Amending Articles 3 and 15 of the Frederick Land Use Code, Specifically Sections 3.4, 3.5, 3.6, and 15.6 to Simplify Code Organization, Clarify Standards, Correct Error with Regard to Spelling, Grammar, and Cross-References, and to Remove Obsolete Standards
- J. Consideration of Eagle Business Park Filing 5 Final Plat – Maureen Welsh, Planner
 - 1. Consideration of the Final Plat
 - 2. Resolution 22-R-02 Authorizing the Mayor to Execute the Third Amendment to the Eagle Business Park Memorandum of Agreement for Public Improvements
- K. Resolution 22-R-03 Authorizing the Purchase of 20 Units of CBT Water from Two Separate Sellers – Sarah Watson, Engineer

Mayor and Trustee Reports:

Executive Session:

For the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators under C.R.S. Section 24-6-402(4)(e)(1) regarding Economic Development

Adjournment:



TOWN OF FREDERICK MEMORANDUM

TO: Honorable Mayor and Board of Trustees

FROM: Bryan Ostler, Town Manager

DATE: January 11, 2022

CC: Town Staff
Local Media

SUBJECT: Departmental Report

Upcoming Board of Trustees Work Sessions – If there are topics that the Board would like staff to schedule for discussion, please let me know. The following topics are recommended for Board discussion (all meetings will be held in the Town Board Chambers unless otherwise indicated):

- January 11th – Regular Meeting
- January 18th – Town Clerk Evaluation & FURA
- January 25th – Regular Meeting
- February 1st – Work Session
- February 15th – FURA
- February 22nd – Regular Meeting

Police Department

Grant Funding:

- The department was recently advised that we will receive State of Colorado grant funds in 2022 for the purchase of upgraded Body Worn Cameras, Tasers and other related training equipment. The award is in the amount of \$56,495. This funding will aid the Department in meeting requirements of legislation passed in late 2020.

Police Department Remodel:

- The small remodel at the police building is near completion. We have added extra office space that will help relieve the congestion caused from recent growth and promotions.

Recruitment and Hiring Process:

- The department has started the extensive 2022 recruiting and hiring process for police officers. This process includes qualification checks, interviews, physiological testing, background checks, physical tests and more. We hope to recruit some great officers in 2022.

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New Police Officer:

- Please welcome our newest police officer, Kelly Arbogast. Kelly started her training in late December, shortly after she graduated from the Police Academy and passed the State certification test. Welcome Kelly!

Communications and Engagement

Events:

- Around 75 people attended the Noon Year's Eve event on Friday, December 31st for fun family activities and noon countdown.
- The annual Volunteer Fair is on Saturday, January 15th at FHS from 10:00 am to 2:00 pm. To date, we have ten local agencies signed up to have a booth with volunteer info.

Training:

- Angela attended the mid-winter check-in for the Certified Public Communicator program.

Community Programs & Partnerships:

- The team represented and assisted with the CVEMA Disaster Preparedness Training on January 6th and attended networking with the Chamber and Carbon Valley Network of Nonprofits.

Design:

- Departments are working with Zach on many projects such as new Town folders, 2022 Sponsorship packet, Events brochure, and kiosk posters. He produced two videos showcasing holiday spirit. We have joined a beta testing program for CivicPlus (website) to test a new portal enhancing resident resources.

GIS

Mitel Phone System:

- The new phone system launch date has been rescheduled to January 19th.

Planning Department

Development Applications:

- The development review process has a few steps land use applications go through prior to submitting an application such as a pre-application meeting and neighborhood meeting. There are ten projects that have complete the pre-application step. There is currently no neighborhood meeting scheduled. Ten projects have completed the neighborhood meeting, allowing them to submit an application.
- The following applications have been accepted for review and are now quasi-judicial.

<i>New Applications Project Name (Date of Application)</i>	<i>Subdivision</i>	<i>General Location</i>	<i>Brief Description</i>
Nelson Farms (1/3/2022)		Southwest corner of Silver Birch Blvd and Tipple Blvd	Proposed residential development on 236 acres
<i>Ongoing Applications Project Name (Date of Application)</i>	<i>Subdivision</i>	<i>General Location</i>	<i>Brief Description</i>
Bear Industrial Park, Block 1, Lot 8 4210 Bruin Site Plan (02/16/2021)	Bear Industrial Park	4210 Bruin	Site plan for 15,000 sf office and warehouse building for crane company.

Bear Industrial Park Replat 5, Block 1 Lot 2 (10/18/2021)	Bear Industrial Park	4021 Kodiak	Plan for a 1,000 sq. ft. facility with outdoor storage.
Bear Industrial Park Replat 1, Block 2 Lot 2 Site Plan Amendment (10/18/2021)	Bear Industrial Park	4180 Busch Place	Conditional use for RV rental and sales.
Clearview Villages Preliminary and final Development Plan (6/21/2021)	Clearview Villages	Southwest corner of Godding Hollow and Silver Birch Blvd	Approximately 104 acres to be developed into 302 residential lots.
Colorado Blvd & Godding Hollow 7-11 Zoning and Final Plat (5/3/2021)		Southwest corner of Colorado Blvd and Godding Hollow	Zone 5.35 acre parcel and plat to create two lots. Northern lot will have a site plan processed for 7-11.
Colorado Blvd & Godding Hollow Conditional Use Site Plan (5/3/2021)		Southwest corner of Colorado Blvd and Godding Hollow	Development of southern parcel of land. Users not yet determined.
Eagle Business Park Filing 4B, Lot 2 –Site Plan (6/7/2021)	Eagle Business Park Filing4B	4880 Eagle Place	Site plan for 22,000 sq. ft. single story pre-engineered building for future leasing for multiple tenants.
Frederick Town Amendment B Lot 1-501 Walnut (9/8/2021)		501 Walnut	Redevelop existing building into co-working office space.
McDonald Farms Conditional Use (10/4/2021)		7440 E. I-25 Frontage Road	Conditional use for recycling facility
Meadowlark Business Park Replat A (5/17/2021)	Meadowlark Business Park	5660 Iris Parkway	Request to divide the lot into 2 lots and a new 14,000 sq. ft. office building on the south lot.
Nelson Lakes MOAPI Amendment (12/6/2021)	Nelson Lakes		Updating MOAPI conditions.
No Name Creek West Block 4	No Name Creek West	9050 Harlequin Circle	Subdividing Lots.

(12/6/2021)			
Prairie Greens II (12/7/2020)	Prairie Greens	6460 Frederick Way	Request for vacation of easement and preliminary design for phase 4.
Raspberry Hill Business Park Lot 13	Raspberry Hill	8274 Raspberry Way	Proposed office building and sales of pickup trucks.
Raspberry Hill Business Park Lot 2 & 3 Truck Ranch (8/13/2021)	Raspberry Hill	8273 Raspberry Way	Site plan to build pickup truck dealership.
Raspberry Hill Business Park -Lots 4 &5 Phasing Plan	Raspberry Hill Business Park	8515 and 8517 Raspberry Way	Proposed vacant building for future unknown tenant.
Sanitation District Annexation No. 1 Subdivision Amendment (8/16/2021)		8500 Colorado Blvd.	Subdivision amendment to subdivide existing lot into 2 separate lots.
Wyndham Hill Filing 10 Final Plat and Final Development Plan (11/16/2020)	Wyndham Hill	Generally west of WCR7, between WCR 14.5 and WCR 16.	Approximately 139 acres to be developed into 495 single family homes.
Wyndham Hill Filing 6 Replat A FFFPD Station 5 Site Plan (6/7/2021)	Wyndham Hill	Generally, north of Highway 52, West of I-25 on Glacier Way.	Proposed fire station to include 3 bays.

Engineering Department

Building Permits:

- Permit activity slowed the past 3 months of 2021 and finished slightly below 2020 permit numbers. Final numbers for the 2021 year include: 331 single family building permits, 0 multi-family building permits and 10 commercial building permits. Comparatively, permits through December 2020 included: 336 single family building permits, 28 multi-family building permits and 7 commercial building permits.

Colorado Blvd/Tipple Pkwy Intersection Improvements:

- A contract for design services was awarded to Martin/Martin Consulting Engineers at the April 13th Board meeting. Design plans are complete and the project will be ready to bid in early 2022. Construction is expected to be in late spring/summer of 2022.

Neighborhood Speed Control Program (no change):

- Board approval for the FSMP was given at the August 10th meeting. The program has gone live and we have started receiving requests. The Board will be updated on projects that meet the program criteria and receive Town support for an improvement.

Tipple Pkwy/Frontage Rd Streetlight:

- Coordination efforts continue with CDOT and United Power regarding installation of a streetlight at this intersection. CDOT has indicated that they will support a permit for streetlight. Current design now supports 2 streetlights at this intersection and existing utility locations are being identified prior to construction.

Water Master Plan:

- The 10-year plan was adopted at the December 14th meeting. Element is also hard at work with long term (50-year) plan and that should be completed at the end of January 2022. This plan will come to the Board for adoption in early 2022.

Water Efficiency Plan (no change):

- Colorado's Water Conservation Act of 2004 requires that water providers in the State of Colorado who annually supply over 2,000 acre-feet per year (AFY) of water to retail customers (covered entities) are required to submit a water conservation plan for review and approval to the Colorado Water Conservation Board (CWCB) at least every seven years. A draft of this document was discussed with the Board at the November 30 work session. Board comments were incorporated and the 60-day public viewing and comment period can begin.

Raw Water Change of Use (no change):

- Engineering staff is coordinating with its water attorney and water rights consultant to evaluate its current raw water portfolio to support filing a change of use application in water court so that these raw water shares could be used for future town use. Preliminary data shows the Town having approximately 72 shares of Lower Boulder water or about 1,000 acre feet of water that can be changed to use for all municipal purposes within the Town's service area. Negotiations with the Lower Boulder Board have produced positive results and a Resolution for support of our Water Court application and substitute water supply plan was approved at their July 30th meeting. A final application to water court has now been executed by the Town and filed.
- Additionally, a substitute water supply plan application has now been executed and submitted to the State for approval and use by the Town next year. We expect to have a ruling on the SWSP by irrigation season 2022.

Water Quality Milavec Lake (no change):

- Engineering staff is coordinating with the Lower Boulder Ditch Company to address water quality concerns. An initial meeting occurred on September 29th to discuss stakeholders to include and strategies for advancing this issue.

Stormwater Master Plan:

- Frederick and Dacono jointly submitted a Department of Local Affairs Energy Impact Grant application in December 2019 to develop a stormwater master plan and on April 3, the Town received notification that they were awarded funding! A contract was approved to Anderson Consulting Engineers at the June 23rd, 2020 Town Board meeting. The project is now going through a financial evaluation to identify funding mechanisms to support future projects. Final completion of the contract was complete at the end of 2021. This project will go before the Board for adoption early 2022.

Catalpa Ct Drainage Improvements:

- Construction was complete by the end of 2021. The sidewalk is open to the public.

Public Works Department

Streets:

- Street sweeping schedule: Downtown Frederick, Parkview, Maple Ridge Coal Ridge.
- Repainting of curb and parking spots in downtown area.
- Repair and replace downed or broken delineators along Colorado Boulevard, Godding Hollow, Aggregate Boulevard.
- 1/1/2022: Snow teams in for snow and ice control.

Parks:

- Checking lights in Crist Park for Christmas lighting.
- Hand-watering newly planted trees.
- Repairing wood carving that was damaged along Colorado Boulevard.
- Cleaning graffiti off bowls and benches at skate park.
- Bike rack installed under shelter at Summit.
- Lights at FRA basketball court repaired and operating.

Water:

- Leak detection working on Old Town – repairs.
- 356 6th Street – water leak repair 20 feet of ¾ copper to main. Install new meter pit.
- 537 – 541 5th Street water service repair – replaced 30 feet of old poly line with copper from main to meter pit.
- 405 6th Street – 417 6th Street – no leak at 417 6th Street, leak repaired at 405.
- Replaced with copper from meter pit to main – 20 feet replaced
- 202 Tipple Parkway repair service line leaking poly pipe, 20 feet copper replaced.

Buildings:

- Police Department remodel continues.
- Paint touch up at Admin Building.
- Moving PD into new offices and building furniture for offices.
- Cutbacks landscaping around Town Hall and Admin Building.

Open Space:

- Checking areas for debris from high winds and clean out.

Storm Water:

- Clearing drainage from high winds
- Clear out weeds.
- Checking all drainage areas around town for debris from wind storm.

Fleet Services:

- 25 total service requests
- 10 scheduled: PW – 5; FFFPD – 3; PD – 2
- 15 unscheduled: PW – 3; FFFPD – 9; PD – 3
- 12/16/2021 – Street sweeper went down, inspection revealed catastrophic engine failure: resolution in progress.
- 12/17/2021 – New Ford F600 delivered: ready for service.
- 12/30/2021 – Tandem plow truck went down – suspect failed high pressure fuel injection pump: diagnosis in progress.

Miscellaneous:

- Assisting Angela and Jessica with Christmas parade and tree lighting.
- Raising and lowering flags.
- Chipping up tree limb drop off area behind Public Works.
- Assist Johnson Farm HOA with cleanup of park.
- New clocks installed at high school crosswalks and pedestrian signs.
- Haul off scrap material from behind Public Works to dump site in Fort Lupton.

Training:

- Flagger Certification complete: Tina Rehder, Derrick Schmidt, and Steve Smith.
- Brad Leach and James Romero attending L-TAP class for Snow removal maintenance.



TOWN OF FREDERICK MEMORANDUM

TO: Honorable Mayor Tracie Crites and Board of Trustees

FROM: Meghan Martinez, Town Clerk

DATE: January 7, 2022

SUBJECT: Town Clerk's Report

- *Commissions Updates*
 - Frederick Arts Commission
 - The commission has commissioned artist Zach McKinnon to complete two additional pieces in the skatepark.
 - Scholarship Commission
 - The Scholarship Application will be released in February.
- *2022 Election*
 - Nomination Petitions are available for prospective candidates and are due no later than January 24th at 5PM.
 - Working with our ballot company to finalize envelope and overseas and military ballot designs.
 - Coordinating with election judges for appointment following approval of the judges resolution at the next board meeting.
- *Golf Maintenance Facility*
 - Tim Schwartz has been working with the architect on the design for the maintenance facility. We anticipate having final design in the next few months.
- *Liquor Licensing*
 - The Deputy Town Clerk is reviewing two new liquor license applications.
 - Working with the licensing officer to schedule 2022 TIPS training opportunities.
 - Reviewing special event permit applications from High Country HOG.

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Town of Frederick - List of Bills
November 25, 2021 - December 30, 2021

4 RIVERS EQUIPMENT LLC	Service parts	49.43
AAA PEST PROS LLC	Pest control	125.00
ACCENT BRANDING SOLUTIONS	Printing services	1,535.71
ACE HARDWARE OF FIRESTONE	Maintenance supplies	594.16
ACUSHNET COMPANY	Golf accessories	3,390.00
ADAMSON POLICE PRODUCTS	Uniforms	607.15
ADVERTISING CONCEPTS INC	Gateway sign maintenance	420.00
AGFINITY	Fuel for fleet	10,919.69
AIRBOUND INC	NYE event	1,550.00
AIRGAS USA LLC	Shop supplies	69.90
ALL COPY PRODUCTS INC	Postage meter ink	233.95
ALLIANCE DEVELOPMENT LLC	Refund overpayment	167.02
AMERICAN LEAK DETECTION	Water line leak detection survey	4,000.00
ANDERSON CONSULTING ENGINEERS INC	Outfall System Plan	30,972.25
B & H FOTO & ELECTRONICS CORP	Video equipment for digital media support	4,014.36
BARGREEN ELLINGSON	Restaurant supplies	1,808.99
BLACK CLOVER ENTERPRISES LLC	Golf shop merchandise	1,999.83
BLACK HILLS ENERGY	Gas utility	4,473.89
BRADLEY STRUTHERS	Refund overpayment	80.60
BUFFALO BRAND SEED LLC	Golf Course maintenance supplies	5,500.00
CAPITAL BUSINESS SYSTEMS INC	Town copier lease	1,725.98
CARBON VALLEY ADVERTISING &	Advertising	1,600.00
CARBON VALLEY GLASS LLC	Fitness building updates	1,745.00
CARBON VALLEY PARKS & RECREATION DIST	Membership for employees	479.50
CARD SERVICES	Travel, supplies and memberships	22,371.21
CASELLE, INC.	Contract support & maintenance	2,142.00
CENTRAL WELD COUNTY WATER DIST	Water Purchased	84,552.50
CENTRAL WELD CTY WATER DIST	Water taps	100,000.00
CENTURY COMMUNITIES	Refund overpayment	256.32
CENTURYLINK COMMUNICATIONS LLC	Phone services	546.75
CHACON PAVING INC	Street maintenance patching	9,072.39
CHAVEZ SERVICES LLC	Drainage improvement project	35,865.35
CINTAS CORPORATION	PW uniform and mat service	514.27
CITIZEN PRINTING	2022 calendar printing and postage	10,478.00
CITY OF DACONO	Santa Cops tournament	2,496.00
COLBY JOHNSON	Travel reimbursement for interview expenses	325.62
COLORADO BARRICADE CO	Electronic message boards	34,858.82
COLT FENCE AND LANDSCAPE LLC	Vinyl fence repairs	7,560.00
COMCAST CABLE	Cable and internet service	3,984.34
COMCAST PHONE	PRI Services	317.66
COREN PRINTING INC	Form printing services	92.75
CORY R EVERHART	Police Equipment Loan Program	2,000.00
COSTAR REALTY INFORMATION INC	Monthly subscription	500.00
CUSTOM FLAG COMPANY	Flag order	2,251.20
D & S ENTERPRISE LLC	Window tinting for Engineering Building	1,927.81
DANA KEPNER CO	Water meter supplies	36,048.00
DAVID ALAN SCHULTZ	Festival of Lights performance	0.00

Town of Frederick - List of Bills
November 25, 2021 - December 30, 2021

DAYNE ROWLEY	Refund overpayment	172.50
DENVER METRO CHAMBER OF COMMERCE	Membership Executive Committee Investor	25,000.00
DEPARTMENT OF PUBLIC HEALTH & ADMIN	Laboratory services	1,555.00
DERIK GREEN	Refund overpayment	100.79
DNI HEATING AC REFRIGERATION	Furnace work at BRGC	2,688.00
DONALD PERSCHBACHER	Refund overpayment	46.42
DOSSIER SYSTEMS INC	Fleet Maintenance software subscription	1,122.00
EDUARDO LOPEZ	Police Equipment Loan Program	2,000.00
ELEMENT WATER CONSULTING INC	Water Engineering services	35,088.22
ELEVATED CLOUD SERVICES LLC	Endpoint security	906.50
ENTERPRISE FM TRUST	Vehicle lease program	23,508.95
EON OFFICE	Supplies	305.21
EZ EXCAVATING INC	Hydrant meter deposit refund	2,200.00
EZ LINKS GOLF LLC	POS software for BRGC	550.00
FACTORY MOTOR PARTS CO	Vehicle supplies	1,635.54
FAST SIGNS	Plaque for Officer Whitefeather	130.00
FERGUSON & ASSOCIATES CORPORATION	GIS support - scripts and custom mapping	540.00
FLATIRONS MARKETING & PRINTING SERVICES	Form printing	215.00
FREEDOM MAILING SERVICES LLC	Utility billing printing and mailing	2,845.26
GADES SALES CO INC	School zone clock configuration and support	4,820.00
GENERAL AIR	Industrial grade oxygen rental	18.37
GREEN MOUNTAIN PROMOTIONS	Golf course replacement banner	954.67
HAMILTON LINEN	Linen service for restaurant	504.38
HERITAGE TITLE	Refund overpayment	20.49
HIGH COUNTRY BEVERAGE	Restaurant supplies	578.50
HOME DEPOT	Sheds for Public Works	11,322.80
HOME DEPOT CREDIT SERVICES	Supplies	2,092.17
HOUSEAL LAVIGNE ASSOCIATES LLC	Professional consulting services	4,226.25
IAN AUSTIN	Police Equipment Loan Program	2,000.00
INNOVATE! INC	GIS Strategic Plan and Snow Plow Application	9,813.11
INTERSTATE RENTAL & SALES, INC.	Equipment rental	1,884.31
IVAN PEREZ	Police Equipment Loan Program	1,000.00
JAMES BRADLEY LEACH	Boot reimbursement	100.00
JC GOLF ACCESSORIES	Golf shop accessories	2,038.16
JEFF CAHN INC	Judge services	1,200.00
JONATHAN R KNIGHT	Mayor's Choice calendar winner	200.00
KENZ & LESLIE DISTRIBUTING CO	Shop supplies	1,008.40
KIM STRONG	Reimbursement for gift cards	38.79
KING CHEVROLET	Vehicle maintenance	1,093.96
KINSCO LLC	PD uniforms	203.98
KIYOTA'S GREENHOUSE	Landscaping plants	120.80
KODIAK RANCH	Festival of Lights carriage rides	1,050.00
KRISTIN NORDECK BROWN PC	Prosecutor services	1,414.00
L.G. EVERIST INC	Street maintenance supplies	878.89
LENNAR TITLE INC	Refund overpayment	24.67
LONGMONT HUMANE SOCIETY	Animal impound fees	1,052.25
LOVELAND BARRICADE LLC	Sign and message board rental	3,632.50

Town of Frederick - List of Bills
November 25, 2021 - December 30, 2021

MAC EQUIPMENT INC	Park maintenance equipment	2,666.56
MARY LONG	Refund overpayment	103.73
MASEK GOLF CAR COMPANY	Annual service kits for cart fleet	1,010.87
MCGEE COMPANY	Shop supplies	313.20
MICHOW COX & MCASKIN LLP	Legal counsel related to Clearview Villages	667.00
MIDWEST RADAR & EQUIPMENT	Certification of radar units	1,000.00
MIRROR IMAGE BREWING COMPANY	Beverage order for restaurant	120.00
MITEL	Phone set-up, implementation and equipment	224.15
MOSES WITTEMYER HARRISON & WOODRUFF	Legal services - Lower Boulder	5,787.45
MOUNTAIN SALES & SERVICE	Equipment lease payment	1,200.00
NATIONAL BUSINESS FURNITURE LLC	Office furniture	10,092.83
NICK CAMPBELL	Arts Commission Choice calendar winner	100.00
NIGEL ABRAHAM	Final restitution	1,100.41
NORTHERN ENGINEERING SERVICES	Shrek Property descriptions	890.00
NORTHSTAR CONCRETE INC	Concrete and alleyway maintenance program	136,209.00
O.J. WATSON COMPANY INC	Equipment repairs	688.50
OCCUPATIONAL HEALTH CENTERS	Physicals and pre employment testing	332.00
O'REILLY AUTOMOTIVE INC	Auto supplies	59.02
PAUL C BENEDETTI	Legal services - FURA	425.00
POLICE AND SHERIFFS PRESS INC	Photo ID cards	47.95
PRAIRIE MOUNTAIN MEDIA	Publication costs	166.17
PRINT EXPERTS	Land Use Code post cards & FRED flip books	676.68
RAMEY ENVIRONMENTAL COMPLIANCE	ORC Services Distribution & Collection Systems	738.20
REDEMPTION ROAD COFFEE	Festival of Lights & NYE event vendor	1,625.00
REDI SERVICES LLC	Porta-john services	1,435.00
REIF & HUNSAKER PC	Legal services	790.50
REPUBLIC NATIONAL DISTRIBUTING CO LLC	Beverage order for restaurant	250.00
ROCKY MOUNTAIN BOTTLED WATER LLC	Water delivery service	156.00
RUSTY RIBBLE	Boot reimbursement	100.00
RUSTY'S ORIGINALS UPHOLSTERY INC	Panel repair	95.00
SAFEBUILT COLORADO LLC	Electrical inspections	1,100.00
SAFEWAY	Supplies	35.12
SAM'S CLUB / GEGRB	Supplies	1,723.72
SAMSON LAW FIRM	Legal fees - Fox Chase Sub Injunction	930.00
SARAH WATSON	Tuition reimbursement	3,000.00
SHAWNA PAINTIN	Police Equipment Loan Program	2,000.00
SHELLY GUENTHER	Board of Trustees Choice calendar winner	100.00
SHRED-IT USA	Document shredding	246.32
SIGNARAMA	Festival of lights signs	133.00
SOUTHERN GLAZERS WINE AND SPIRITS	Beverage order for restaurant	516.51
SRIXON CLEVELAND GOLF XXIO	Merchandise	965.70
STAN CHRISTEN	Refund overpayment	16.53
STAPLES ADVANTAGE	Supplies	1,849.43
STRIGLOS COMPANIES, INC.	Computer equipment set-up	4,976.00
SUMMIT DATA PROTECTION LLC	Disaster Recovery and Remote Back-up	3,855.00
SUMMIT STRATEGIES	Municipal Consulting services	5,000.00
SUNSHINE CLEANERS	Uniform cleaning	279.45

Town of Frederick - List of Bills
November 25, 2021 - December 30, 2021

SWIRE COCA-COLA USA	Beverage supplies for restaurant	615.41
TAYLOR MADE GOLF COMPANY	Golf equipment	1,345.72
TELOS ONLINE INC	Back-up link	75.00
TIER ONE NETWORKING LLC	Equipment	98.00
TIMBERLAN	Engineering set-up	5,933.00
TIMOTHY RYAN ATKINSON	People's Choice calendar winner	100.00
TLO LLC	Investigation fees	100.00
TOWN OF FIRESTONE	Santa Cops tournament	2,496.00
TOWN OF FREDERICK	Santa Cops tournament	2,496.00
TRANSWEST TRUCK	Equipment supplies	1,325.71
TRT CONSTRUCTION	Pubic Works new office build	4,650.00
TRUDILIGENCE	Background checks	18.00
TRUEPOINT SOLUTIONS LLC	Accella Implementation	3,277.22
TWIN PEAKS GARAGE DOORS LLC	Garage door service	1,400.00
TYLER FLORENCE	Travel reimbursement for interview expenses	927.25
TYLER TECHNOLOGIES	Financial Software Implementation	10,962.50
U.S. POSTAL SERVICE (CMRS-FP)	Postage for meter machine	1,000.00
UNIFIRST CORPORATION	Mat services for Town Hall and PD	469.68
UNITED POWER	Electric utility	7,295.28
UNIVERSITY AUTO PARTS INC	Equipment maintenance	143.47
UPPER CASE PRINTING, INK.	Newsletter printing	1,166.25
US FOODS INC	Restaurant food order and supplies	9,745.75
USGA CLUB MEMBERSHIP	Annual club membership	150.00
UTILITY NOTIFICATION CENTER OF COLORADO	Utility locate transmissions	269.28
VANCE BROTHERS INC	Seal Project Pavement Maintenance - Final	22,469.58
VENTURA DOMINGUEZ	Reimbursement for CDL testing & licensing	40.92
VERIZON WIRELESS	Wireless services	7,154.44
VIA MOBILITY SERVICES	Transportation services for Frederick Seniors	9,448.00
VOLVIK	Golf shop merchandise	79.50
WARD ELECTRIC COMPANY INC	Electric services	3,470.60
WASTE CONNECTIONS OF COLO INC	Monthly town trash collection	65,778.51
WELZIG HEATING & AIR	Monthly services for town buildings	494.65
WEX BANK	Fuel	638.59
ZACK MASON	Refund overpayment	35.76
	Total	<u>951,591.31</u>



TOWN OF FREDERICK BOARD OF TRUSTEES
REGULAR HYBRID BOARD MEETING MINUTES
FREDERICK TOWN HALL, 401 LOCUST STREET
NOVEMBER 9, 2021

Call to Order: At 7:01 Mayor Pro Tem March called the meeting to order and requested roll call.

Roll Call: Present were Mayor Pro Tem March and Trustees Mahan, Lamach, O'Neal Brown and Padia. Mayor Crites was not present. Also present were Town Manager Bryan Ostler, Town Attorney Jason Meyers and Town Clerk Meghan Martinez.

Pledge of Allegiance:

Mayor Pro Tem March invited everyone to join in the pledge of allegiance.

Approval of Agenda:

Executive Session #1 was moved to after special presentations.

Special Presentations:

Frederick Firestone Fire Protection District Quarterly Report: Chief Young presented the 3rd quarter report and was available for questions.

Executive Session:

Motion by Trustee Padia and seconded by Trustee Lamach to go into executive session for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators under C.R.S. Section 24-6-402(4)(e)(1) regarding economic development. Upon roll call vote, motion passed unanimously.

At 7:27 Mayor Pro Tem March recessed the meeting to go into executive session.

At 7:53 Mayor Pro Tem March reconvened the meeting.

Public Comment:

Mayor Pro Tem March indicated that no one had signed up for public comment.

Staff Reports:

Admin Report: Town Manager Bryan Ostler provided a written report.

Town Clerk Report: Town Clerk Meghan Martinez provided a written report.

Consent Agenda:

Motion by Trustee Lamach and seconded by Trustee Brown to approve the consent agenda which consisted of the following items:

Built on What Matters.

- September 14, 2021 Minutes
- September 28, 2021 Minutes
- October 12, 2021 Minutes
- October 26, 2021 Minutes
- List of Bills

Upon roll call vote, motion passed unanimously.

At 8:00 Mayor Pro Tem March called for a brief recess.

At 8:05 Mayor Pro Tem March reconvened the meeting.

Action Agenda:

Public Hearing Fiscal Year 2022 Proposed Budget: Administrative Services Officer Jason Leslie presented the proposed budget.

At 8:11 Mayor Pro Tem March opened the public hearing.

At 8:12 Mayor Pro Tem March closed the public hearing.

Consideration of the Nelson Rezone: Planner Maureen Welsh presented the proposed rezone.

Tamara Connelly and Bill Carlisle with DR Horton addressed the Board.

Motion by Trustee Lamach and seconded by Trustee O'Neal to approve Ordinance 1367 with an amendment to the date of February 28, 2022. Upon roll call vote, motion passed unanimously.

Mayor and Trustee Reports:

Trustee Lamach: He requested a proclamation honoring and recognizing staff and the community for their service.

Trustee Padia: She reminded everyone about Thanksgiving Dinner in a Box and that donations are due on November 9th.

Executive Session:

Motion by Trustee Padia and seconded by Trustee Brown to go into executive session for a conference with the Town Attorney for the purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b) regarding Litigation. Upon roll call vote, motion passed unanimously.

At 8:47 Mayor Pro Tem March recessed the meeting to go into executive session.

At 8:54 Mayor Pro Tem March reconvened the meeting.

Motion by Trustee Brown and seconded by Trustee Padia to authorize the Mayor to sign the agreement meeting the terms of mediation as outlined by the Town Attorney. Upon roll call vote, motion passed unanimously.

There being no further business of the Board, Mayor Pro Tem March adjourned the meeting of the Board of Trustees at 8:55 PM.

Approved by the Board of Trustees:

ATTEST:

Tracie Crites, Mayor

Meghan C. Martinez, MMC, Town
Clerk



TOWN OF FREDERICK BOARD OF TRUSTEES
REGULAR HYBRID BOARD MEETING MINUTES
FREDERICK TOWN HALL, 401 LOCUST STREET
DECEMBER 7, 2021

Call to Order: At 6:09 Mayor Crites called the meeting to order and requested roll call.

Roll Call: Present were Mayor Crites, Mayor Pro Tem March and Trustees Mahan, Lamach, ONeal Brown and Padia. Also present were Town Manager Bryan Ostler, Town Attorney Jason Meyers and Town Clerk Meghan Martinez.

Pledge of Allegiance:

Mayor Crites invited everyone to join in the pledge of allegiance.

Executive Session:

Motion by Trustee Padia and seconded by Trustee Brown to go into executive session for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators under C.R.S. Section 24-6-402(4)(e)(1) regarding Frederick Firestone Fire Protection District Development. Upon roll call vote, motion passed unanimously.

At 6:11 Mayor Crites recessed the meeting to go into executive session.

At 7:17 Mayor Crites reconvened the meeting.

Executive Session:

Motion by Trustee Brown and seconded by Trustee Lamach to go into executive session for discussion of a personnel matter under C.R.S. Section 24-6-402(2)(f) and not involving: any specific employees who have requested discussion of the matter in open session; any member of this body or any elected official; the appointment of any person to fill an office of this body or of an elected official; or personnel policies that do not require the discussion of matters personal to particular employees; regarding the Town Attorney's Annual Evaluation.

At 7:28 Mayor Crites recessed the meeting to go into executive session.

At 9:28 Mayor Crites reconvened the meeting.

Motion by Trustee ONeal and seconded by Trustee Padia to authorize a 2% wage increase to the Town Attorney. Upon roll call vote, motion passed unanimously.

Mayor and Trustee Reports:

Trustee ONeal: He mentioned the good work the public works department has been taking in location leaks in the water infrastructure on 6th Street.

The Board generally discussed the success of the tree lighting event at Crist Park as well as a holiday party for staff.

Built on What Matters.

There being no further business of the Board, Mayor Crites adjourned the meeting of the Board of Trustees.

Approved by the Board of Trustees:

ATTEST:

Tracie Crites, Mayor

Meghan C. Martinez, MMC, Town
Clerk



TOWN OF FREDERICK BOARD OF TRUSTEES

REGULAR HYBRID BOARD MEETING MINUTES

FREDERICK TOWN HALL, 401 LOCUST STREET

DECEMBER 14, 2021

Call to Order: At 7:00 Mayor Crites called the meeting to order and requested roll call.

Roll Call: Present were Mayor Crites, Mayor Pro Tem March and Trustees Mahan, Lamach, O'Neal Brown and Padia. Also present were Town Manager Bryan Ostler, Town Attorney Jason Meyers and Town Clerk Meghan Martinez.

Pledge of Allegiance:

Mayor Crites invited everyone to join in the pledge of allegiance.

Approval of Agenda:

Administrative Services Officer Jason Leslie gave an update on the water base rate.

Public Comment:

Mayor Crites indicated that no one had signed up for public comment.

Staff Reports:

Admin Report: Town Manager Bryan Ostler provided a written report.

Town Clerk Report: Town Clerk Meghan Martinez provided a written report.

Consent Agenda:

Motion by Mayor Pro Tem March and seconded by Trustee Mahan to approve the consent agenda which consisted of the following items:

- List of Bills
- Resolution 21-R-55 Approving Agreements between the Town and the City of Thornton for Water Pipeline Infrastructure
- Resolution 21-R-56 Amending Fees for Municipal Services
- Resolution 21-R-57 Certifying Various Liens to the Weld County Treasurer's Office for Inclusion in the Appropriate Tax Bill
- Resolution 21-R-58 Approving an Intergovernmental Agreement between the Town and the Carbon Valley Parks and Recreation District for Shared Use of Facilities
- Resolution 21-R-59 Authorizing the Mayor to Execute the Eighteenth Interim Agreement with the Northern Integrated Supply Project Water Activities Enterprise

Upon roll call vote, motion passed unanimously.

Action Agenda:

Built on What Matters.

Public Hearing Resolution 21-R-60 Summarizing Expenditures and Revenues for each fund and Adopting a Budget for the Calendar Year 2022: Administrative Services Officer Jason Leslie presented the proposed resolution.

At 7:11 Mayor Crites opened the public hearing

At 7:13 Mayor Crites closed the public hearing.

Motion by Mayor Pro Tem March and seconded by Trustee Lamach to approve Resolution 21-R-60. Upon roll call vote, motion passed unanimously.

Resolution 21-R-61 Levying General Property Taxes for the Year 2021, to help Defray the Cost of Government for the Town of Frederick, Colorado, for the 2022 Budget Year: Administrative Services Officer Jason Leslie presented the proposed resolution. Motion by Mayor Pro Tem March and seconded by Trustee Padia to approve Resolution 21-R-61. Upon roll call vote, motion passed unanimously.

Resolution 21-R-62 Appointing a Substitute Municipal Judge: Town Attorney Jason Meyers and Municipal Judge Jeff Cahn introduced Judge Ablao. Motion by Mayor Pro Tem March and seconded by Trustee Brown to approve Resolution 21-R-62. Upon roll call vote, motion passed unanimously.

Resolution 21-R-63 Approving an Intergovernmental Agreement for Frederick Firestone Protection District Impact Fees: Town Manager Bryan Ostler presented the proposed resolution. Motion by Mayor Pro Tem March and seconded by Trustee Padia to approve Resolution 21-R-63. Upon roll call vote, motion passed unanimously.

Resolution 21-R-64 Approving the Town of Frederick 10-Year Water Supply Plan: Engineer Sarah Watson presented the proposed resolution. Motion by Mayor Pro Tem March and seconded by Trustee Lamach to approve resolution 21-R-64. Upon roll call vote, motion passed unanimously.

At 7:48 Mayor Crites called for a brief recess.

At 8:05 Mayor Crites reconvened the meeting.

Consideration of the Penrose Rezone: Planner Ali vanDeutekom presented the proposed project. The application ShaneRugg addressed the Board. Savannah Benedict and Will Edgington spoke regarding the project.

At 8:33 Mayor Crites called for a brief recess.

At 8:38 Mayor Crites reconvened the meeting.

Motion by Trustee O'Neal and seconded by Trustee Padia to table this item to the March 8, 2022 Meeting and directing staff to renotice. Upon roll call vote, motion passed unanimously.

Mayor and Trustee Reports:

Mayor Crites: She gave an update on the old gym.

Trustee Padia: It is really great to see all the master plans feed into our strategic plan and that they are laid out with the residents in mind.

Mayor Pro Tem March: He thanked Meghan in advance for her work on the elections. This past year has been amazing and he is proud of the Board. It has been a good year.

Trustee Lamach: He echoed Mayor Pro Tem March's comments. He loves working with everyone and looks forward to next year.

Trustee ONeal: He brought up fences in Frederick. He would like to see a requirement for a permit.

There being no further business of the Board, Mayor Crites adjourned the meeting of the Board of Trustees at 9:02 PM.

Approved by the Board of Trustees:

ATTEST:

Tracie Crites, Mayor

Meghan C. Martinez, MMC, Town
Clerk



TOWN OF FREDERICK BOARD OF TRUSTEES ACTION MEMORANDUM

Tracie Crites, Mayor

Dan March, Mayor Pro Tem
Mark Lamach, Trustee
Adam Mahan, Trustee

Rusty O'Neal, Trustee
Kevin Brown, Trustee
Windi Padia, Trustee

Ordinance Adjusting Sections of the Municipal Code Concerning the Town Attorney

Agenda Date: Town Board Meeting – January 11, 2022

Attachments: a. Ordinance #1368

Finance Review:

Finance Director

Submitted by:

Jason Meyers
Town Attorney

Approved for Presentation:

Bay O'Neal
Town Manager

☐ Quasi-Judicial

☐ Legislative

☐ Administrative

Summary Statement:

The Town Board met on _____ at a work session to discuss the integration of the full-time on staff Town Attorney with other legal needs of the Town. At that meeting the Town Attorney was directed to draft an ordinance clarifying the responsibilities of the Town Attorney and the relationship with other outside counsel doing work for the Town.

Detail of Issue/Request:

The attached ordinance makes adjustments in three sections of the Municipal Code. Specifically, the ordinance provides that the Town Prosecutor will report to, and be appointed by, the Town Attorney. Further, all other outside counsel will be under the direction of the Town Attorney except when the Town Attorney has a conflict of interest or if deemed necessary by the Board. Lastly, the language in the code concerning the supervision responsibility of the various appointed officials is clarified so that appointed officials are responsible for the employment decisions of their respective departments. Namely that the determination to hire or terminate employment of town personnel that report to the

Built on What Matters.

Town Attorney, Town Manager, and Town Clerk respectively will be the responsibility of that appointed official or their designee.

Legal Comments:

The attached ordinance has been drafted and reviewed by the Town Attorney.

Alternatives/Options:

The Board may decide not leave the reporting structure as it currently stands with several outside counsel and prosecutor reporting directly to the board. The Board may also adjust the reporting structure to be responsible for some outside counsel and not others.

Financial Considerations:

There are not anticipated to be any significant immediate financial considerations. It is possible that with the Town Attorney providing supervision of outside counsel there will be cost savings in the longer term as the needs of the Town continually are reviewed and adjustments made.

Staff Recommendation:

Staff recommends passing the Ordinance as presented.

ORDINANCE NO. 1368

**AN ORDINANCE OF THE TOWN OF FREDERICK, COLORADO, AMENDING
SECTIONS OF CHAPTER 2 ARTICLE III OF THE FREDERICK MUNICIPAL
CODE CONCERNING LEGAL SERVICES.**

WHEREAS, the Town of Frederick has transitioned many legal services to an in-house position; and,

WHEREAS, the Town Board desires to adjust the structure of reporting for legal services; and,

WHEREAS, a change to the Town of Frederick Municipal Code is required to make these adjustments clear.

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF
THE TOWN OF FREDERICK, AS FOLLOWS:**

Section 1. Section 2-72, Frederick Municipal Code, entitled “Town Prosecutor” is hereby amended with deleted language struck through and added language underlined as follows:

Sec. 2-72. Town Prosecutor.

~~The Board of Trustees may appoint a Town Prosecutor, to be separate and distinct from the Town Attorney. In the event no Town Prosecutor is appointed by the Board of Trustees, the Town Attorney shall serve in that capacity. The Town Prosecutor shall be responsible to handle all cases brought in the Frederick Municipal Court, including any appeals that arise from a municipal case. The Board of Trustees may designate additional duties and responsibilities to the Town Prosecutor as deemed appropriate.~~ The Town Prosecutor shall report, be supervised by, and appointed by the Town Attorney. In the event that there is no Town Prosecutor, the Town Attorney shall serve in that capacity.

Section 2. Section 2-73, Frederick Municipal Code, entitled “Town Prosecutor” is hereby amended with deleted language struck through and added language underlined as follows:

Sec. 2-73. Town Attorney.

The Town Attorney shall be the general legal advisor of the Board of Trustees and all officers and boards of the Town in all matters arising out the questions concerning the laws, ordinances and contracts of the Town, and all other matters pertaining to the business of the Town. The Town Attorney shall appear for the Town in all actions or suits in which the Town is a party, and the Town Attorney is authorized to make any and all affidavits or instruments in writing for the proper conduct of any suit in which,

in his or her opinion, the Town's interests require. The Town Attorney shall attend all meetings of the Board of Trustees and draw all ordinances, contracts and other instruments when requested by the Board of Trustees to do so. ~~The Board of Trustees may appoint such assistants as they deem necessary who shall serve under the direction and control of the Town Attorney.~~ The Town Attorney shall be responsible for the supervision of all outside counsel and staff within the Town Attorney's Office. Notwithstanding anything contained herein, the Board of Trustees may contract with outside counsel for legal services when the Town Attorney has a conflict of interest on a matter or when deemed necessary by the Board.

Section 3. Section 2-80, Frederick Municipal Code, entitled "Appointment and removal of employees appointed by Board of Trustees." Is hereby amended with deleted language struck through and added language underlined as follows:

Sec. 2-80 Appointment and removal of employees appointed by Board of Trustees.

The Board of Trustees shall appoint and may remove the Town Manager. The Board of Trustees shall appoint and may remove, consistent with state statutes, the Town Attorney, Town Clerk, Town Treasurer and Municipal Judge. Employees within the Town Attorney or Town Clerk offices shall be employed and may be terminated by their respective supervising appointed official and/or their designee. All remaining Town employees shall be employed and may be terminated by the Town Manager and/or a designee of the Town Manager.

Section 4. Severance Clause. If an article, section, paragraph, sentence, clause or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Board of Trustees of the Town of Frederick, Colorado hereby declares that it would have passed this Ordinance and each part or parts thereof, irrespective of the fact that any one part or parts may be declared invalid or unconstitutional.

Section 5. Repeal. All other ordinances, or parts of any ordinances or other Code provisions in conflict herewith are hereby repealed.

Section 6. Effective Date. This ordinance shall take effect on _____, 2022.

**INTRODUCED, PASSED, ADOPTED AND ORDERED PUBLISHED IN FULL BY
THE BOARD OF TRUSTEES OF THE TOWN OF FREDERICK THIS ____ DAY OF
_____, 2022**

TOWN OF FREDERICK, a Colorado municipal corporation

By: _____
Tracie Crites, Mayor

ATTEST:

By: _____
Meghan Martinez, MMC, Town Clerk



TOWN OF FREDERICK BOARD OF TRUSTEES ACTION MEMORANDUM

Tracie Crites, Mayor

Dan March, Mayor Pro Tem
Adam Mahan, Trustee
Kevin Brown, Trustee

Mark Lamach, Trustee
Rusty O'Neal, Trustee
Windi Padia, Trustee

Consideration of Resolution to Accept Dedication of ROW for Maple Street

Agenda Date: Town Board Meeting – January 11, 2022

Attachments:

- a. Vicinity Map
- b. ROW Dedication Documents
- c. Resolution 22-R-01

Finance Review:

Finance Director

Submitted by:

Jason Berg, E.I.
Civil Engineer

Approved for Presentation:


Town Manager

☐ Quasi-Judicial

☐ Legislative

☒ Administrative

Summary Statement:

Dedication of right-of-way for Maple Street on Town owned property for existing roadway and future extension for development to south.

Detail of Issue/Request:

Maple Street is an existing collector roadway south of 8th Street running adjacent to the east side of Centennial Park with planned future extension to the south which is to be constructed with Carriage Hills Filing 1 Replat A and eventually connecting to HW52 with future development with Miners Park Town Centre. The existing portion of the Maple Street roadway is located on Town owned property but not within dedicated right-of-way. With the dedication of 64.5-feet on Frederick Town and 10.5-feet on Miners Park Town Centre Outlot A properties, both owned by the Town, the Town of Frederick achieves the required 75-foot right-of-way for the continuation of Maple Street to the southern properties.

Built on What Matters.

The developer of Carriage Hills Filing 1 Replat A has dedicated addition right-of-way on site with the replat of the property and has also facilitated additional right-of-way acquisition from the St Vrain Valley School District and Miners Park Town Centre properties through Quit Claim which the Town is also accepting to meet the Town 75-foot collector roadway cross-section requirement.

Legal Comments:

The Town Attorney reviewed the Deeds of Dedication and prepared the Resolution.

Alternatives/Options:

The Town Board may choose whether or not to accept the dedication of right-of-way.

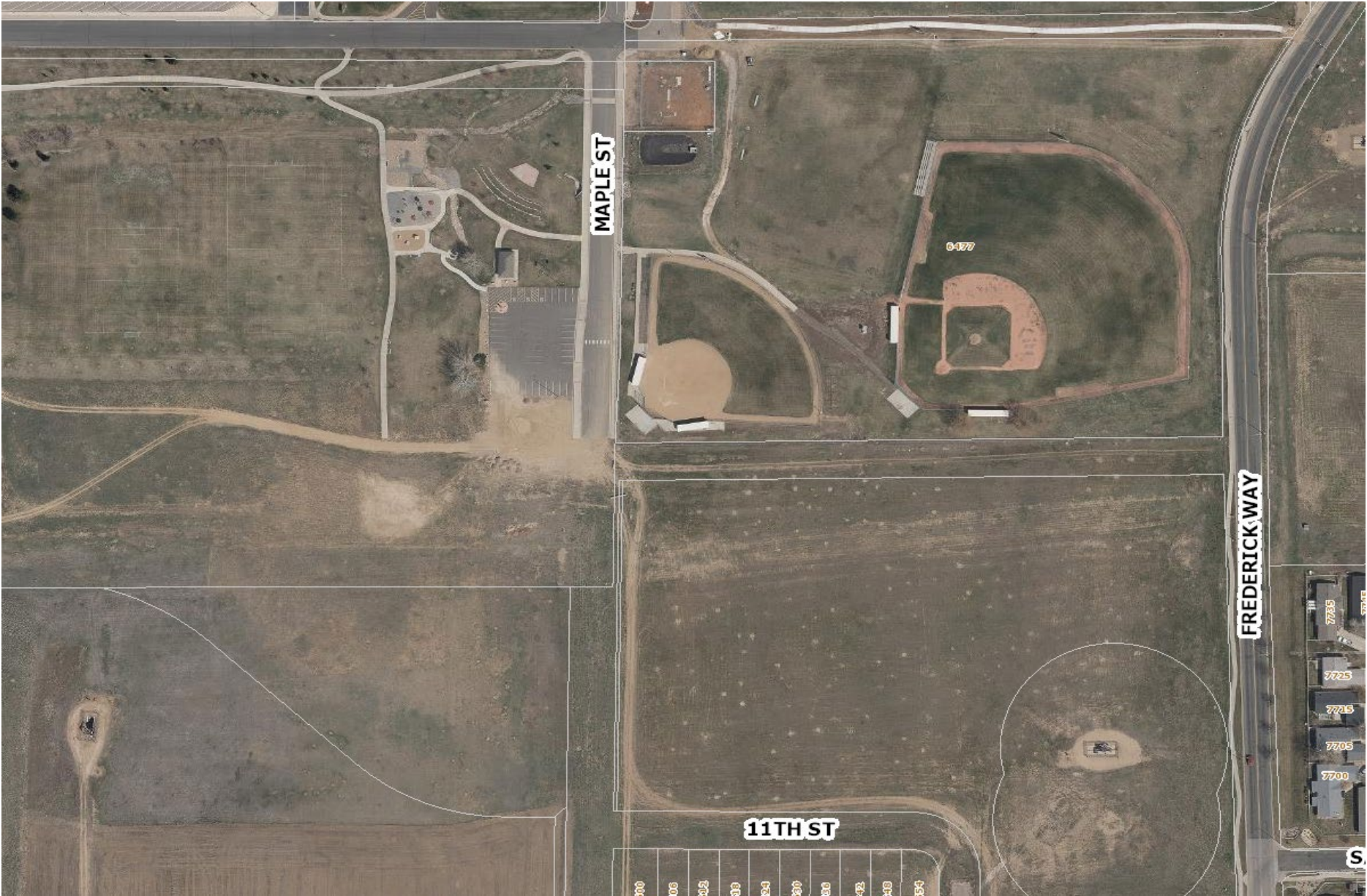
Financial Considerations:

Town would be responsible for the reimburse for the actual cost of construction for the future extension of Maple Street adjacent to the Town property to future developers.

Staff Recommendation:

Staff recommends approval of the Resolutions 22-R-01 as presented accepting the Deed of Dedication for Right-of-Way for Maple Street.

Town of Frederick
Maple Street



DEED OF DEDICATION

The undersigned Grantor(s), for good and valuable consideration, receipt of which is hereby acknowledged, do(es) hereby sell, grant, and convey unto the Town of Frederick, a Colorado municipal corporation, the following described parcel of land situate in the County of Weld, State of Colorado, to-wit:

SEE ATTACHED EXHIBITS "A" and "B"

With all its appurtenances and warrant(s) the title to the same, free and clear of all liens and encumbrances, subject to reservations, agreements, and restrictions of record, and existing easements, if any.

The above-described property is to be used for street and utility purposes, which purposes shall include, but not be limited to, streets, sidewalks, curbs, gutters, utility lines, structures, equipment, apparatus, and poles.

Acceptance of this conveyance by the Town of Frederick, Colorado, shall not impose upon the Town any obligation for the opening, widening, installation, improvement, or maintenance of the above-described property for any purpose, which obligation shall arise, if at all, only by separate action of the Frederick Board of Trustees.

Signed this _____ day of _____, 20__.

Town of Frederick
Grantor(s):

By _____

STATE OF COLORADO)
)ss.
COUNTY OF WELD)

The foregoing instrument was acknowledged before me this _____ day of _____, 20__ by _____.

My commission expires:

Witness my hand and official seal.

Notary Public

ACCEPTANCE

The Town of Frederick, A Colorado Municipal Corporation, whose legal address is 401 Locust St., Frederick, CO 80530, hereby accepts the above dedication of property as Public Rights-of-Way or a Public Highway.

Dated this _____ day of _____, 20__.

ATTEST:

TOWN OF FREDERICK,
A COLORADO MUNICIPAL CORPORATION

BY: _____
Meghan C. Martinez
Town Clerk

BY: _____
Tracie Crites
Mayor

STATE OF COLORADO)
)ss.
COUNTY OF WELD)

The foregoing instrument was acknowledged before me this _____ day of _____, 20__, by

Witness my hand and official seal.

Notary Public

My commission expires:

EXHIBIT “A”

(Legal Description)

EXHIBIT “B”
(Map)

PROPERTY DESCRIPTION

Public Right of Way Dedication

A strip of land, 64.50 feet in width dedicated as Public Right of Way, situate within the West Half of Section Thirty-one (31), Township Two North (T.2N.), Range Sixty-seven West (R.67W.), Sixth Principal Meridian (6th P.M.), Town of Frederick, County of Weld, State of Colorado, more particularly described as follows:

The Easterly 64.50 feet of Parcel A, as described in that deed recorded August 7, 2001 as Reception No. 2872350 of the Records of Weld County and the Easterly 64.50 feet of Parcel B, as described in that deed recorded August 7, 2001 as Reception No. 2872351 of the Records of Weld County.

Said described parcel of land contains a total of 48,660 sq. ft, or 1.12 acre, more or less.

SURVEYOR'S CERTIFICATE

I, Steven A. Lund, a Colorado Registered Professional Land Surveyor do hereby state that this Property Description was prepared under my personal supervision and checking, and that it is true and correct to the best of my knowledge and belief.



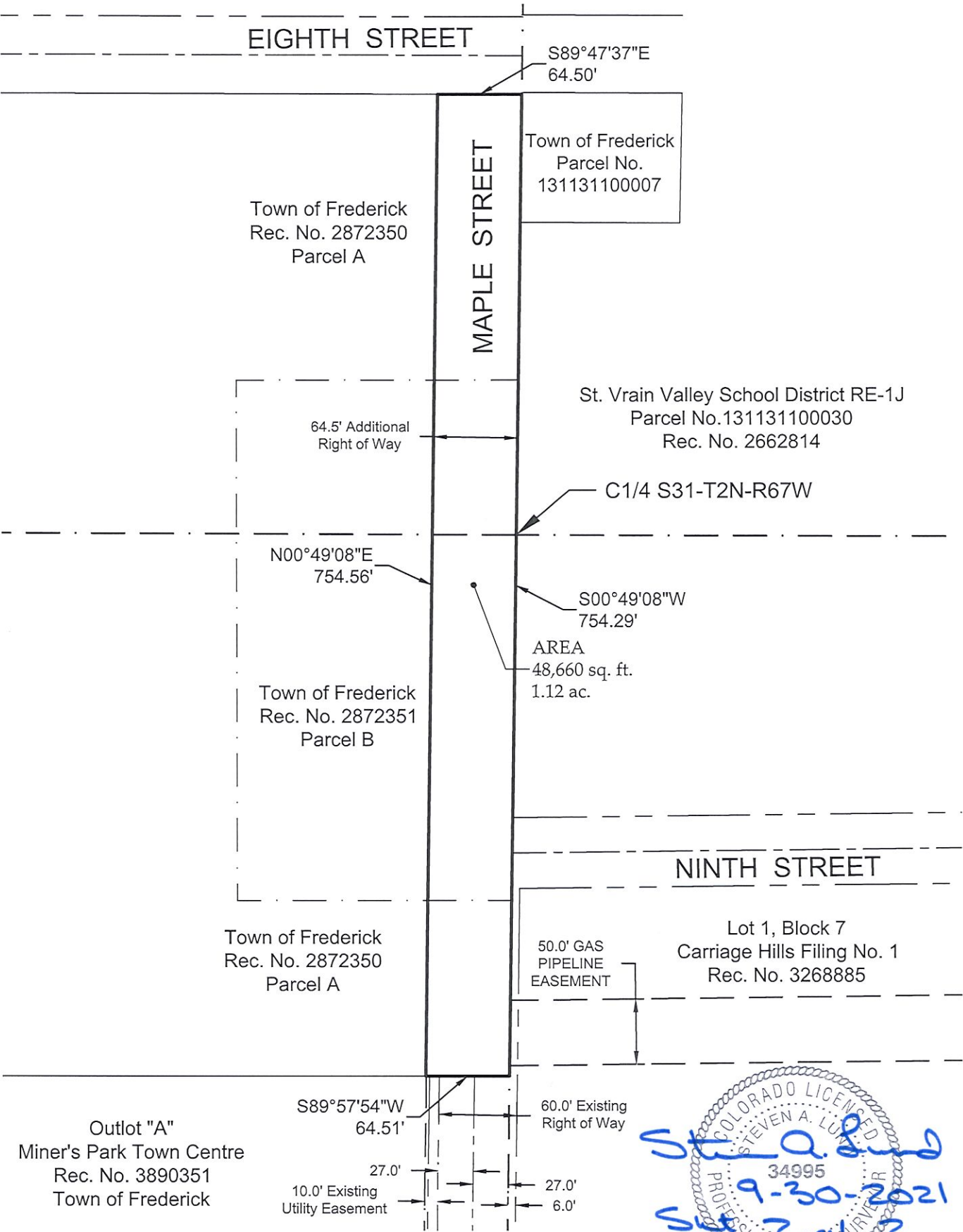
Steven A. Lund – on behalf of Northern Engineering
Colorado Registered Professional
Land Surveyor #34995

NORTHERN ENGINEERING

820 8th Street
Greeley, Colorado 80631
(970) 488-1113

EXHIBIT - R.O.W. DEDICATION

A TRACT OF LAND SITUATE WITHIN THE WEST 1/2 OF SECTION 31,
TOWNSHIP 2 NORTH, RANGE 67 WEST OF THE 6th P.M., TOWN OF FREDERICK,
COUNTY OF WELD, STATE OF COLORADO



STEVEN A. LUTZ
34995
9-30-2021
PROFESSIONAL LAND SURVEYOR

NOTE: THIS EXHIBIT IS NOT INTENDED TO BE A
MONUMENTED LAND SURVEY. ITS SOLE PURPOSE IS AS A
GRAPHIC REPRESENTATION TO AID IN THE VISUALIZATION
OF THE WRITTEN PROPERTY DESCRIPTION WHICH IT
ACCOMPANIES. THE WRITTEN PROPERTY DESCRIPTION
SUPERCEDES THE EXHIBIT DRAWING.



100 0 100 Feet
(IN U.S. SURVEY FEET)
1 inch = 100 ft.



NORTHERN
ENGINEERING

PROPERTY DESCRIPTION

Public Right of Way Dedication

A strip of land, 10.50 feet in width, dedicated as Public Right of Way, situate within the Southwest Quarter of Section Thirty-one (31), Township Two North (T.2N.), Range Sixty-seven West (R.67W.), Sixth Principal Meridian (6th P.M.), Town of Frederick, County of Weld, State of Colorado, more particularly described as follows:

The Easterly 10.50 feet of Outlot "A" of the Miner's Park Town Centre Final Plat recorded November 21, 2012 as Reception No. 3890351 of the Records of Weld County.

Said described parcel of land contains a total of 3360 sq. ft, or 0.08 acre, more or less.

SURVEYOR'S CERTIFICATE

I, Steven A. Lund, a Colorado Registered Professional Land Surveyor do hereby state that this Property Description was prepared under my personal supervision and checking, and that it is true and correct to the best of my knowledge and belief.



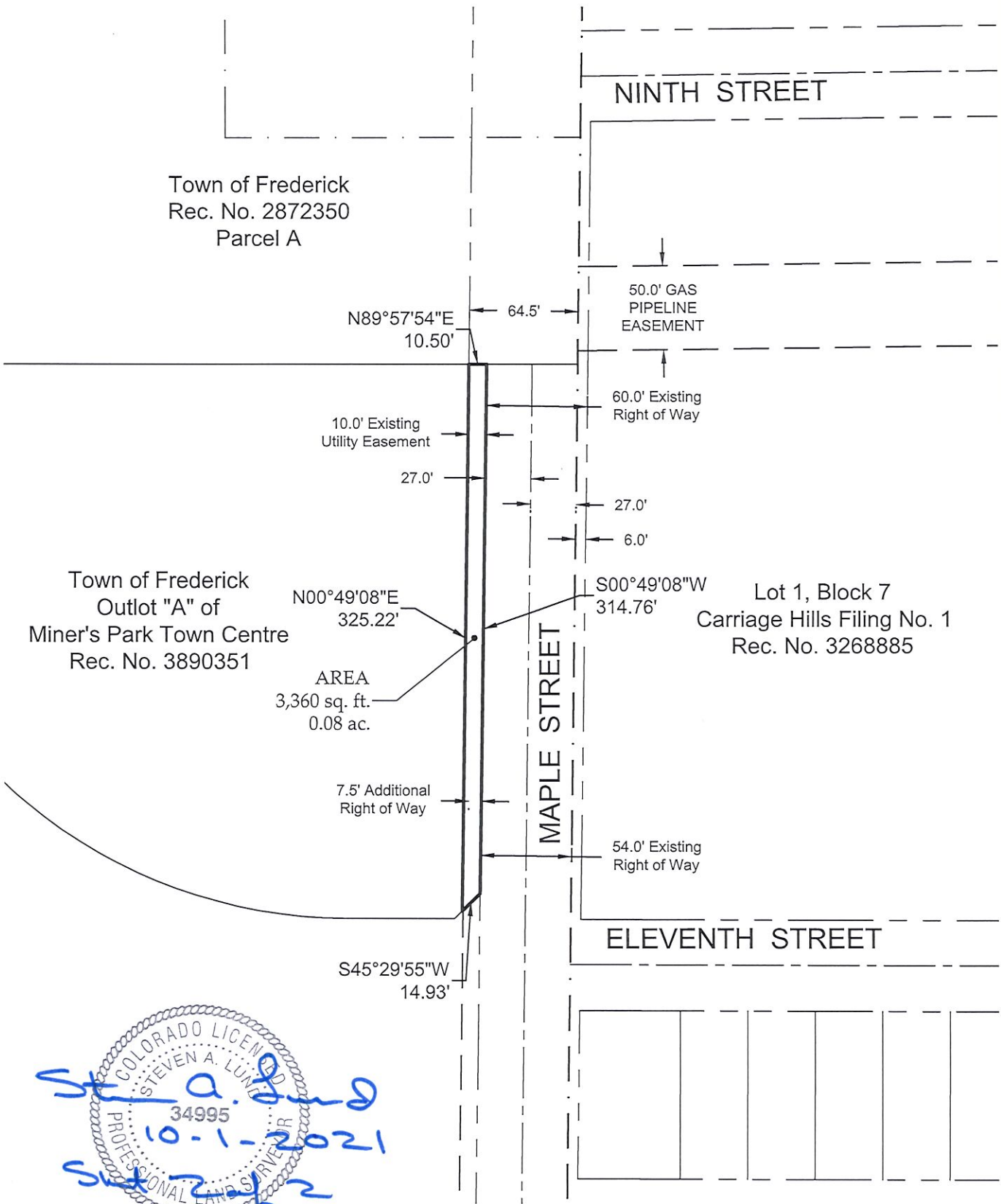
Steven A. Lund – on behalf of Northern Engineering
Colorado Registered Professional
Land Surveyor #34995

NORTHERN ENGINEERING

820 8th Street
Greeley, Colorado 80631
(970) 488-1113

EXHIBIT - R.O.W. DEDICATION

A TRACT OF LAND SITUATE WITHIN THE SOUTHWEST 1/4 OF SECTION 31,
TOWNSHIP 2 NORTH, RANGE 67 WEST OF THE 6th P.M., TOWN OF FREDERICK,
COUNTY OF WELD, STATE OF COLORADO



STEVEN A. LUND
34995
10-1-2021
PROFESSIONAL LAND SURVEYOR



80 0 80 Feet
(IN U.S. SURVEY FEET)
1 inch = 80 ft.

NOTE: THIS EXHIBIT IS NOT INTENDED TO BE A MONUMENTED LAND SURVEY. ITS SOLE PURPOSE IS AS A GRAPHIC REPRESENTATION TO AID IN THE VISUALIZATION OF THE WRITTEN PROPERTY DESCRIPTION WHICH IT ACCOMPANIES. THE WRITTEN PROPERTY DESCRIPTION SUPERCEDES THE EXHIBIT DRAWING.

NE | **NORTHERN ENGINEERING**

FORT COLLINS: 301 North Horse Street, Suite 100, BOONE: 970.221.4158
GREELEY: 820 8th Street, 80631 www.northernengineering.com

QUIT CLAIM DEED

MINERS PARK TOWN CENTRE, LLC, A COLORADO LIMITED LIABILITY COMPANY ("Grantor"), whose legal address is 14491 WCR 5, Mead, CO 80504, for the consideration of less than Five Hundred Dollars (\$500.00), the receipt and sufficiency of which are hereby acknowledged, hereby remises, releases, sells and forever quitclaims to TOWN OF FREDERICK, COLORADO, its successors and assigns ("Grantee"), whose legal address is 401 Locust Street, Frederick, CO 80530, all of Grantor's right, title and interest in and to the following described property in the County of Weld, State of Colorado, to wit:

See Exhibit A for Legal Description and Exhibit B for Depiction of Legal Description ("Property")

TO HAVE AND TO HOLD the Property granted herein to the Grantee and its successors and assigns, together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, or claim whatsoever of the Grantor, either in law or in equity.

SUBJECT TO the 2021 general property taxes which the Grantee assumes and agrees to pay, and

EXCEPTING from the conveyance of the Property and RESERVING unto the Grantor and its heirs and assigns, all minerals, including without limitation, oil, gas, coal, coalbed methane, and all other hydrocarbons, lignite and metallic minerals and other minerals on, in and that are associated with and/or that may be produced from the Property, and all rights appurtenant thereto, including all royalties due and payable under any existing or future oil and gas or other mineral lease covering any portion of the Property, but not including any surface right of access or subsurface rights that, if exercised, would present a reasonable probability of causing subsidence of the surface or compromising lateral or subjacent support for the roadway that Grantee intends to construct upon and adjacent to the Property, and

EXCEPTING from the conveyance of the Property and RESERVING unto the Grantor and its heirs and assigns all surface and subsurface water and water rights, ditches and ditch rights, ponds and pond rights, springs and spring rights, wells and well rights, whether decreed or not, if any, attached or appurtenant or used in connection with the Property.

Executed this 26th day of AUGUST, 2021

MINERS PARK TOWN CENTRE, LLC, a
Colorado limited liability company

By: John Haley, Manager
John Haley, Manager

)

STATE OF COLORADO

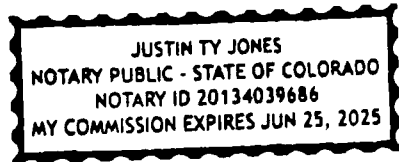
) ss.

COUNTY OF

)

This Quit Claim Deed was acknowledged before me by John Haley as Manager of
Miners Park Town Centre, LLC, a Colorado limited liability company, this 26th
day of August 2021.

Witness my hand and official seal.

My commission expires: 6.25.25

Justin T. Jones
Notary Public



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☐☐ P 303.682.1131
☐☐ F 303.682.1149

☐☐ info@civilarts.us
☐☐ www.civilarts.us

☐☐ 1500 Kansas Avenue, Suite 210
☐☐ Longmont, CO 80501

EXHIBIT "A"

February 25, 2021

LEGAL DESCRIPTION

Two strips of land being parts of Blocks 5 and 7, Miners' Park Town Centre, located in the SW1/4 of Section 31, T2N, R67W of the 6th P.M., County of Weld, State of Colorado, described as follows:

Block 5:

BEGINNING at the Northeast Corner of said Block 5, Miners' Park Town Centre, per plat recorded November 21, 2012 at Reception No. 3890351 in the Weld County Records, and which lies on the current Westerly Right-of-Way Line of Maple Street, thence S00°00'13"E, 623.86 feet along said Westerly Right-of-Way Line to the Northerly Right-of-Way Line of Thirteenth Street, as platted by said Miners' Park Town Centre;

Thence along said Northerly Right-of-Way Line the following two (2) courses:

1. S44°40'19"W, 21.33 feet;
2. S89°20'51"W, 14.93 feet to a point on a line that is 10.5-feet northwesterly of and parallel to said Northerly Right-of-Way Line of Thirteenth Street;

Thence N44°40'19"E, 27.64 feet along said parallel line to a point on a line that is 10.5-feet westerly of and parallel to said Westerly Right-of-Way Line of Maple Street;

Thence N00°00'13"W, 608.93 feet along said parallel line to the Northerly Line of said Block 5, Miners' Park Town Centre;

Thence N44°40'19"E, 14.93 feet along said Northerly Line to the **POINT OF BEGINNING**;

Area = 6,729 square feet (0.154 acres), more or less.

AND



EXHIBIT "A"

Block 7:

BEGINNING at a point on the Southerly Right-of-Way line of Thirteenth Street as platted by said Miners' Park Town Centre, per the plat recorded November 21, 2012 at Reception No. 3890351 in the Weld County Records, and which also lies on the current Westerly Right-of-Way Line of Maple Street, thence S00°00'13"E, 318.53 feet along said Westerly Right-of-Way Line to a point that is 36.51 feet southerly of the Centerline of Fourteenth Street, as platted by Carriage Hills Filing No. 1, per the plat recorded March 16, 2005 at Reception No. 3268885 in the Weld County Records;

Thence S89°20'57"W, 10.50 feet along a line 36.51 feet Southerly of and parallel to said Centerline of Fourteenth Street to a line that is 10.5-feet westerly of and parallel to said Westerly Right-of-Way Line of Maple Street;

Thence N00°00'13"W, 314.27 feet along said parallel line to a line that is 10.5-feet southwesterly of and parallel to the Southerly Right-of-Way Line of said Thirteenth Street;

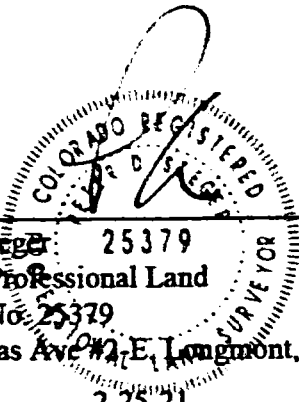
Thence N45°19'41"W, 27.09 feet along said parallel line to said Southerly Right-of-Way Line of Thirteenth Street;

Thence along said Southerly Right-of-Way Line the following two (2) courses:

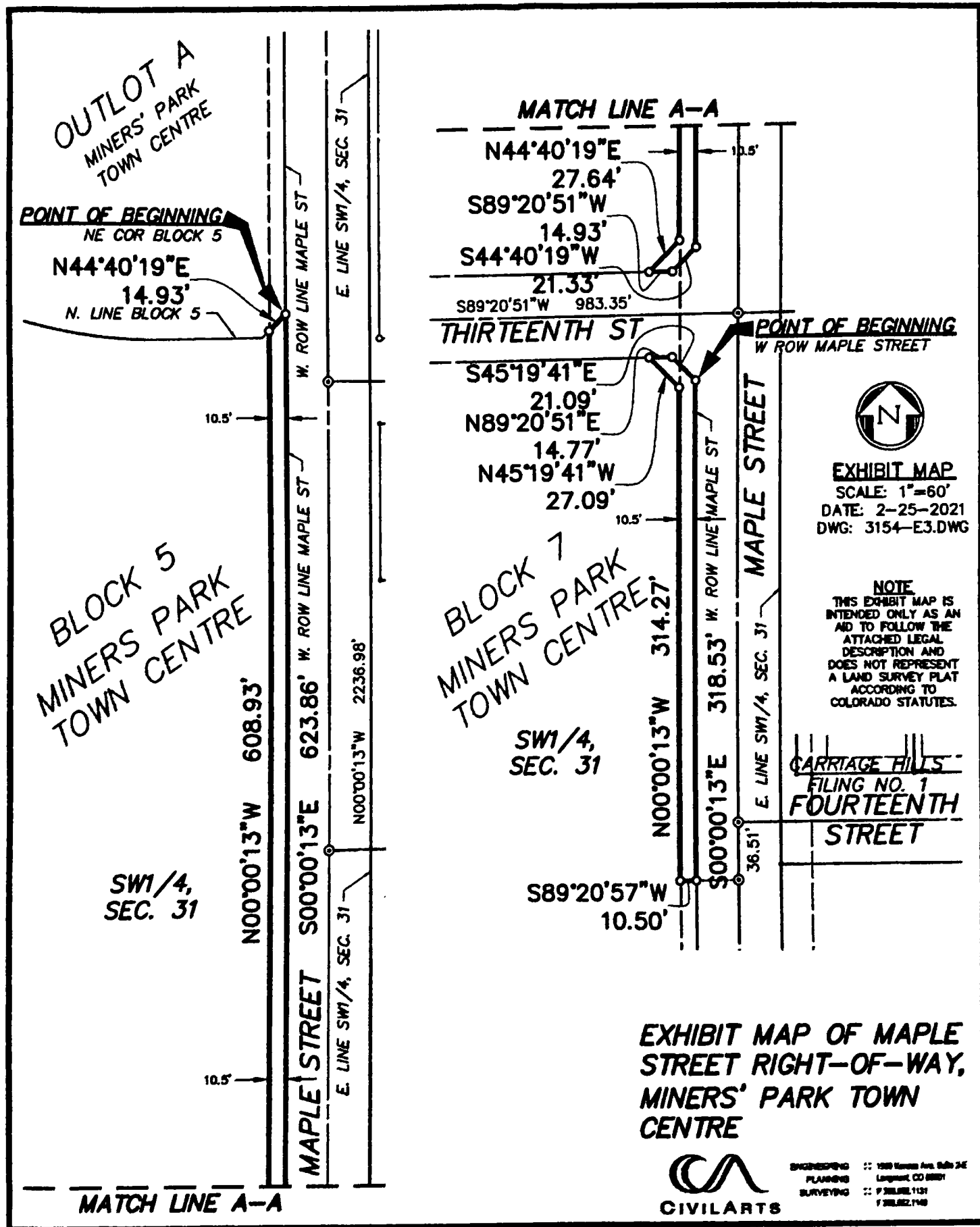
1. N89°20'51"E, 14.77 feet;
2. S45°19'41"E, 21.09 feet to the **POINT OF BEGINNING**;

Area = 3,575 square feet (0.082 acres), more or less.

NOTICE: According to Colorado Law you must commence any legal action based upon any defect in this survey within three years after you first discovered such defect. In no event, may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown hereon.


Peter D. Steger 25379
Colorado Professional Land
Surveyor No. 25379
1500 Kansas Ave #217, Longmont, CO 80501
Date: 2-25-21
File: 3154-lgl_miners2.doc Project: 31-54





QUIT CLAIM DEED

ST. VRAIN VALLEY SCHOOL DISTRICT RE-1J, A COLORADO PUBLIC SCHOOL DISTRICT ("Grantor"), whose legal address is 395 S. Pratt Parkway, Longmont, CO 80501, for the consideration of less than Five Hundred Dollars (\$500.00), the receipt and sufficiency of which are hereby acknowledged, hereby remises, releases, sells and forever quitclaims to TOWN OF FREDERICK, COLORADO, its successors and assigns ("Grantee"), whose legal address is 401 Locust Street, Frederick, CO 80530, all of Grantor's right, title and interest in and to the following described property in the County of Weld, State of Colorado, to wit:

See Exhibit A for Legal Description and Exhibit B for Depiction of Legal Description ("Property")

TO HAVE AND TO HOLD the Property granted herein to the Grantee and its successors and assigns, together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, or claim whatsoever of the Grantor, either in law or in equity.

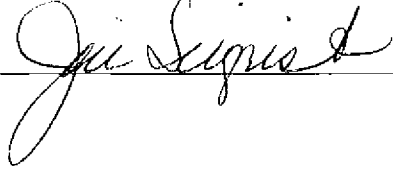
SUBJECT TO the 2021 general property taxes which the Grantee assumes and agrees to pay, and

EXCEPTING from the conveyance of the Property and RESERVING unto the Grantor and its heirs and assigns, all minerals, including without limitation, oil, gas, coal, coalbed methane, and all other hydrocarbons, lignite and metallic minerals and other minerals on, in and that are associated with and/or that may be produced from the Property, and all rights appurtenant thereto, including all royalties due and payable under any existing or future oil and gas or other mineral lease covering any portion of the Property, but not including any surface right of access or subsurface rights that, if exercised, would present a reasonable probability of causing subsidence of the surface or compromising lateral or subjacent support for the roadway that Grantee intends to construct upon and adjacent to the Property, and

EXCEPTING from the conveyance of the Property and RESERVING unto the Grantor and its heirs and assigns all surface and subsurface water and water rights, ditches and ditch rights, ponds and pond rights, springs and spring rights, wells and well rights, whether decreed or not, if any, attached or appurtenant or used in connection with the Property.

Executed this 12th day of MAY, 2021

ST. VRAIN VALLEY
SCHOOL DISTRICT RE-1J,
A COLORADO PUBLIC
SCHOOL DISTRICT

By: 

)

STATE OF COLORADO

) ss.

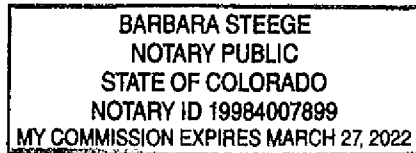
COUNTY OF BOULDER)

This Quit Claim Deed was acknowledged before me by JOIE SIEGRIST
as BOARD PRESIDENT of St. Vrain Valley School District RE-1J, a
Colorado Public School District, this 12th day of MAY 2021.

Witness my hand and official seal,

My commission expires: 3/27/22

Barbara Steege
Notary Public





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:: P 303.682.1131
F 303.682.1149

:: info@civilarts.us
www.civilarts.us

:: 1500 Kansas Avenue, Suite 2-E
Longmont, CO 80501

EXHIBIT "A"

February 15, 2021

LEGAL DESCRIPTION

A strip of land 4.50 feet in width being the Westerly 4.50 feet of Lot 1, Block 7, Carriage Hills Filing No. 1, located in the SE1/4 of Section 31, T2N, R67W of the 6th P.M., County of Weld, State of Colorado, and being more particularly described as follows:

BEGINNING at the Southwest Corner of said Lot 1, Block 7, Carriage Hills Filing No. 1, thence N00°00'13"W, 474.09 feet along the Westerly Line of said Block 7 to the Northwest Corner of said Block 7;

Thence N88°30'07"E, 4.50 feet along the Northerly Line of said Block 7;

Thence S00°00'13"E, 474.16 feet along a line that is parallel to and 4.50-feet easterly of said Westerly Line of Block 7 to the Southerly Line of said Block 7;

Thence S89°20'57"W, 4.50 feet along said Southerly Line of Block 7 to said Southwest Corner of Block 7, and the POINT OF BEGINNING;

Area = 2,136 square feet (0.049 acres), more or less.

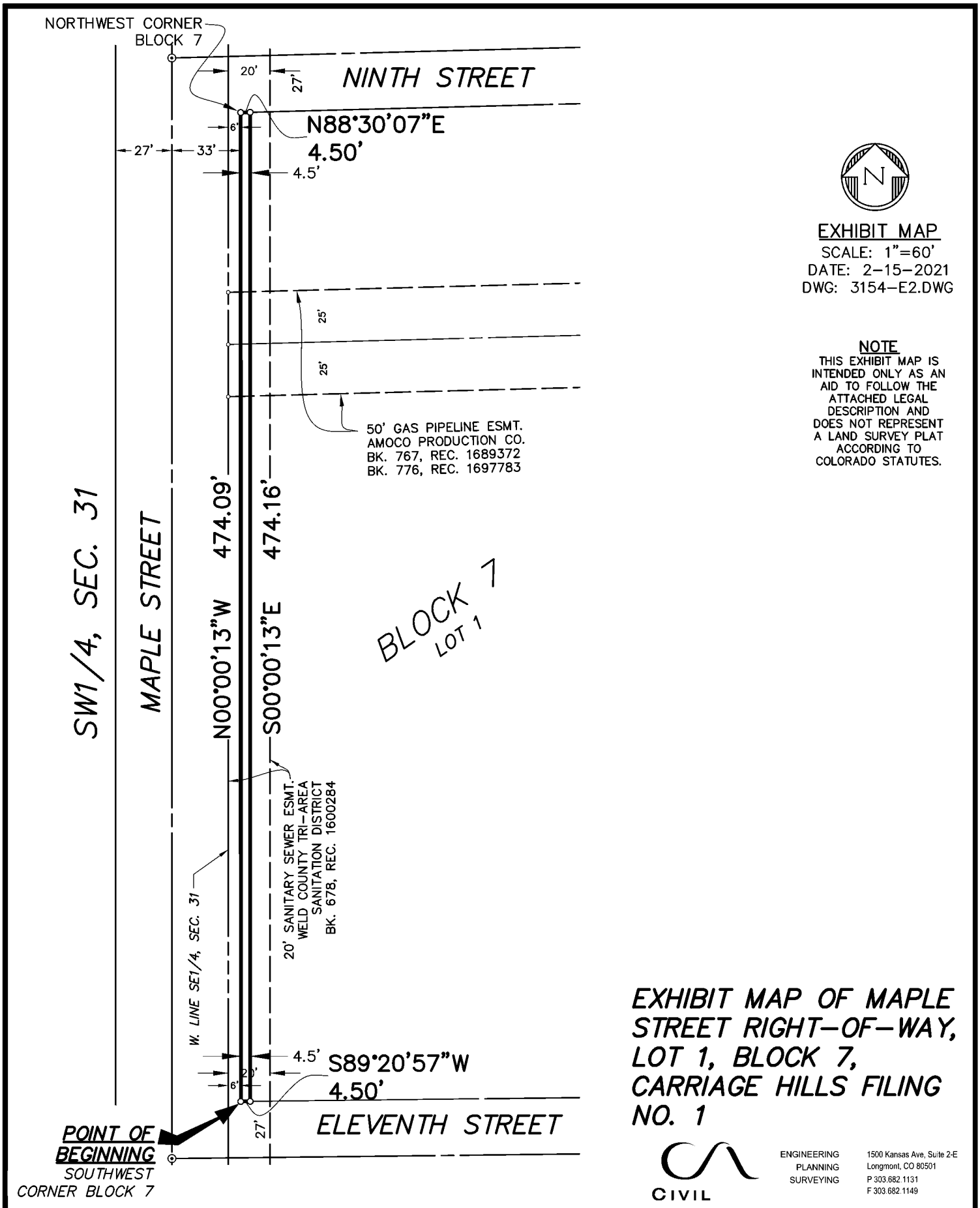
NOTICE: According to Colorado law you **must** commence any legal action based upon any defect in this survey within three years after you first discovered such defect. In no event, may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown hereon.

Peter D. Siegel
Colorado Professional Land
Surveyor No. 25379
1500 Kansas Ave #2-E, Longmont, CO 80501

Date: _____

File: 3154-lgl_row.doc

Project: 31-54

EXHIBIT "B"

QUIT CLAIM DEED

ST. VRAIN VALLEY SCHOOL DISTRICT RE-1J, A COLORADO PUBLIC SCHOOL DISTRICT ("Grantor"), whose legal address is 395 S. Pratt Parkway, Longmont, CO 80501, for the consideration of less than Five Hundred Dollars (\$500.00), the receipt and sufficiency of which are hereby acknowledged, hereby remises, releases, sells and forever quitclaims to TOWN OF FREDERICK, COLORADO, its successors and assigns ("Grantee"), whose legal address is 401 Locust Street, Frederick, CO 80530, all of Grantor's right, title and interest in and to the following described property in the County of Weld, State of Colorado, to wit:

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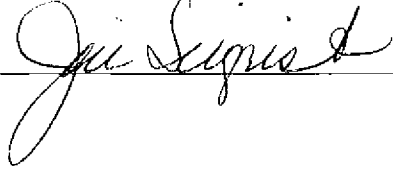
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EXCEPTING from the conveyance of the Property and RESERVING unto the Grantor and its heirs and assigns all surface and subsurface water and water rights, ditches and ditch rights, ponds and pond rights, springs and spring rights, wells and well rights, whether decreed or not, if any, attached or appurtenant or used in connection with the Property.

Executed this 12th day of MAY, 2021

ST. VRAIN VALLEY
SCHOOL DISTRICT RE-1J,
A COLORADO PUBLIC
SCHOOL DISTRICT

By: 

)

STATE OF COLORADO

) ss.

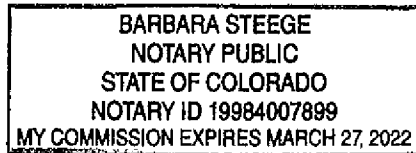
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as BOARD PRESIDENT of St. Vrain Valley School District RE-1J, a
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Witness my hand and official seal,

My commission expires: 3/27/22

Barbara Steege
Notary Public





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EXHIBIT "A"

February 15, 2021

LEGAL DESCRIPTION

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Thence S00°00'13"E, 474.16 feet along a line that is parallel to and 4.50-feet easterly of said Westerly Line of Block 7 to the Southerly Line of said Block 7;

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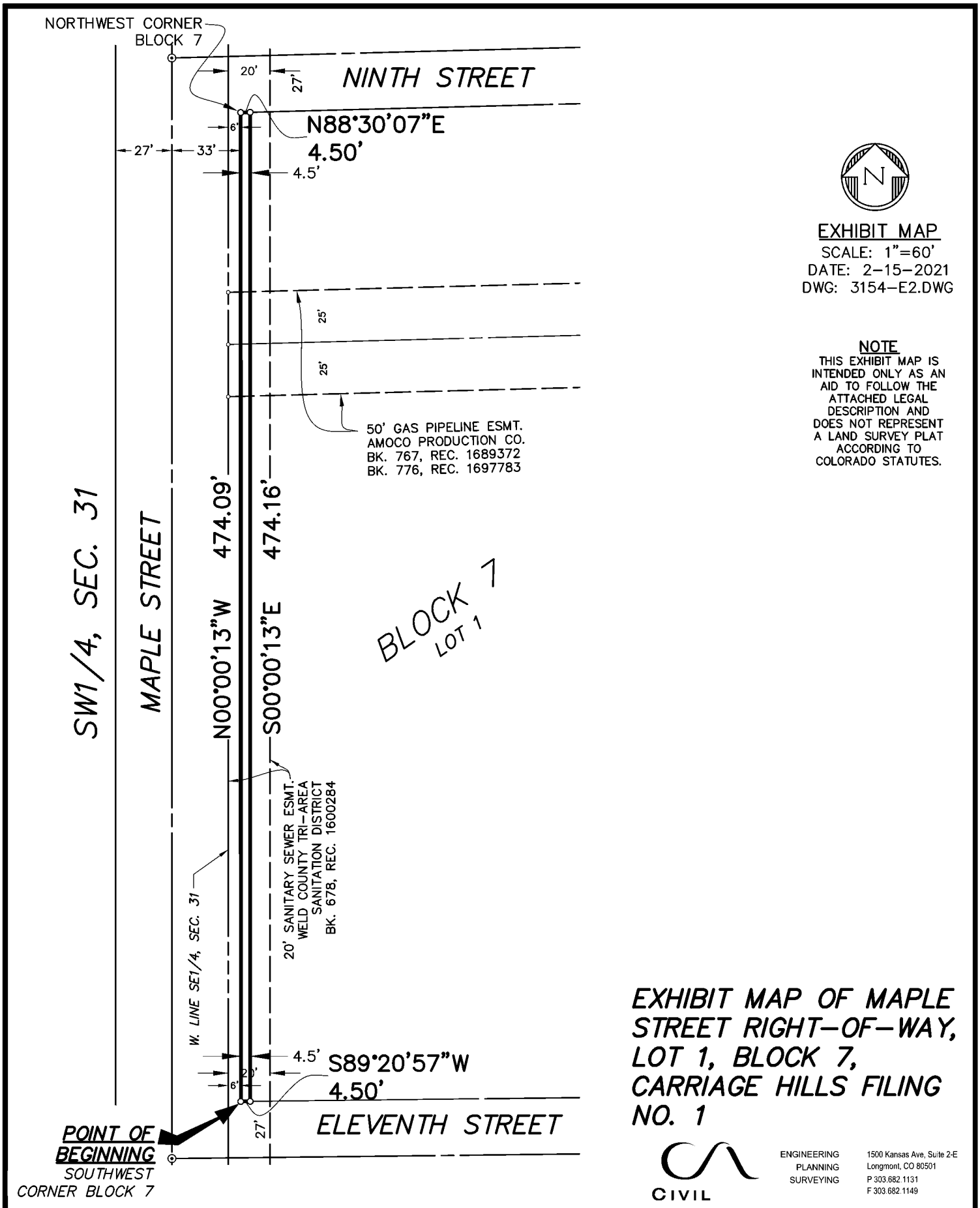
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Peter D. Siegel
Colorado Professional Land
Surveyor No. 25379
1500 Kansas Ave #2-E, Longmont, CO 80501

Date: _____

File: 3154-lgl_row.doc

Project: 31-54

EXHIBIT "B"

**TOWN OF FREDERICK, COLORADO
RESOLUTION NO. 22-R-01**

**A RESOLUTION OF THE TOWN OF FREDERICK, COLORADO, ACCEPTING DEED
OF DEDICATION FOR RIGHT-OF-WAY FOR MAPLE STREET**

WHEREAS, a portion of the Maple Street roadway, within the Town of Frederick, must be dedicated to the Town for Carriage Hills Filing 1 Replat A as right-of-way, that certain real property being described as:

WHEREAS, the roadway is located on Town-owned property but not within dedicated right-of-way.

WHEREAS, Grantors, _____, desire to dedicate, and the Town of Frederick desires to accept, right-of-way along Maple Street to meet the requirements of Carriage Hills Filing 1 Replat A.

**BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF
FREDERICK, COLORADO, AS FOLLOWS:**

Section 1. Acceptance of Deed of Dedication for Right-of-Way.

- a. The Board of Trustees accepts the Deed of Dedication and right-of-way generally located within the Southwest Quarter of Section 31, Township Two North, Range Sixty-seven West, Sixth Principal Meridian, Town of Frederick, County of Weld, State of Colorado, more particularly described in Exhibit "A".
- b. Mayor Crites is authorized to execute the Deed of Dedication on behalf of the Town of Frederick.

Section 2. Effective Date. This resolution shall become effective immediately upon adoption.

Section 3. Repealer. All resolutions, or parts thereof, in conflict with this resolution are hereby repealed, provided that such repealer shall not repeal the repealer clauses of such resolution nor revive any resolution thereby.

Section 4. Certification. The Town Clerk shall certify to the passage of this resolution and make not less than one copy of the adopted resolution available for inspection by the public during regular business hours.

INTRODUCED, READ, PASSED AND ADOPTED THIS _____ DAY OF _____, 2022.

ATTEST:

TOWN OF FREDERICK

By _____
Meghan Martinez, MMC, Town Clerk

By _____
Tracie Crites, Mayor

EXHIBIT A

Right-of-Way Dedication:

Generally Located Within the Southwest Quarter of Section 31, Township Two North, Range Sixty-seven West, Sixth Principal Meridian, Town of Frederick, County of Weld, State of Colorado.



TOWN OF FREDERICK BOARD OF TRUSTEES ACTION MEMORANDUM

Dan March, Mayor Pro Tem
Mark Lamach, Trustee
Adam Mahan, Trustee

Tracie Crites, Mayor

Rusty O'Neal, Trustee
Kevin Brown, Trustee
Windi Padia, Trustee

Consideration of Amendment to Articles 2,3 and 15 of the Frederick Land Use Code

Agenda Date: Town Board Meeting - January 11, 2022

Attachments:

- a. Redline version of Article 2
- b. Redline version of Article 3
- c. Redline version of Article 15
- d. Planning Commission Minutes
- e. PCR-2021-19A
- f. Ordinance
- g. Ordinance

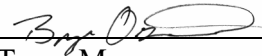
Finance Review:

Finance Director

Submitted by:

Ali van Deutekom
Senior Planner

Approved for Presentation:


Town Manager

☐ Quasi-Judicial

☐ Legislative

☐ Administrative

Summary Statement: This is a request to consider amendments to Articles 2, 3 and 15 of the Frederick Land Use.

Detail of Issue/Request:

Background Information:

As the Land Use Code is used, staff occasionally finds language that can be clarified and errors to correct to provide better direction to applicants and residents. As a result, amendments to Articles 2, 3 and 15 are being proposed to improve communication on the Town's expected design standards. The

Built on What Matters.

amendments are briefly described here. The attached redlines show the text of the Article that is proposed to be amended, added, or deleted.

Article 2

Section 2.6.2.b(7) is amended to change “residential lot” to “Single-family, duplex, and townhome”.

Section 2.6.2.b(7)(a) is amended to clarify that the standard applies to single-family, duplex (whether over/under or side-by-side) and townhome units.

Section 2.6.2.b(7)(a)i) is amended to break the standard into two alternatives: (1) a single curb-cut of no more than 30’ or (2) a circular drive for a single-family detached lot with more than 85’ of width.

Section 2.6.2.b(7)(b) is added to provide a standard for access to townhome buildings.

Section 2.6.2.b(7)(c) is amended to improve the cross-reference and to correct the measurement point of nearby rights-of-way.

Section 2.6.2.b(7)(d) is added to provide guidance on the measurements of driveway width.

Section 2.6.2.b(7)(e) is added to clarify that alley access is preferred and not prohibited.

Section 2.6.2.b(7)(f) is added to clarify that access from single-family, duplex, or townhome units shall not be taken from arterial or collector streets.

Section 2.6.2.b(8)(a) is amended to clarify the correct measurement point of nearby rights-of-way.

Section 2.6.2.b(8)(b) is amended to clarify the correct measurement point of nearby rights-of-way.

Section 2.6.2.b(8)(c) is amended to provide the Town Engineer’s authority to approve access for multi-family, commercial, business, and industrial lots if the changes are justified by a traffic study approved by the Town and the proposed access does not compromise traffic safety or mobility.

Section 2.7.2.i(3) is deleted in its entirety as it is unnecessary.

Section 2.16.2.f(5) is amended to correct the spelling from “site” to “sight” in reference to sight distance.

Section 2.16.2.g is amended to remove the designation of (1), as it’s not needed and to delete “according to Municipal Code Chapter 7, Article II or Chapter 11, Article III.”

Section 2.18.5.a(1) is amended to change “Urban” to “Unit”.

Section 2.18.5.a(2) is amended with the following additions and deletions:

- Delete “in industrially zoned projects”.
- Add “commercial” to the description of outdoor areas devoted to the display of goods.
- Delete “such in the statement, “For such buildings...”.
- Add “that are subject to these standards” following “For buildings”.
- Delete “in industrially zoned projects”.

- Delete the last sentence of the section.

Section 2.18.5.e(1) is amended to correct the spelling of wall plane.

Section 2.18.6.b is amended to change “urban” to “unit”.

Section 2.18.6.c is amended to provide a category of “Metal siding”.

Section 2.18.6.d is amended to provide a category of “Additional standards” and to correct a cross-reference to another section of code.

Section 2.18.7 is deleted in its entirety.

Article 3

Section 3.4 is amended to include the phrase “Use Specific Standard” in place of “Specific Use Standards” throughout the section.

Section 3.4.2.a(2) is amended to better cross-reference the appropriate section, 3.4.2.b.

Section 3.4.2.b(6)(c) is amended to clarify that “trees and berming” should be used for screening rather than “landscaping”.

Section 3.4.2.b(13)(a) is amended to clarify the use of residential uses.

Section 3.4.2.b(17)(c)(ii) is amended to eliminate duplication of the standard for accessory buildings.

Tables 3-4 and 3-5 are deleted in their entirety and replaced with new table that include all the applicable zoning districts and corresponding standards.

Section 3.6 is amended to clarify language.

Article 15

Section 15.6.2.e is amended to clarify measurements and reference tables 3-4 and 3-5 rather than table 15.6-1.

Table 15.6-1, Development Standards, is deleted in its entirety.

Table 15.6-1, Building Placement, is renamed Figure 15.6.1, Building Placement.

Review Criteria:

Section 4.7.9.b. For the purpose of establishing and maintaining sound, stable, and desirable development within the Town, the text of this Code shall not be amended except:

- (1) To correct a manifest error in the text of this Code;
- (2) To provide for changes in administrative practices as may be necessary to accommodate changing needs of the community and the Town staff;

- (3) To accommodate innovations in land use and development practices that were not contemplated at the adoption of this Code; or
- (4) To further the implementation of the goals and objectives of the Comprehensive Plan.

The proposed amendments will correct a manifest error in the text of the Code. The drafted amendments provide clarification, correct spelling errors, improve code organization, and improve cross-references.

Legal Comments:

The application has been reviewed by the Town's Land Use Attorney, whose comments have been incorporated accordingly.

Alternatives/Options:

The Board of Trustees may enact the request, decline to enact the request, or amend the request.

Ordinance No. 1369

Enact:

I move that Ordinance No. 1369 be approved.

Amendments:

I move that the following language be (added to / removed from) from Ordinance No. 1369.

Decline to Enact:

I move that Ordinance No. 1369 not be approved at this time.

Note: a failed motion to enact has the same effect.

Ordinance No. 1370

Enact:

I move that Ordinance No. 1370 be approved.

Amendments:

I move that the following language be (added to / removed from) from Ordinance No. 1370.

Decline to Enact:

I move that Ordinance No. 1370 not be approved at this time.

Note: a failed motion to enact has the same effect.

Financial Considerations:

Not Applicable.

Article 2. Community Design Principles and Development Standards

- Sec. 2.1 General provisions
 - 1. Applicability
- Sec. 2.2 Vision and intent
- Sec. 2.3 Design elements
 - 2. Compact urban growth
 - 3. Neighborhood design
 - 4. Lots and blocks, streets and sidewalksParks
 - 5. and open space
 - 6. Site design, architecture and landscaping
 - 7. Environment
 - 8. Water conservation
- Sec. 2.4 Compact urban growth
 - 1. Intent
 - 2. General provisions
- Sec. 2.5 Neighborhood design principles
 - 1. Intent
 - 2. Neighborhood structure
 - 3. General provisions
- Sec. 2.6 Lots and blocks
 - 1. Intent
 - 2. General provisions
- Sec. 2.7 Streets
 - 1. Intent
 - 2. General provisions
- Sec. 2.8 Parking
 - 1. Intent
 - 2. General provisions
 - 3. Paved off-street parking requirements
 - 4. Location of spaces
 - 5. Accessible parking and passenger loading for the physically disabled
 - 6. Parking space dimensions
 - 7. Bicycle parking spaces Vehicle
 - 9. stacking standards

- Sec. 2.9 Sidewalks, walkways, multi-use pathways, and trailsIntent
 - 1. General provisions
 - 2. Easement and utility standards
- Sec. 2.10 Utility easement width
 - 1. Multiple installations within easements
 - 2. Underground utilities
 - 3. Street lighting Pedestrian
 - 4. trail lighting
 - 5. Parks and open space
- Sec. 2.11 Intent
 - 1. Types of parks and open space by use and zoning district
 - 5. Ownership and maintenance of Parks
 - 6. General provisions for Open SpaceOpen
 - 7. space requirements
 - 8. Amount of open space required by development Parks
 - 9. and Open Space Plans Master Landscape Plans
 - 10. Public sites and dedication requirements
- Sec. 2.12 Percentage dedication
 - 1. Cash-in-lieu of dedication
 - 2. Fair contribution for public school sites
- Sec. 2.13 Exemptions from fair contributions for public school sitesLand
 - 1. dedication
 - 2. Cash in-lieu of land dedication
 - 3. Landscape design
- Sec. 2.14 Intent
 - 1. General provisions
 - 2. Design Principles
 - 3. Landscaping for new constructionPlant
 - 4. materials
 - 5. Landscaping design standards
 - 6. Mitigation
 - 8. Submittal standards for all landscape plans
 - 9. Storm drainage facilities
 - 10. Alternative compliance
 - 11. Buffering and screening techniquesIntent
- Sec. 2.15 General provisions
 - 1.
 - 2.

3. Location and screening of required loading and service areasTrash/refuse/recycling
4. areas
5. Buffering and screening land uses
- Sec. 2.16 Fences and walls
 1. Intent
 2. General provisions
 3. Warranty period
- Sec. 2.17 Residential architecture (single-family and multi-family dwellings)Intent
 1. Housing diversity/neighborhood identity
 2. Prohibited buildings in the residential zoning districts
 3. Single-family detached and duplex dwellings
 4. Single-family attached housing, including four-plexes and townhomes
 5. Multi-family housing, including condominiums and apartments
 6. Commercial and industrial architecture
- Sec. 2.18 Purpose and intent
 1. General application
 2. Compliance General
 3. provisions
 4. Commercial (non-industrial) architectural standards
 5. Industrial architectural standards
 6. Downtown architectural standards
 7. Lighting
- Sec. 2.19 Intent
 1. General provisions
 2. Environmental considerations
- Sec. 2.20 Intent
 1. General provisions
 2. Sanitary sewer
- Sec. 2.21 Potable water
- Sec. 2.22 Fire hydrants
- Sec. 2.23

Sec. 2.1. General provisions.

1. *Applicability.* All development applications and building permit applications shall comply with the applicable standards contained in this Article

2. Relation to zone district standards (Section 3.5). In the event of a conflict between a standard or requirement contained in Section 3.5 and this Article, the standard in Section 3.5 shall prevail.

Sec. 2.2. Vision and intent.

1. The intention of the Town in enacting this Article is to clearly describe the Town's vision and to create a vital, cohesive, well-designed community in order to enhance its small-town character and further the citizens' goals as identified in the *Frederick Comprehensive Plan* ("Comprehensive Plan"). Preservation of the Town's small-town character was stated as one (1) of the most important goals in the Comprehensive Plan.

2. When describing the Town during the Comprehensive Plan process, the townspeople most valued the following qualities which contribute to the Town's "wholeness":

- a. Walkable and pedestrian oriented;
- b. Variety of housing types;
- c. Orderly, grid-pattern, tree-lined streets;
- d. Safe and secure;
- e. Houses face the streets with garages less predominant in the back;
- f. One- and two-story buildings;
- g. Friendly, opportunity to know one's neighbors and care for one another;
- h. Rural, unique natural setting with mountain views;
- i. No excessive traffic;
- j. Quiet, slower paced environment;
- k. Town-wide activities;
- l. Cultural heritage.

Sec. 2.3. Design elements.

1. One (1) of the greatest challenges facing small towns is the successful integration of new development with the original town pattern. Suburban development patterns which have included numerous cul-de-sacs and limited street connections have often separated communities and created enclaves of the original towns. In order to maintain the Town's unique, small-town character and clearly describe the Town's vision, the following design elements have been set forth within this Article.

2. *Compact urban growth.* As the community grows from the original Town limits, it is important to maintain a continuity of density, diversity and interconnectedness. Urban development should occur adjacent to the Town's core so that the community's prime agricultural land and natural areas are preserved and public infrastructure and utilities are used as efficiently as possible.
3. *Neighborhood design.* New developments should help create neighborhoods, rather than residential subdivisions adjacent to one another. Neighborhoods should be organized around a strong center which may include elements such as common open space, civic and commercial or mixed uses. Strong consideration should be given to pedestrian movement, the character of streets and sidewalks as inviting public space, and the interconnectedness of the streets within the neighborhood and as they connect to the rest of the community. In addition, new neighborhoods should have a variety of housing sizes and types that help to create a distinct identity rather than a monotonous replication of styles
4. *Lots and blocks, streets and sidewalks.* The layout of lots and blocks should be designed to continue the Town's existing block pattern to form a grid or modified grid pattern that is adapted to the topography, natural features and environmental considerations. The streets should be tree-lined and interconnected in order to create a comprehensive transportation network that facilitates the movement of pedestrians, cars, and bicycles.
5. *Parks and open space.* New developments shall use natural open spaces and developed public space (such as parks and plazas) to organize and focus lots, blocks, and circulation patterns, protect natural areas and quality agricultural land, and to create an identity for each neighborhood.
6. *Site design, architecture and landscaping.* One (1) of the fundamental intentions of this Code is to encourage innovative, quality site design, architecture, and landscaping in order to create new places that can be integrated with the existing community and reflect the traditional patterns of the region. Illustrations throughout this Code, are intended to provide a visual description of the Town's design intentions.
7. *Environment.* New developments should be designed to fit within the environment. To the greatest extent feasible, sites should be designed to preserve natural areas and the plants and wildlife inhabiting those areas. In addition, new developments are encouraged to consider the environmental consideration in Section [2.20.2.b](#) and to conserve all natural resources.
8. *Water conservation.* As the State grows, increasing pressure will be placed on the limited supply of water resources. Town residents have emphasized the importance of preserving the quality and quantity of water. All new development is encouraged to use raw water for irrigation and to incorporate water-saving measures in building design and landscaping. Developments are required to use storm water management techniques that address water quality as well as quantity.

Sec. 2.4. Compact urban growth.

1. *Intent.* The Town has adopted a compact urban growth policy that will encourage and direct development to take place within areas contiguous to existing development in the community. This policy will accomplish several goals, including:

- a. Improving air quality by reducing vehicle miles traveled and by promoting alternatives to the private automobile;
- b. Preserving natural areas and features, particularly in the periphery of the Town;
- c. Making possible the efficient use of existing infrastructure and cost-effective extensions of new services;
- d. Encouraging in-fill development and reinvestment in built-up areas of the Town; and
- e. Promoting physical separation from neighboring communities to help each maintain its individual identity and character.

2. *General provisions.*

a. The Town has established a Comprehensive Plan and adopted a cooperative planning area policy by Ordinance 571, Uniform Baseline Standards for Weld County, Firestone, Frederick and Dacono, dated September 7, 1998. The purpose of these documents is to direct growth within the established planning area. No development shall be approved unless it is located within the established planning area and is consistent with the Town of Frederick Comprehensive Plan Land Use Map, adopted April 20, 2006.

b. The Town has established the following land use designations within the planning area to ensure the community grows in a way that enhances its special qualities and maintains a continuity of density, diversity, and interconnectedness:

- (1) Rural Residential;
- (2) Low Density Residential;
- (3) Medium Density Residential;
- (4) High Density Residential;
- (5) Mixed Use Residential;
- (6) Neighborhood Commercial;
- (7) Downtown Commercial;
- (8) Mixed Use Highway 52 Commercial;
- (9) Community Commercial;
- (10) Employment;
- (11) Regional/Corridor Commercial;
- (12) Light Industrial;
- (13) Public/Quasi-Public;

(14) Parks and Open Lands;

(15) Community Separator.

Sec. 2.5. Neighborhood design principles.

1. *Intent.* The community design principles are to be considered in every development proposal. The Town's goal is to expedite the planning review process by clearly outlining the Town's expectations for new development. The intent of this Article is to encourage the creation of viable neighborhoods that interconnect with each other and integrate new projects into the existing community, thereby strengthening the original town. The neighborhood layout should consider the street, lot, and block pattern of the original town, as well as solar orientation, topography, sensitive wildlife and vegetation, drainage patterns, and environmental and regional climate issues. Further, the edges of neighborhoods should be formed by features shared with adjacent neighborhoods such as major streets, changes in street pattern, greenways, or natural features such as streams and major drainage or riparian corridors. New streets, bikeways, sidewalks, paths, and trails should connect to existing adjacent neighborhoods.

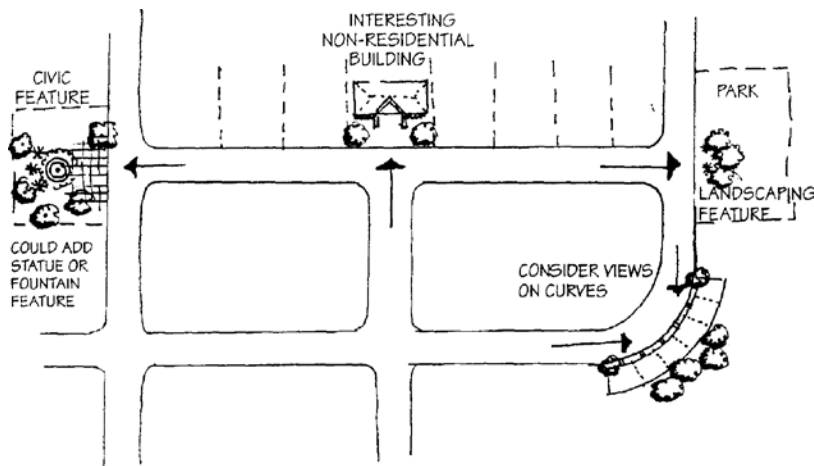
2. *Neighborhood structure.* Following is a summary of essential elements to consider integrating into new neighborhoods:

- a. Street, sidewalk and trail connections within new neighborhoods that connect to adjacent existing neighborhoods and strengthen the connection to the existing town.
- b. Streets that encourage pedestrian activity by creating an inviting atmosphere through attention to the details of landscaping and tree locations, sidewalks, lighting, and building architecture.
- c. A mixed-use neighborhood center located for easy access.
- d. A variety of housing types, sizes, densities and price range that are well integrated.
- e. A variety of land uses that are well-integrated and a transition of intensity. Nonresidential uses, larger buildings and attached multi-family housing should be encouraged to be located near commercial centers with a transition to smaller buildings closer to low density neighborhoods.
- f. Pedestrian and bike connections throughout all neighborhoods.
- g. Parks, open space, public plaza, and greens that are well integrated into the neighborhood.
- h. Street trees placed in new developments at regular intervals and placed directly adjacent to sidewalks. See Figure 2-8, Section [2.14.6\(1\)\(a\)](#).
- i. Architectural, landscaping, and site design elements of new developments as outlined in this Article.
- j. Art in public places in coordination with the Frederick Arts Commission.

3. *General provisions.* The following principles are contained in the original "old town" of Frederick. The Comprehensive Plan identifies them as contributing to the community's small-town character. Although the size of individual development proposals will vary, projects will be evaluated with consideration to these neighborhood design principles and the context within which a project is located. Failure to incorporate these design principles into a project may be cause for denial of the project by the Board of Trustees.

- a. *Each neighborhood has a center and an edge.* It is important that every neighborhood have activity centers that draw people together. Use natural and man-made features such as a drainage way, major roadways, and ditches to define neighborhood edges. Buildings or other features located at gateways entering a neighborhood shall mark the transition into and out of the neighborhood in a distinct fashion using massing, additional height, contrasting materials, and/or architectural embellishments to obtain this effect.
- b. *Mix of types of dwelling units.* A mix of dwelling unit types shall be distributed throughout the development. (Refer to Section [2.17](#) for additional housing requirements.)
- c. *Focal points.* Focal points, or points of visual termination, shall generally be occupied by more prominent, monumental buildings and structures that employ enhanced height, massing, distinctive architectural treatments or other distinguishing features, as well as landscape features. See Figure 2-1.

Figure 2-1. Focal Points



- d. *Public space as development framework.* Public space is used to organize blocks and circulation patterns and to enhance surrounding development. Public open space must be functional and easily accessible and shall be designed to organize the placement of buildings to create an identity for each neighborhood. Buildings should face public open space to allow for casual surveillance.
- e. *Design streets as public spaces.*

4. Buildings shall define streets through the use of relatively uniform setbacks along each block. The streetscape shall also be reinforced by lines of shade trees planted in the right-of-way landscape strip and may be further reinforced by walls, hedges, landscaping, or fences which define front yards.

5. On a lot with multiple buildings, those located on the interior of the site shall relate to one another both functionally and visually. A building complex may be organized around features such as courtyards, greens, or quadrangles which encourage pedestrian activity and incidental social interaction. Smaller, individualized groupings of buildings are encouraged. Buildings shall be located to allow for adequate fire and emergency access.

a. *Order rather than repetition.* The orderly arrangement of design elements can unify a space even when the elements are not the same. The location of sidewalks relative to streets, building setbacks and orientation, and the placement of trees can all help create an overall impression of unity even though each home or building has a distinct character.

b. *Use human proportion.* Buildings shall be considered in terms of their relationship to the height and massing of adjacent buildings, as well as in relation to the human scale. (In a small town, this means generally one-, two- and three-story buildings.)

c. *Define the transition between the public and private realm.* Buildings shall be located to front towards and relate to public streets or parks, both functionally and visually, to the greatest extent possible. Wherever possible, buildings shall not be oriented to front towards a parking lot.

d. *Encourage walking and bicycling.* Sites shall be designed to minimize conflicts between vehicles, bicycles and pedestrians. Pedestrian and bicycle access and connections shall be designed to make it safe and easy to get around on foot and by bicycle.

e. Neighborhoods shall have a mix of activities available rather than a purely residential land use. Neighborhood residents shall have convenient access to parks, schools, open space, trails, and services.

f. *Fit within the environment rather than on top of it.* New developments shall be designed to respond to the natural environment, fit into the setting and protect scenic view corridors. Key design considerations shall include a site layout that responds to natural features both on- and off-site, the size of structures and materials used in the development, and the transition between the development and the surrounding landscape.

g. *Encourage a variety of dwelling types in every neighborhood.* Housing types and the size of lots shall be varied to enable people to remain in the neighborhood as their needs change.

h. *Housing types and styles that reflect the architecture of the region.* Familiar architectural styles shall play an important role in developing an architectural identity for neighborhood dwellings. New homes shall be designed consistent with the architectural principles outlined in Section [2.17](#) of this Article.

6. The Planning Commission and Board of Trustees will evaluate each proposal based on these principles and the context within which a project is located. The principles are intended to be specific enough to guide development, but not to preclude creative design solutions. Applicants must substantially conform to the design

principles unless it can be demonstrated that an acceptable alternative meets one (1) or more of the following conditions:

- a. The alternative better achieves the stated intent;
- b. The intent will not be achieved by application of the principle in this circumstance;
- c. The effect of other principles will be improved by not applying the principle; and/or
- d. Strict application or unique site features make the principle impractical.

Sec. 2.6. Lots and blocks.

1. *Intent.* The intent of the block and lot standards is to continue the Town's existing block pattern in a manner that is compatible with site-specific environmental conditions.

2. *General provisions.*

- a. Blocks (exclusive of rural subdivisions). Streets shall be designed to create blocks that consider interconnectedness, topography, solar orientation, views and other design features. The length of blocks in "Old Town" Frederick is typically four hundred (400) feet. (Refer to Figure 2-3 for an example.) Thus, to the greatest extent possible, blocks shall be designed to have a length of between three hundred (300) feet and seven hundred (700) feet (nonresidential streets). The lengths, widths and shapes of blocks shall be determined with due regard to the following:
 - (1) Provision of adequate building sites suitable to the special needs of the type of use contemplated.
 - (2) Need for convenient access, control, and safety of vehicular and pedestrian traffic circulation.
 - (3) Limitations and opportunities of topography.

Figure 2-2. Example of Modified Grid Pattern

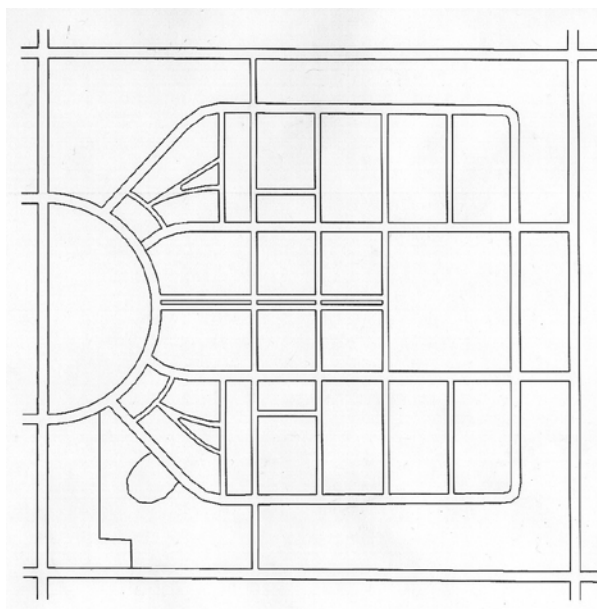
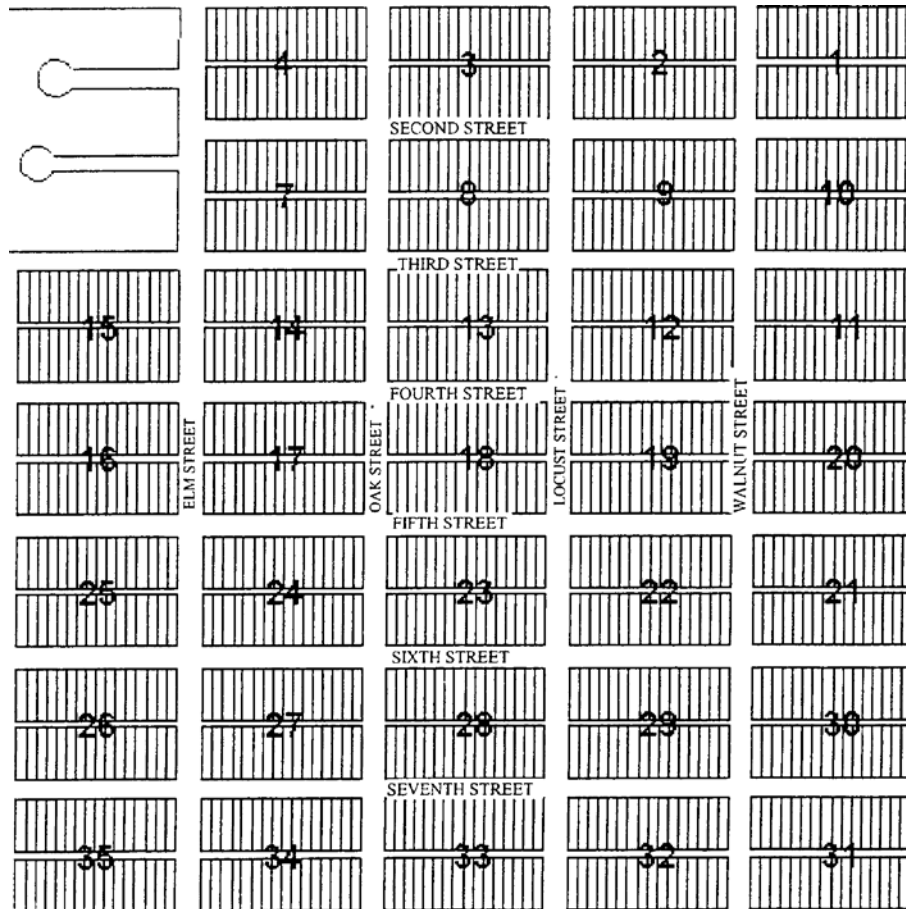


Figure 2-3. Old Town Frederick Block Map



The typical block is 400' x 270'. The typical street width is 50' and alley width is 20'. Lots are typically 125' x 25'.

b. *Lot dimension and configuration.*

- (1) Lot size, width, depth, shape, and orientation and minimum building setback lines shall conform to Article 3 and shall facilitate the placement of buildings with sufficient access, outdoor space, privacy, and view.
- (2) Depth and width of properties shall be adequate to provide for off-street parking, landscaping, and loading areas required by the type of use and development contemplated.

(3) *Lot frontage.* All lots shall have frontage that is either adjacent to or directly accessible to a street. The required street frontage is defined in Section 3.5. Flag lots are prohibited unless otherwise approved by the Board of Trustees.

(4) *Corner lots.* Corner lots for residential use shall have extra width to accommodate side elevation enhancements, such as porches and bay windows, the required building setback, and utility easements on both street frontages. For a corner lot, the front of the lot is defined as the side having the shortest street frontage. Both sides abutting a street shall maintain a front yard setback. See Figure 2-4.

Figure 2-4A. Regular Corner Lot

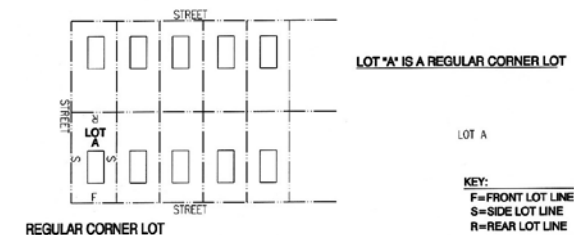


Figure 2-4B. Reverse Corner Lot

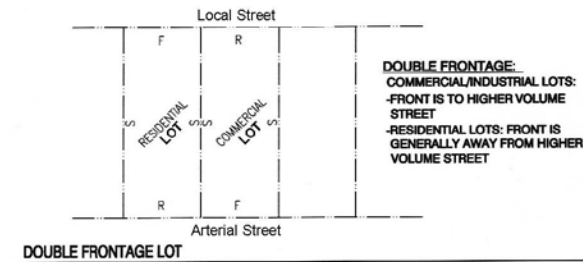


(5) *Double frontage.*

- (a) Double frontage lots for residential shall not be permitted.
- (b) A planting screen easement of at least ten (10) feet in width, across which there shall be no vehicular right of access, shall be required along the property line of residential lots abutting an arterial or collector street. See Figure 2-5.
- (c) Residential lots adjacent to arterial streets. When residential lots are adjacent to, and the houses do not face an arterial street (i.e., rear yards abut the street), they shall be a minimum of one hundred fifty (150) feet deep and direct access to the arterial street shall be prohibited, except for existing nonconforming situations on unplatted parcels. The rear setback to the house shall be a minimum of seventy-five (75) feet. When houses face the arterial street or are side-loaded relative to the street, the front or side setback to the house, respectively, shall be a minimum of fifty (50) feet.

These setbacks do not apply for mixed-use dwelling units in the C-D and C-H52 zone districts. Additional buffering techniques must also be applied such as those outlined in Section 2.15.

Figure 2-5. Double Frontage Lot



(6) *Side lot lines.* Side lot lines shall be substantially at right angles or radial to road right-of-way lines or centerlines.

(7) *Residential lot* ~~Single-family, duplex, and townhome~~ access to adjacent street.

(a) ~~Driveway access to a local street from a single-family detached or over-under duplex residential lot, or residential dwelling unit in a side-by-side duplex, or residential dwelling unit in a townhome building in which all dwelling units are 30 feet or greater in width~~ shall be limited to:

(a)i) ~~One (1) driveway curb-cut or driveway access of no greater than thirty (30) feet in width.~~

ii) ~~With regard to single-family detached lots with frontages that are 85 feet or more in width,~~

aA circular drive in which each access to the local street is less than ten (10) feet in width, separated by at least thirty (30) feet and which is constructed as an integral part of the overall architectural design of the single-family residence ~~may be considered as a single driveway access.~~

(b) ~~All dwelling units in a townhome building shall take access from an alley if any of the dwelling units in the townhome building is less than 30 feet wide.~~

(c) ~~Driveway access pursuant to this Section 2.6.2.b.(7) to a local street from a single-family detached residential lot shall be greater than fifty (50) feet from the intersection of the local street and a collector street or one hundred twenty-five (125) feet from the intersection of the local street and an arterial street as measured from the intersecting centerlines to the centerline of the driveway right-of-way lines.~~

(d) ~~All measurements of driveway width in this Section 2.6.2.b.(7) shall be taken pursuant to the applicable provisions of the Town of Frederick Design Standards and Construction Specifications, as amended from time to time.~~

(e) ~~Nothing in this Section 2.6.2.b.(7) shall be construed to prohibit alley access. Where alley access is available, it shall be used unless the Town Engineer determines that alley access is~~

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functionally unworkable or creates a safety hazard.

~~(b)(f)~~ (f) No single-family, duplex, or townhome lot that is subject to this Section 2.6.2.b.(7) shall take access from an arterial or collector street.

(8) Multi-family residential, commercial, business and industrial lot access to adjacent street.

(a) Driveway access to a local or collector street from a multi-family residential, commercial, business, or industrial lot shall be greater than one hundred twenty-five (125) feet from any street intersection as measured from the intersecting ~~right-of-way lines~~ centerlines to the centerline of the driveway;

(b) Driveway access to an arterial street from a multi-family, commercial, business, or industrial lot shall be not less than two hundred fifty (250) feet from any intersection on the arterial street, or from another commercial, business, or industrial lot's access as measured from the intersecting ~~centerlines to the centerline of the driveway~~ right-of-way lines, or driveways; or

(c) ~~At the sole option of the~~The Town Engineer shall have the authority to approve changes to this Section 2.6.2.b.(8) as to a proposed development, if the Town Engineer finds that the changes are justified by a traffic study approved by the Town and that they do not compromise traffic safety or mobility. ~~driveway access to a local street, collector street or arterial street from a multi-family residential, commercial, business, or industrial lot shall be as determined by a traffic study approved by the Town.~~

Sec. 2.7. Streets.

1. *Intent.* The intent of the street standards is to establish a safe, efficient, attractive transportation system that promotes all modes of transportation and is sensitive to the environment. In the past, streets have been designed primarily to promote the efficient movement of traffic.

2. *General provisions.* The local street system of any proposed development shall be designed to be safe, efficient, convenient and attractive, and consider the use by all modes of transportation that will use the system. Streets should be an inviting public space and an integral part of community design. Local streets shall provide for both intra- and inter-neighborhood connections to knit developments together, rather than forming barriers between them. All streets should interconnect to help create a comprehensive network of public areas to allow free movement of cars, bicycles, and pedestrians.

a. *Street connections.* All streets shall be aligned to join with planned or existing streets consistent with the intent of the approved Transportation Map of the Comprehensive Plan. All streets shall be designed to bear a logical relationship to the topography of the land. Intersections of streets shall be at right angles unless otherwise approved by the Town. Street intersections shall be separated by distances listed in Subsection (2)(f) of this Section as measured from the intersecting right-of-way lines.

b. *Tree-lined streets.* All streets shall be lined with trees on both sides with the exception of rural roads and alleys.

c. *Street layout.* The street layout shall form an interconnected system of streets primarily in a grid or modified pattern adapted to the topography, unique natural features, environmental constraints, and peripheral open space areas. The street layout shall emphasize the location of neighborhood focus points, other internal open space areas, gateways, and vistas. The use of cul-de-sacs and other roadways with a single point of access shall be minimized. The integration of traffic-calming features within and adjacent to residential areas shall be utilized when appropriate. To the greatest extent possible, streets shall be designed to have a maximum length of seven hundred (700) feet, from intersection to intersection.

d. *Controlling street access.* A strip of land between a dedicated street and adjacent property shall not be reserved for the purpose of controlling access to such street from such property.

e. *Visibility at intersections.*

- (1) No shrubs, ground cover, berms, fences, structures or other materials or items greater than thirty (30) inches in height shall be planted, created or maintained at street intersections within the sight triangle, as defined in the approved version of the Town of Frederick Design Standards and Construction

Specifications, as it may be amended from time to time.

(2) Trees shall not be planted in the site distance triangle, as defined in the approved version of the Town of Frederick Design Standards and Construction Specifications, as it may be amended from time to time.

f. *Pedestrian crossings at street intersections and mid-block.* Pedestrian crossings shall be accessible to handicapped individuals, and mid-block crossings may be required.

(1) Blocks exceeding five hundred (500) feet in length shall provide a pedestrian and bicyclist access route through the center of the block.

g. *Horizontal alignment.* Please refer to Section 502 in the approved version of the Town of Frederick Design Standards and Construction Specifications, as it may be amended from time to time.

h. *Vertical alignment.* Please refer to Section 503 in the approved version of the Town of Frederick Design Standards and Construction Specifications, as it may be amended from time to time.

i. *Access.*

(1) Access to all subdivisions shall be from a public street system.

(2) Each new subdivision shall have at least two (2) means of access to the subdivision from the public street system. The two (2) means of access shall separately connect to the public street system.

~~(3) Private/individual driveways shall not be permitted to have direct access to collector streets, arterial streets, or state highways.~~

j. *Street right-of-way dedication.* The full width of right-of-way for all public streets being platted must be dedicated to the Town. In cases where the perimeter streets have a portion of the proposed right-of-way on an adjacent property, the following standards will apply:

(1) The subdivider shall either:

(a) Purchase the other one-half (1/2) of the proposed right-of-way property for the Town at the appraised fair market value and then dedicate the right-of-way to the Town; or

(b) If the landowner of the proposed right-of-way property is unwilling to sell the proposed right-of-way property to the subdivider for its appraised fair market value, the subdivider shall pay for the cost of an appraisal for the proposed right-of-way property and legal fees for the Town Attorney to complete the condemnation process.

(2) The subdivider shall finalize an agreement with the Town which guarantees the construction of the street to Town standards.

k. *Perimeter streets.* When a street is dedicated which ends on the plat, the street right-of-way must be dedicated to the boundary of the plat.

l. *Intersections.* Intersections shall meet the following requirements unless otherwise approved by the Board of Trustees:

- (1) Intersections shall be provided at the following minimum offsets:
 - (a) State highway (principal arterial): In accordance with the latest edition of the Colorado State Highway Access Code;
 - (b) Arterial: Six hundred sixty (660) feet;
 - (c) Collector: Two hundred fifty (250) feet;
 - (d) Local: One hundred twenty-five (125) feet.
- (2) No more than two (2) streets shall intersect at one (1) point unless connected using an approved roundabout.
- (3) Streets shall intersect at ninety (90) degree angles unless connected using an approved roundabout.

m. *Street names.*

- (1) Names of new streets shall not duplicate names of existing streets. However, new streets which are extensions of, or which are in alignment with, existing streets shall bear the names of such streets.
- (2) Street names shall follow the requirements of the Municipal Code, Chapter [11](#), Article III, Section [11-57](#).

n. *Street standards.* The width of street right-of-way and the design of the street it contains shall conform to the minimum standards outlined in the approved version of the Town of Frederick Design Standards and Construction Specifications, as it may be amended from time to time. However, additional right-of-way and street width may be required based upon special development requirements, including but not limited to additional parking needs, sight distances, and requirements for auxiliary lanes. Street cross-sections and the street designation (arterial, collector, local, rural local) within or adjacent to a development may be modified by the Town upon the recommendation of an approved development traffic study or Town-wide Transportation Master Plan.

- (1) *General design standards.*
 - (a) The maximum length of a cul-de-sac is identified in the International Fire Code.
 - (b) No outlet (Dead End) streets are prohibited.
 - (c) Driveway curb cut width is limited to:
 - i) A maximum of thirty (30) feet in residential zones.
 - ii) A maximum of thirty-eight (38) feet in nonresidential zones. (Ord. 1167 §§ 3 – 7, 2014)

Sec. 2.8. Parking.

1. *Intent.* The intent of this Section is to provide adequate parking for motor vehicles while minimizing the visual impact of parking lots and structures.
2. *General provisions.*
 - a. In all zone districts, off-street parking facilities for the storage of self-propelled motor vehicles for the use of occupants, employees, and patrons of the building or structures hereafter erected, altered, or extended shall be provided and maintained as herein prescribed.
 - b. *Surface.* All parking and driveway areas and primary access to parking facilities shall be surfaced with asphalt, concrete, or similar materials as may be approved by the Town Engineer.
 - c. *Integrate parking lots with surroundings.* Parking lots shall not dominate the frontage of pedestrian-oriented streets, interfere with designated pedestrian routes, or negatively impact surrounding neighborhoods. The pedestrian character of streets and buildings shall be maximized through continuity of buildings and landscape frontage.
 - d. *Location.* Parking lots shall be located to the rear or side of buildings or in the interior of a site whenever possible.
 - e. *Landscaping.* Parking lots shall be landscaped, screened, and buffered as provided in Sections [2.14](#) and [2.15](#).
 - f. *Share-access.* Where feasible, parking lots shall share access drives with adjacent property having similar land uses.
 - g. *Off-street parking design.* Any off-street parking area shall be designed so that vehicles may exit without backing onto a public street unless no other practical alternative is available. Off-street parking areas shall be designed so that parked vehicles do not encroach upon or extend onto public rights-of-way or sidewalks or strike against or damage any wall, vegetation, utility, or other structure.
 - h. *Circulation area design.* Circulation areas shall be designed to facilitate the safe movement of vehicles without posing a danger to pedestrians or impeding the function of the parking area.
 - i. *Lighting.* All parking area lighting shall be full cutoff-type fixtures installed perpendicular to the ground. Any light used to illuminate parking areas or for any other purpose shall be so arranged as to reflect the light away from nearby residential properties, and away from the vision of passing motorists. All lighting will meet the standards outlined in Section [2.19](#).
 - j. *Shared off-street parking.* When there are opportunities to support parking demand through shared off-street parking for compatible uses (such as a movie theater and an office building), a parking study and shared parking agreement shall be used to demonstrate the adequacy of the parking supply as a substitute for standard parking requirements.

k. *Adjacent on-street parking in C-D and C-N.* In order to promote a pedestrian scale and encourage a perception of safety in the C-D Downtown Commercial and C-N Neighborhood Commercial zoning districts, parking may be satisfied using adjacent on-street parking or shared rear-lot parking areas. A parking study and shared parking agreement shall be used to demonstrate the adequacy of the parking supply as a substitute for standard parking requirements.

l. Parking shall be screened from view of streets as provided by Section [2.15](#).

3. *Paved off-street parking requirements.* Paved off-street parking shall be provided according to the minimum requirements as specified in Table 2-1.

Table 2-1		
MINIMUM OFF-STREET PARKING REQUIREMENTS		
PRINCIPAL USE	REQUIRED PARKING SPACES	ADDITIONAL REQUIREMENTS
1. Residential uses		
Single family dwelling	2 per dwelling unit	Plus 1 guest space of on-street parking per dwelling
Accessory dwelling unit	1 per bedroom up to 2 spaces	
Two-, three-, four-, townhome, and multi-family dwellings:		
Efficiency or one-bedroom	1.5 per dwelling unit	Plus .25 guest spaces per unit. For multi-family developments with garages for every dwelling unit, the number of required physically disabled parking spaces is based on the number of shared guest parking spaces.
Two-bedroom	1.75 per dwelling unit	
Three-bedroom	2 per dwelling unit	
35% or more of units restricted to occupancy by the elderly (60 years and older)	.5 per dwelling unit restricted for the elderly	
Group home	1 per 4 beds	
Manufactured Homes in R-MH1 Zone	1.5 per manufactured home site; 1 space must be within 100 feet of each site for the exclusive use of its occupants	Plus .25 guest spaces per unit.
Manufactured Homes in R-MH2 Zone	2 per manufactured home lot	
2. Institutional/Civic/Public Uses		
Emergency services	Parking Study	
Church or place of worship and assembly	1 per 4 seats	

Table 2-1		
MINIMUM OFF-STREET PARKING REQUIREMENTS		
PRINCIPAL USE	REQUIRED PARKING SPACES	ADDITIONAL REQUIREMENTS
Community facilities	Parking study	
Golf course	4 per hole + spaces required for accessory uses	
Post office, other public buildings	1 per 150 sq. ft.	
Schools		
Kindergarten, elementary, and intermediate	2 per classroom	
High	1 per 4 students at design capacity	
College, vocational training, and technical training	1 per 2 enrolled students + 1 per 2 employees	
Transit facilities	Parking study	
3. Business/commercial/retail uses		
Hospitals	1 per 2 in-patient beds + 1 per 250 sq. ft. of outpatient clinics and service areas.	Bassinets are excluded.
Offices		
Medical, dental office and clinics	1 per 250 sq. ft.	
All other offices	1 per 300 sq. ft.	
General retail sales and rentals, personal service shops, financial institutions, and other consumer services (not otherwise listed in this Table)	1 per 300 sq. ft.	Plus vehicle stacking spaces per Section 3.4.2.b(9) for uses with drive-in facilities.
Grocery store (supermarket) and large (25,000 sq. ft. or more) retail sales	1 per 250 sq. ft.	
Retail sales – furniture, appliances, and other large customer goods	1 per 500 sq. ft.	
Convenience store	1 per 200 sq. ft. of convenience store/food sales	Plus vehicle stacking spaces per Section 3.4.2.b(9).

Table 2-1		
MINIMUM OFF-STREET PARKING REQUIREMENTS		
PRINCIPAL USE	REQUIRED PARKING SPACES	ADDITIONAL REQUIREMENTS
Beauty, barber, and nail salons	1 per 100 sq. ft.	
Motor vehicle sales or rental	1 per 40 sq. ft. + 1 per 500 sq. ft. of outdoor display area	
Motor vehicle repair, accessory installation, similar uses	2 per service bay + 1 per employee	
Automobile service stations	1 per gas pump + 1 per 2 employees	Plus convenience store parking requirements for buildings over 200 square feet.
Car wash	1 per 200 sq. ft. of sales, office, or lounge area	Plus vehicle stacking spaces as per Section 3.4.2.b(9).
Boarding and rooming houses	1 per guest room + 1 per dwelling unit	
Child care centers	1 per each 6 persons of licensed capacity	
Automated teller machines	0 for drive-through ATM, 2 per ATM with no drive-through	Plus vehicle stacking spaces as per Section 3.4.2.b(9).
Funeral homes	1 per each 4 occupant capacity	Plus vehicle stacking spaces as per Section 3.4.2.b(9).
Veterinary hospitals, clinics	1 per 400 sq. ft.	
Accommodations:		
Hotel	1 per guest room	+75% of required parking for accessory restaurants, meeting spaces, offices, and etc.
Motel	.75 per guest room	
Bed and breakfast	1 per guest room + 1 per dwelling unit	
Business service establishments	1 per 400 sq. ft.	
Laboratories, research facilities	1 per 400 sq. ft. or 1 per 3 employees, whichever is greater	
Commercial laundries	1 per 400 sq. ft.	
Catering establishment	1 per 400 sq. ft.	
Health and membership clubs	1 per 300 sq. ft.	

Table 2-1		
MINIMUM OFF-STREET PARKING REQUIREMENTS		
PRINCIPAL USE	REQUIRED PARKING SPACES	ADDITIONAL REQUIREMENTS
Entertainment facilities and theaters	1 per 4 seats	
Restaurants	1 per 100 sq. ft. including outdoor seating areas	1 per 75 sq. ft. for restaurants with bar seating areas, including outdoor seating areas
Restaurants (Fast Food) with drive-through facility	1 per 75 sq. ft. including outdoor seating areas	Plus vehicle stacking spaces per Section 3.4.2.b(9).
Bars, taverns, nightclubs	1 per 75 sq. ft. including outdoor seating areas	
Broadcasting studio	2 per 3 employees + 1 per 4 (fixed or movable) seats in studio having greatest seating capacity	
4. Industrial Uses		
Warehouse, self-storage	1 per 100 storage units inside fenced area + 5 outside fenced area near office	
Heavy equipment sales, rental, repair	See Table 2-2	
Special trade contractor shops, machine shops, publishing plants	See Table 2-2	
Warehouse, transfer stations, storage facilities	See Table 2-2	
Wholesale trade	1 per 300 sq. ft. of office or administrative space + 1 per 1,000 sq. ft. of additional gross floor area	
Industrial, manufacturing	See Table 2-2	
5. Agricultural Uses		
Agritainment	Parking Study	
6. Other Uses Not Prohibited by Law or this Land Use Code and Not Otherwise Listed in this Table		
	As required for most similar use or Parking Study	

Uses subject to off-street parking Table 2-2 shall provide the following cumulative minimum number of off-street parking spaces:

Table 2-2	
REQUIRED OFF-STREET PARKING STANDARDS	
Activity	Number of Spaces Required
Office or administrative area	1 per 300 sq. ft.
Indoor sales area	1 per 200 sq. ft.
Outdoor sales or display area (3,000 square feet or less)	1 per 750 sq. ft.
Outdoor sales or display area (over 3,000) square feet)	
Motor vehicles/equipment sales	1 per 2,000 sq. ft.
Other sales/display	1 per 1,000 sq. ft.
Indoor storage/warehousing/vehicle service/manufacturing area	
1 – 3,000 square feet	1 per 250 sq. ft.
3,001 – 5,000 square feet	1 per 500 sq. ft.
5,001 – 10,000 square feet	1 per 750 sq. ft.
Over 10,001 square feet	1 per 1,250 sq. ft.

a. *Parking Studies.* Several use classifications or specific uses listed in Table 2-1 above have widely varying parking demand characteristics, making it impossible to specify a single off-street parking standard. Upon receiving a development application for a use subject to this subsection, the Planning Director shall apply the off-street parking specified for the listed use that is deemed most similar to the proposed use or shall establish minimum off-street parking requirements on the basis of a parking study prepared by the Applicant. The parking study shall include estimates of parking demand based on recommendations published by the Institute of Traffic Engineers (ITE), or other acceptable estimates as approved by Staff, and should include other reliable data collected from uses or combinations of uses that are the same as or comparable with the proposed use. Comparability shall be determined by density, scale, bulk, area, type of activity, and location. The study shall document the source of data used to develop the recommendations.

4. *Location of spaces.*

a. Off-street parking facilities for residential uses shall be provided and located on the same lot as the building they are intended to serve.

b. *Residential.*

(1) Required off-street parking in residential zones shall not lie within the front yard setback nor within any required side yard setback adjacent to a street. Driveway spaces within these setbacks can not be counted for required off-street parking.

(2) Except within a garage or in conjunction with an approved affordable housing project, tandem parking is not allowed to meet required off-street parking requirements.

(3) Garages or required off-street parking spaces shall meet the setbacks outlined in Section 3.5, Density and Dimensional Standards.

(4) Where roll-over curbs are not present, a maximum curb cut of thirty-five (35) feet, either singularly or cumulative will be allowed, unless otherwise approved by the Town Engineer.

c. *Non-residential.*

(1) The location of required off-street parking facilities for other than residential uses shall be within seven hundred (700) feet of the building they are intended to serve when measured from the nearest point of the building or structure.

(2) The maximum curb cut will be determined during the review of the site plan.

5. *Accessible parking and passenger loading for the physically disabled.*

a. Accessible parking spaces shall be required for all retail, office, business, industrial, and institutional uses, as well as multi-family units.

b. Accessible parking spaces shall be appropriately marked with a freestanding sign, in conformance with the *Manual on Uniform Traffic-Control Devices*, using the standard uniform words and/or symbols that signify the space as parking for the physically disabled only. Van accessible spaces shall have a sign located below the accessible sign indicating the space to be van-accessible.

c. Accessible parking spaces shall be located as close as possible to the nearest accessible building entrance.

d. Number of accessible parking spaces:

Table 2-3	
ACCESSIBLE PARKING SPACES	
Total Number of Parking Spaces in Off-Street Parking Area	Minimum Required Number of Accessible Parking Spaces
1-25	1
26-50	2
51-75	3
76-100	4
101-150	5
151-200	6
201-300	7

Table 2-3	
ACCESSIBLE PARKING SPACES	
Total Number of Parking Spaces in Off-Street Parking Area	Minimum Required Number of Accessible Parking Spaces
301-400	8
401-500	9
501-1,000	2% of total
1,001 and over	20 plus 1 for every 100 over 1,000

For every eight (8) accessible parking spaces, there must be at least one (1) van-accessible space. If there is only one (1) accessible parking space, that space must be van-accessible.

e. Facilities providing medical care and other services for physically disabled persons shall provide the following:

- (1) Outpatient units and facilities (including but not limited to medical clinics and offices): Ten percent (10%) of the total number of off-street parking spaces.
- (2) Units or facilities that specialize in treatment or services for persons with mobility impairments (including but not limited to physical therapy clinics): Twenty percent (20%) of the total number of off-street parking spaces.

6. *Parking space dimensions.*

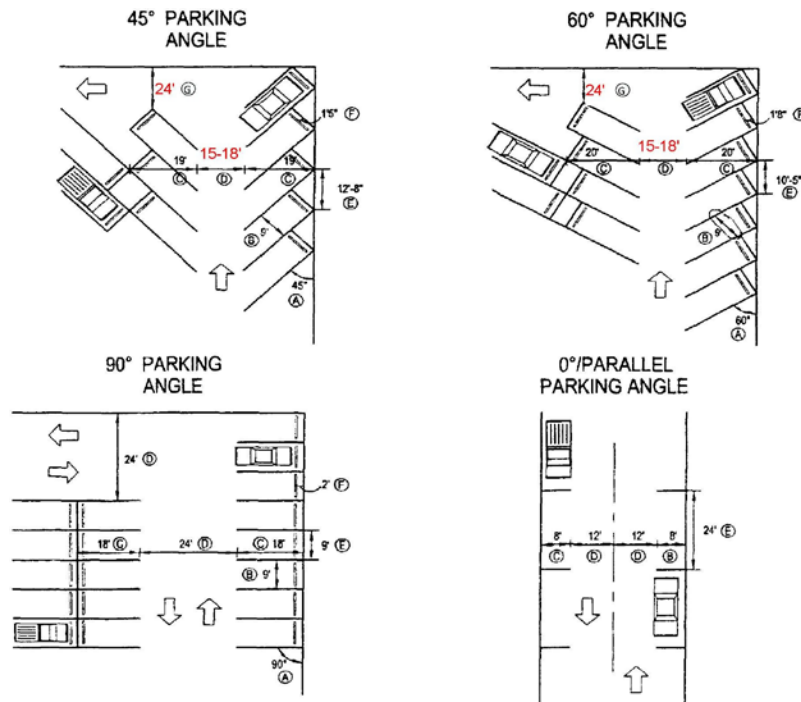
a. *Parking stall dimensions.* Parking stalls for automobiles shall meet the following standards. All dimensions represent the minimum requirement for any required parking space.

Table 2-4						
PARKING STALL DIMENSIONS						
Parking Angle (A)	Stall Width (B)	Stall to Curb (C)	Aisle Width (D)**	Curb Length (E)	Overhang (F)	Drive Aisle (G)
45°	9'	19'	15-18'	12' 8"	1' 5"	24'
60°	9'	20'	15-18'	10' 5"	1' 8"	24'
90°	9'	18'	24'	9'	2'	
0°(parallel)	8' *	8' *	12'	24'	0'	

* Except along local streets where seven (7) feet is permitted.

** Except for lanes designated as primary emergency access where twenty-six (26) feet is required.

Figure 2-6. Parking Angles



b. Accessible parking space dimensions.

- (1) Accessible parking spaces must be eight (8) feet by eighteen (18) feet with a five (5) foot wide access aisle.
- (2) Van-accessible spaces must be nine (9) feet by eighteen (18) feet with an eight-foot-wide access aisle, adjacent and parallel to the space.
- (3) Parking spaces for the physically disabled that are parallel to a pedestrian walk which meets Americans with Disabilities Act standards may have the same dimensions as those for standard vehicles.
- (4) *Slope.* Accessible parking spaces and access aisle widths shall be level with surface slopes not exceeding 1:50 in all directions.

c. Drive lanes used as primary access by emergency response vehicles shall be a minimum of twenty-six (26) feet wide.

(1) The primary access will be determined in conjunction with the Frederick-Firestone Fire Protection District through the site plan process.

7. *Bicycle parking spaces.* Commercial, industrial, civic, employment, multi-family and recreational uses shall provide bicycle facilities to meet the following standards:

- a. A minimum number of bicycle parking spaces shall be provided, equal in number to two percent (2%) of the total number of automobile parking spaces provided by the development, but not less than one (1) space.
- b. For convenience and security, bicycle parking facilities shall be located near building entrances. Within downtown commercial areas, however, a grouping of spaces shall be utilized as directed by the Town.
- c. Bicycle parking facilities shall utilize the inverted U facilities.

8. Parking restrictions for excess weight vehicles, recreational vehicles and utility trailers.

- a. Please refer to Chapter 8, Article III, Sections 8-41 and 8-42 of the Frederick Municipal Code.

9. *Vehicle stacking standards.*

- a. The development and design standards of this subsection shall apply to all drive-in (drive-through) facilities and other auto-oriented uses unless otherwise expressly approved by the decision-making body:

(1) *Minimum number of vehicle stacking spaces.* Off-street stacking spaces shall be provided as follows:

Table 2-5.

Activity Type	Minimum Stacking Spaces	Measured From: ¹
Bank teller lane	4	Teller or Window
Automated teller machine	3	Teller
Restaurant drive-through	6	Order Box
Restaurant drive-through	4	Order Box to Pick-Up Window
Car wash stall, automatic	4	Entrance
Car wash stall, self-service	3	Entrance
Funeral home/mortuary	4	Primary Passenger Loading Area for Processions
Other	4	Pick-Up Window

Note:

¹ Measured so that the driver's side window is centered on the teller, order box, or window, as applicable.

(2) *Design and layout.* Required drive-through lanes and facilities and vehicle stacking spaces are subject to the following design and layout standards:

(a) *Vehicle stacking spaces.*

- i) *Size.* Vehicle stacking spaces must be a minimum of nine (9) feet by twenty (20) feet in size.
- ii) *Location.* Stacking spaces may not impede on- or off-site traffic movements, nor impede movements into or out of off-street parking spaces.
- iii) *Design.*
 1. Stacking spaces shall be separated from other internal driveways by raised medians if the Town Engineer deems the median necessary for traffic movement and safety.
 2. Vehicle stacking areas adjacent to public streets or sidewalks shall be separated from such streets or sidewalks by walls or landscaping with berms.

(b) *Drive-in (drive-through) facilities and lanes.*

- i) *Location and screening.*
 1. Drive-in facilities (order stations, pick-up windows, bank teller windows, money machines, etc.) shall be located on the side or rear of principal structures to minimize their visibility from public streets.
 2. To the maximum extent practicable, drive-in lanes shall not be located between the primary structure and adjacent public streets or sidewalks. If this is not possible, drive-in lanes and facilities shall be set back a minimum of twenty (20) feet from any adjacent public street or sidewalk. The entire twenty (20) foot setback must be landscaped and bermed to screen the drive-in lane and facility from adjacent streets.
 3. Drive-in lanes adjacent to public streets or sidewalks shall be separated from such streets or sidewalks by walls or landscaping with berms.
 4. Car wash facilities and gas station auto service bays shall be located on the side or rear of principal structures to minimize their visibility from public streets.
 5. In addition to any buffering required by Article 2, drive-in lanes adjacent to residential uses shall be separated from such uses by an opaque wall at least six (6) feet high, located so that required buffer landscaping is between the wall and the adjacent residential use. (Ord. 1145 §§ 8 – 11 (Exh. A), 2013; Ord. 1167 §§ 8 – 10 (Exh. A), 2014)

Sec. 2.9. Sidewalks, walkways, multi-use pathways, and trails.

1. *Intent.* The intent of the standards for sidewalks, walkways, multi-use pathways, and trails is to assure a safe, convenient, and attractive pedestrian/bicycle system that minimizes conflicts between vehicles, bicycles, and pedestrians.

2. *General provisions.*

a. *Interconnected network.* A pedestrian network that interconnects all dwelling units, nonresidential uses, and common open space shall be provided throughout each development. This network is made up of sidewalks, walkways, multi-use pathways, and trails. Sidewalks shall be separate and distinct from motor vehicle circulation to the greatest extent possible. The pedestrian circulation system shall include gathering/sitting areas and provide benches, landscaping, and other street furniture where appropriate.

b. *Sidewalks required.* Sidewalks are required along streets as outlined in the Design Standards and Construction Specifications, Town of Frederick, December 13, 2007.

c. *Sidewalk width.*

(1) Sidewalks adjacent to roadways shall meet the standards as outlined in the Design Standards and Construction Specifications, Town of Frederick, December 13, 2007.

d. *Sidewalk location.*

(1) Sidewalks shall be located within the right-of-way unless otherwise authorized by the Board of Trustees.

e. *Sidewalk materials.*

(1) The acoustic, thermal, visual, and tactile properties of sidewalk paving materials shall be appropriate to the proposed functions of pedestrian circulation. Sidewalks shall be constructed of concrete, brick, slate, colored/textured concrete pavers, concrete containing accents of brick, or some combination thereof that is compatible with the style, materials, colors, and details of the surrounding buildings. Asphalt shall not be used for sidewalks.

(2) Sidewalks must be constructed of approved materials of sufficient strength to support light maintenance vehicles. If used as a secondary emergency access, sidewalks must also be able to support a fire truck (seventy-five thousand [75,000] lbs.). Please refer to the Design Standards and Construction Specifications, Town of Frederick, December 13, 2007 for additional sidewalk construction standards.

f. *Sidewalk installation.* Sidewalks and related improvements shall be installed or constructed by the subdivider in accordance with plans and specifications approved by the Town and, after installation or construction, they shall be subject to inspection and approval by the Town. All required improvements shall be completed in accordance with the officially established grades.

g. *Accessibility.* Sidewalks and plazas shall meet Americans with Disabilities Act standards.

h. *Walkways.* Walkways are essentially sidewalks that are not within a dedicated street right-of-way. Walkways may be found in both residential and non-residential developments. The essential purpose of a walkway is to provide a dedicated path of foot travel.

- (1) Walkways through a subdivision block shall be not less than eight (8) feet in width, shall be within a dedicated easement not less than twenty (20) feet in width, and shall be flanked with appropriate landscaping and lighting.
 - (2) Walkways along non-residential buildings and within parking lots shall be raised and curbed, where suitable. A direct pedestrian connection to building entries, public space and parking areas shall be provided from public sidewalks.
 - (3) Walkways adjacent to non-residential uses shall be a minimum of five (5) feet in width.
 - (4) Walkways shall be constructed of the same materials as sidewalks, except that walkways internal to asphalt surfaced parking lots may be of asphalt construction. Walkways crossing driveways in parking lots shall be clearly delineated by a change in pavement color or texture or paint striping.
- i. *Lighting.* All sidewalks and other pedestrian walkways shall have appropriate lighting, using poles and fixtures consistent with the overall design theme for the development.
- j. *Multi-use pathways (bikeways).* Multi-use pathways shall be provided to link internal open space areas with peripheral open space areas and shall connect to multi-use pathway routes throughout the community. Multi-use pathway routes shall be designated between residential areas and commercial and employment centers and schools.
- (1) Multi-use pathways on local streets may be delineated by painted "bicycle only" lanes.
 - (2) Sidewalks that may be used as a multi-use pathway are required on arterial and collector streets. All other multi-use pathways shall be a minimum of eight (8) feet wide and shall be of concrete construction or, where approved by the Board of Trustees, compressed gravel. Asphalt paving is prohibited.
 - (3) Bicycle parking shall be provided at the entry to internal and peripheral open space areas.
- k. *Trails.* Trails shall be provided within and surrounding open space areas and connecting open space areas.
- (1) Trails shall be a minimum of eight (8) feet in width and shall be of concrete construction.
 - (2) A trail may be flanked on one (1) side by a soft surface path a minimum of four (4) feet in width.
 - (a) The soft surface path shall be constructed with a minimum depth of eight (8) inches of compressed gravel, crowned, and compacted with edging to contain trail material.

Sec. 2.10. Easement and utility standards.

1. *Utility easement width.* Utility easements shall measure ten (10) feet on each side of abutting rear lot lines. On subdivision perimeter rear lot lines adjacent to unsubdivided property, utility easements shall measure ten (10) feet in width. In the event that the location of utility easements adjacent to rear property lines is unsuitable for use by utility companies due to drainage, irrigation ditches, or other obstructions, the subdivider shall provide like-

width easements adjacent to said areas of obstruction. Side lot line easements, where necessary, shall measure ten (10) feet in full width; five (5) feet on either side of a lot line is acceptable. Front lot line easements shall measure ten (10) feet in width. Easements may be more or less than widths stated if the specific utility indicates in writing a width other than those required by this Code. Utility easements shall be subject to the approval of the Town or applicable utility company.

2. *Multiple installations within easements.* Easements shall be designed so as to provide efficient installation of utilities. Public utility installations shall be located as to permit multiple installations within the easements. The developer will establish final utility grades prior to utility installations.

3. *Underground utilities.* Telephone lines, electric lines, cable television lines, and other like utility services shall be placed underground. The subdivider shall be responsible for complying with the requirements of this Section, and shall make the necessary arrangements, including any construction or installation charges with each utility provider for the installation of such facilities. Transformers, switching boxes, meter cabinets, pedestals, ducts, and other facilities necessarily appurtenant to such underground utilities shall be placed underground or on the surface but not on utility poles. Screening or fencing may be required for above ground facilities. Electric transmission and distribution feeder lines and necessary appurtenances thereto may not be placed above ground unless they are carrying greater than 115 kV. Such facilities shall be placed within easements or public streets, as therein provided, or upon private easements or rights-of-way provided for particular facilities.

4. *Street lighting.* Street lighting and associated underground street lighting supply circuits shall be installed by the Developer per the specifications included in the Town of Frederick Design Standards and Construction Specifications, December 13, 2007. A photometric plan is required to be included with the construction plans for all subdivisions and any other new development.

5. *Pedestrian trail lighting.* Pedestrian lighting is required for all pedestrian trails and trail connections that are not adjacent to and illuminated by roadway lighting. Such lighting shall be of a type and character that provides for both safety and aesthetic concerns. Pedestrian lighting along an arterial or collector street shall have light poles and fixtures conforming to planned or existing street lighting unless approved otherwise by Planning and Engineering staff. At a minimum, pedestrian lighting shall be provided at intersections of pedestrian trails, and at intersection of trails with roadways.

Sec. 2.11. Parks and open space.

1. *Intent.* The intent of the parks and open space requirements is to ensure that a comprehensive, integrated network of parks and open space is developed and preserved as the community grows in accordance with the parks and open space policies, goals, the adopted Comprehensive Plan, and the provisions of the Land Use Code (as amended).

- a. Lands dedicated for Parks and Open Space are separate, distinct, and cannot count toward other public dedication requirements or the minimum Landscape Design requirements set forth elsewhere in this Code. Lands for parks and open space are dedicated at time of subdivision, or re-subdivision as applicable, and installed as part of the development infrastructure.

b. Due to the nature of growth in the community, and prior to approval of a park or series of park lands, a park and recreational activity study may be required by Town Staff to determine the type of park facilities and development needed to support the neighboring population and community need.

A park and recreational activity study includes assessing the user needs for parks and open space areas based on local conditions, including community values, availability of land, financial resources, maintenance capabilities, and a desired level of services the community wishes to achieve. To determine specific parkland needs for park development within the Town of Frederick, several analytical methods are to be used when planning a park site; including:

- (1) Recreation demand (based on demographics of the existing and proposed community);
- (2) National trends and standards;
- (3) Land availability and code requirements;
- (4) Current ratio of parkland to population;
- (5) Analysis of present recreation participation levels in sports and leisure activities;
- (6) Recreational facility needs (play and practice time requirements for sports leagues);
- (7) Physical and geographical constraints and opportunities for existing and proposed parks and open space areas.

2. Parks shall consist of lands dedicated to active and passive recreation consisting of landscaped lands with irrigated turf grasses, forbs, shrubs, and trees and generally include a majority of the following: landscape improvements; topography; ponds; lakes; creeks or streams; sports fields; amphitheaters; works of art; leisure activities; hobbies; structured and unstructured education; historic or cultural features; fitness; lighting; parking; recreational amenities; architectural features; gathering spaces, plazas, etc., as noted in the recreational activity study, this Code, or directed by the Town. Parks may be public or private. Parks shall be sized in accordance with the recreational activity study, or constitute no less than sixty percent (60%) of the area required for dedication as parks and open space within the development, unless otherwise noted in this Code.

3. Open space shall consist of lands maintained in native vegetation and used for buffering or habitat preservation and may include lands dedicated to agricultural purposes. Irrigation is applied as necessary to maintain the plant material and intended use. Human activity and recreational use of open space areas are minimal and subject to approval of by the Planning Director or Board of Trustees as applicable. Open Space may be public or private. Open space does not include lands set aside for oil and gas facilities.

4. Minimum landscape requirements for all parks: All public and private parks shall be designed to be visually interesting, socially relevant, promote health, public safety, and provide pertinent recreational opportunities and amenities for all ages and abilities. All plants shall be carefully chosen to provide for seasonal interest, texture, variety, drought tolerance, zone hardiness, and to promote year round use. With the exception of turf grasses, no one species may exceed twenty five percent (25%) of the total plant palette. Parks shall be designed to minimize water demand, maintenance, the need for chemical fertilizers, and maintain all applicable site triangle

requirements. Portions of parks may be used for water storage or storm water management as approved by the Town.

- a. In addition to meeting the minimum requirements of Section [2.14](#) Landscape Design Requirements of the Land Use Code, at minimum, all parks shall provide the following:

(1) *General requirements for Parks.*

- (a) All required and approved vegetation shall be maintained in healthy condition. Dead or diseased plants shall be removed immediately and replaced by the next growing season. New Plants shall meet minimum size requirements.
- (b) Plant material adjacent to or within sidewalks, pathways, trails, plazas, and other routes or gathering spaces shall maintain sidewalk clearance requirements for accessibility per the provisions of the Americans with Disabilities Act.
- (c) All minimum site triangle requirements as defined in the approved version of the Town of Frederick Design Standards and Construction Specifications, as it may be amended from time to time, shall be maintained for public safety.
- (d) Water, water taps, and an irrigation system shall be provided by the developer of sufficient size, quantity and configuration to provide for the park landscaping, function, and uses.
- (e) All approved and required landscaping improvements, amenities, and features shall be maintained, repaired, and replaced by the owners association or assigns, as necessary to maintain the park as approved by the Town. Deviations from or modifications to the approved plans require prior approval by the Town.
- (f) Parks, trails, landscaping, irrigation, water taps, and other required and approved amenities, shall be installed prior to issuance of forty-percent (40%) of the building permits for structures within the subject filing, phase, or subdivision as applicable and defined in the MOAPI, unless otherwise approved or required by the Board of Trustees as part of the Final Plat documents. Building permits shall be withheld until the public improvements are installed, inspected, and approved by Town Staff.
- (g) The developer shall provide a detailed cost estimate and post a minimum financial guarantee, as approved by the Town, of one hundred percent (100%) of the total cost of the required and approved public improvements for all parks, trails, landscaping, seeding, reclamation, irrigation, structures, features, and other required and approved public amenities, including utilities, labor, equipment, mobilization, and applicable ancillary costs for installation of the approved landscape plan as shown in the approved Final Plat documents.

(2) *Trees.*

- (a) Street and perimeter trees: Street and perimeter trees shall be provided at fifty (50) foot intervals around the edge of the park and placed to avoid conflicts with lighting, parking, and access while buffering or framing views or uses, and defining recreational space(s).

(b) Site and shade trees. At minimum, site and shade trees shall be provided at one (1) site and shade tree per three-thousand (3,000) square feet of landscaped park area, placed to define space, shade, or highlight activities. Trees shall also be placed to shade a minimum of fifty percent (50%) of the sites hard-scape (sidewalks, pathways, plazas, tennis or basket ball courts, parking areas, etc.) at mature spread during summer months and block winter winds. Site and shade trees shall be both evergreen and deciduous trees.

(c) Ornamental and specimen trees. At minimum, each park shall provide one (1) ornamental or specimen tree for every ten thousand (10,000) sq. ft. of landscaped park area. Ornamental and specimen trees may replace site trees at a ratio of one (1) to ten (10) up to a maximum of twenty-five percent (25%) of the total site trees within a park. Ornamental and specimen trees are both evergreen and deciduous trees.

(d) Buffer and screening trees. Additional trees may be required to buffer and screen park activities from nuisances, unsightly views, or intensive uses as directed by Town staff. Buffering and screening trees are both evergreen and deciduous.

(e) *Prohibited trees.*

i) In addition to any tree that is listed by the State of Colorado as noxious or invasive, the following trees are prohibited in the Town of Frederick: Russian olive (*Elaeagnus angustifolia* L.), Lombardy poplar (*Populus nigra italica*), Siberian elm (*Ulmus pumila* L.), Boxelder Maple (*Acer negundo*), and Cotton bearing cottonwoods (*Populus alba*).

ii) Ornamental trees and fruit trees with low branches such as crabapple, hawthorn and fruit trees shall not be permitted adjacent to public rights-of-way or near paths or walkways. These trees are likely to cause sidewalk clearance problems in the future. Fruit trees or fruit bearing ornamental trees may be approved by Town staff on a case-by-case basis.

(f) *Tree size.*

i) Size: The minimum planting sizes on all required trees shall be two-inch (2") caliper deciduous trees, one and one-half inch (1 1/2") caliper ornamental trees, six-foot-tall (6') evergreen trees. Multi-trunk trees shall have three (3) or more canes, and be six inches (6") in diameter measured four inches above ground and a minimum of five feet (5') in height. When landscaping more than an acre of land area, fifty percent (50%) of the required deciduous trees may be one (1) to one and one-half (1 1/2) inch caliper (distributed throughout the site), if previously authorized by Town staff and as noted in the approved landscape plan.

(3) *Shrubs.*

(a) *Street shrubs.* Street and perimeter shrubs, ornamental grasses and flowers shall be provided at a minimum ratio of five (5) shrubs for every perimeter tree, clustered into planter beds and distributed to enclose the park, buffer or frame views or uses, define recreational space, and preserve view triangle requirements.

- (b) Site shrubs. Massing and the judicious use of shrubs is required. At minimum, site shrubs shall be provided at a ratio of one-hundred and fifty (150) site shrubs per acre clustered within planter beds and strategically placed to define space, highlight activities, and guide patrons through the park.
 - (c) Buffer and screening shrubs. Additional shrubs may be required to buffer and screen park activities from nuisances, or block unsightly views and intensive uses as directed by Town staff.
 - (d) Prohibited shrubs. In addition to any shrub that is listed by the State of Colorado as noxious or invasive, poisonous shrubs are prohibited in the Town of Frederick.
 - (e) *Shrub size.*
 - i) The minimum planting sizes on all required shrubs shall be five gallon container. When landscaping more than an acre of land area, fifty percent of the required shrubs may be two and one-half (2 1/2) gallon container distributed throughout the site, if previously authorized by Town staff and as noted in the approved landscape plan.
- (4) *Turf grass, ground cover, ornamental grass, etc.* The amount of turf grass shall be determined by the intended use of the park as noted in the recreational activity study, or as directed by the Town staff.
- (a) Turf areas shall be naturalized, avoiding rectangular shapes and forms, unless required for a specific sports activity, as determined in the recreational activity study. Turf grasses shall be avoided in heavily shaded areas and on slopes that exceed a rise to run ratio of one to four (1:4). Turf grasses shall be drought tolerant and shall meet applicable requirements as noted in the adopted Design Standards and Construction Specifications (Adopted August 23, 2007, as amended).
 - (b) Massing and the judicious use of perennial ground cover and perennial flower beds are required and shall cover no less than one-half (1/2) of the minim required shrub / planter bed area. These areas should generally be clustered with shrub beds. The use of native and drought tolerant species is encouraged.
 - (c) Prohibited forbs and ground cover. In addition to any plant that is listed by the State of Colorado as noxious or invasive, poisonous plants are prohibited in the Town of Frederick.
 - (d) *Size and Maintenance.*
 - i) *Container plants.* The minimum planting sizes on all required containerized ornamental grasses shall be five gallon container. When landscaping more than an acre of land area, fifty percent of the required ornamental grasses may be two and one-half (2 1/2) gallon container distributed throughout the site, if previously authorized by Town staff and as noted in the approved landscape plan.
 - ii) *Seeding.* Seeding shall be installed in accordance with the applicable standards as outlined in the approved version of the Town of Frederick Design Standards and Construction Specifications, as it may be amended from time to time.

(5) *Pathways and gathering spaces.* Pathways shall provide for multiple uses and may consist of soft and hardened landscaped materials appropriate to the anticipated intensity of use and per the requirements of the Town. The construction materials for pathways and gathering area shall have a solar reflective index of no less than twenty-nine (29 SRI). In addition, these improvements shall use permeable materials and construction methods as feasible.

(a) *Pathways.* Pathways shall provide for multiple users and link public sidewalks to uses within the park. Pathways shall meander to ensure visual interest. The frequency of the meander shall allure pedestrians with sweeping curves and strategic landscaping rather than creating a zigzag effect.

(b) To the greatest extent feasible, pedestrian and bike paths shall be separate and distinct.

(c) Pathways shall use different surface materials or treatments for different users (i.e. bikes, pedestrian, etc). Intersections involving pedestrians, bicycle, or vehicular crossings shall receive special surface treatments to ensure safety and pedestrian convenience. Intersections and crossings within the park are encouraged to function as a node of activity or mini-plaza. Surface materials may consist of concrete, stamped and colored concrete, compacted crushed aggregate, cobble stone, brick, or approved alternate and shall vary according to the level and type of service and the function of the pathway, as approved by the Town staff.

(d) Pathways shall be a minimum of eight feet (8') wide. Sidewalks shall meet the Standards as outlined in the approved version of the Town of Frederick Design Standards and Construction Specifications, as it may be amended from time to time.

(e) Pathways and gathering spaces shall also meet accessible route requirements per the provisions of the Americans with Disabilities Act, as amended.

(f) Trail corridors may be seeded to native grasses as appropriately integrated with adjacent improvements.

(g) *Gathering spaces.* Informal gathering spaces shall be provided and defined by landscaping, plant materials, topography and may include recreational amenities. At minimum, these spaces shall include seating areas, lighting, walls, raised planter beds, or water features and be defined by a combination of planting and architectural elements.

(6) *Organic and rock mulch, cobbles, and gravel.*

(a) *Organic Mulch.* All planter beds shall maintain a minimum of three inches (3") of organic wood mulch at all times. In some instances gravel or rock mulch may be utilized, if approved by Town staff, based on the design intent, site circumstances, and to meet the requirements of the code.

(b) Organic mulch rings extending a minimum of eighteen inches (18") from the tree trunk shall be maintained at a depth of three inches (3") for all trees not located within planter beds.

(c) Rock mulch, cobbles, and gravel. The use of rock mulch, cobbles, and gravel for planter bed material, or for surface treatments in park areas is to be avoided. However, rock mulch, cobbles, and gravel may be permitted on a case-by-case basis and only for special circumstances.

(7) *Planter beds.* All shrubs, flowers and ground cover shall be contained within planter beds.

(a) Planter beds shall maintain a minimum depth of three inches (3") of organic mulch.

(b) Planter beds shall be edged and designed to contain all plantings at mature sizes (the canopy of shade and street trees are excepted).

(8) *Topography and water quality.* Parks shall have topography to provide visual interest, buffer views and nuisance noise, define space, and provide for seasonal recreational activities, as applicable. The use of walls, boulders, berms, and other materials is encouraged. Parks shall also provide for storm water management, detention, retention, and improve water quality for storm water run-off.

(9) *Parks and storm water management.* Parks may be designed in combination with storm water management features, provided recreational amenities and improvements are integrated into the storm water management system, and as approved by the Board of Trustees at Final Plat. In no event shall more than forty percent (40%) of a park land area be dedicated to storm water management, unless approved by the Board of Trustees.

(10) *Parking.* Adequate parking is required for all anticipated activities, uses, park population and park service area as approved by the town and in accordance with the approved recreational activity study.

(11) *Lighting.* Street, node, activity, walkway, and conflict lighting is required. Lighting shall meet the requirements of Section [2.19](#).

(12) *Recreational and architectural amenities.* Plazas, recreational fields, works of art, architectural features, walls, water features, and topographic changes are required, as appropriate to the use and function of the park.

(a) Size, scope, quantity, and quality of the site features shall be installed as approved or required by the Town.

(13) The location and size of parks and open spaces shall be defined at Preliminary Plat and finalized at Final Plat.

5. *Types of parks and open space by use and zoning district.* Non-residential developments shall be required to provide for a plaza or pocket park and contribute to a neighborhood or community park in proximity to the development.

a. *Plazas.* Plazas are an acceptable form of park in the C-N, C-H52, and C-E zoning districts, where gathering places are found. A plaza is usually bordered by civic or private buildings. Plazas may range from very active places with adjacent complementary uses such as restaurants and cafes, to quiet areas with only seating, formal landscape plantings and amenities such as fountains or public art. Developers are responsible for developing and maintaining the appropriate amenities for each plaza. Plazas shall also provide for multiple

and seasonal uses. Amenities associated with the plaza may count toward the minimum required open space as a cash-in-lieu contribution for required parks and open space within an industrial or commercial development as approved by the Board of Trustees.

b. *Pocket parks.* Shall be located in medium to high density residential or mixed-use commercial zoning districts (R-2, R-3, C-N, C-H52, and C-E).

(1) Pocket parks provide places within walking distance of dense residential units for young children's supervised play and unstructured activities for neighborhood residents, or urban relief. At a minimum, a pocket park shall meet all current safety and Americans with Disabilities (ADA) guidelines and include one (1) of the following: playground equipment, contemplative garden, fountain, art work, or other active or passive recreation opportunities for the neighborhood. Additionally, the following amenities shall be included:

Table 2-5.

Amenity	Minimum Quantity	Standard
Picnic/Shade Shelter	1	A steel frame picnic shelter with metal roofing and room for at least one picnic table. Accessible via a concrete walkway.
Seating/Gathering Space	1	A small seating area capable of accommodating two benches
Site Furnishings (all furnishings in steel construction with powder coated finish of the same color, located on a concrete surface)	2	Picnic Tables: 8' with one ADA accessible
	3	Benches: with backs and armrests
	2	Trash receptacles: 32 gallon with covered top
	4 loops	Bike Rack: For a minimum of eight bikes (two per loop)
	1	Dog Waste Stations
Landscaping and Lighting		Irrigated live ground cover, trees, and security lighting
Optional Uses		
Swings	1	Minimum: Single bay with one belt and one bucket swing (requires a use area of approximately 25' x 30' or 750 SF)
Turf Area		+/- 50' x 50' (2,500 SF)

(2) The minimum size pocket park is ten thousand (10,000) square feet of net park area for each residential neighborhood of two hundred (200) units or twenty thousand (20,000) sq. ft. of gross commercial space. The size or number of pocket parks shall increase proportionally (i.e., four hundred (400) units shall require either a twenty thousand (20,000) sq. ft. pocket park or two (2) ten thousand

(10,000) sq. ft. pocket parks, etc.). Projects with less than two hundred (200) units or twenty thousand (20,000) square feet of commercial area shall provide a pocket park meeting the minimum size requirements or demonstrate that they are within one-fifth (1/5) mile of a neighborhood park. If credit is taken for proximity to a neighborhood park, the developer shall provide a cash-in-lieu equivalent for its pro rata share of the cost of land and improvements for the required pocket park (i.e., provide twenty-five percent (25%) of a pocket park for fifty (50) units). Pocket parks located across an arterial road cannot be considered to serve a new neighborhood.

(3) The land and amenities of a pocket park may be added to a centrally located neighborhood park. The pocket park amenities placed in a neighborhood park must be within one-fifth (1/5) mile of the sub-neighborhood's two hundred (200) residences served. For example a neighborhood park serving a neighborhood of four hundred (400) residences or commercial development with forty thousand (40,000) sq. ft. shall have two (2) pocket park amenity pods, located to conveniently serve each of the sub-neighborhoods, or the land area may be added to a neighborhood park, as approved by the Board of Trustees in the preliminary and final plat.

(4) Pocket parks and plazas shall be integrated into the neighborhood design and be accessible to pedestrians, bicyclists, and emergency services.

(5) Within the R-MH1 zone, a landscaped recreational pocket park shall be installed for every thirty (30) dwelling units, as approved by Town staff.

c. *Neighborhood parks.* A neighborhood park shall be located in each quarter section and within residentially zoned developments (R-1, R-2, R-3, and residential planned unit developments (PUD)). Neighborhood parks are places for recreation and social gatherings that are within walking distance of most residents.

(1) These parks include multiple-use lawn areas, picnic areas, playground equipment, court game facilities and community gardens consisting of four (4) to six (6) acre neighborhood parks centrally located within the neighborhood. Neighborhood parks shall not include competitive sports facilities. Neighborhood parks shall meet all current safety and Americans with Disabilities (ADA) guidelines. Standard amenities to be included are:

Table 2-6.

Amenity	Minimum Quantity	Standard
Site Furnishings (all furnishings in steel construction with powder coated finish of the same color, located on a concrete surface)	4	Picnic Tables: 8' with one ADA accessible
	6	Benches: with backs and armrests
	4	Trash receptacles: 32 gallon with covered top
	4 loops	Bike Rack: For a minimum of eight bikes (two per loop)

Table 2-6.

Amenity	Minimum Quantity	Standard
	4	Dog Waste Stations
Swings	1	Minimum: Single bay with one belt and one bucket swing (requires a use area of approximately 25' x 30' or 750 SF)
Optional Uses		
Other Potential Neighborhood Park Facilities		Court facilities (basketball, volleyball, tennis), drinking fountain, splash play facility, community vegetable gardens, climbing boulders or walls, demonstration or floral display gardens, public art, play sculptures, plazas, and pocket park amenities from an adjacent development.

(2) Every residential development shall provide land for a neighborhood park. If approved by the Board of Trustees at preliminary and final plat, the developer may provide a cash-in-lieu contribution for a six (6) acre park to serve the development.

(3) Developers providing land shall submit a conceptual design for the park to demonstrate that it meets the intent of Article 2, Community Design Principles and Development Standards, and the Frederick Comprehensive Plan at preliminary plat and a final design at final plat.

(4) Neighborhood parks shall be developed by the applicant and maintained by the Home Owners Association, or approved equivalent.

(5) Neighborhood parks serve the residents within one-third (1/3) mile of a given park. Should a project be within one-third (1/3) mile of an existing park, the developer shall provide a cash-in-lieu equivalent for its pro rata share of the cost of land and improvements for the required neighborhood park (i.e. provide twenty-five percent (25%) of a neighborhood park for fifty (50) units). Neighborhood parks located across an arterial road cannot be considered to serve a new neighborhood, unless a grade-separated crossing (underpass or overpass) is provided.

d. *Community parks.* Community parks serve the residents of several neighborhoods. Community parks are to be located on or near arterial streets at the edge of residential areas or in nonresidential areas to minimize the impact of organized recreational activities such as lighted ball fields. Community parks are permitted in the Public Zoning District. Community parks shall be centrally located within the greater development, and may be located to serve several smaller developments.

(1) Community parks shall be developed and maintained by the Town.

(2) Community parks shall be a minimum of twenty (20) acres while facilitating the needs of the Town at the time of its development.

(3) Community parks shall serve residents within a three (3) mile radius.

(4) Community parks may serve as a neighborhood park for residents within one-third (1/3) of a mile if there is no arterial street between the residents and the park.

(5) Community parks shall focus on providing facilities for organized team sports (e.g., baseball, softball, soccer, football, lacrosse, etc.) with lighted facilities.

e. *District parks.* District parks serve the residents of the entire Town, as well as people who live outside of the community. District parks provide recreational opportunities such as fishing, canoeing and wildlife viewing. Developers of district parks shall submit a conceptual design and a recreational activity study to demonstrate that it meets the needs of the community, the Comprehensive Plan and Land Use Code. Refined plans shall be submitted at preliminary plat and a final design is submitted at final plat. District parks may be developed in conjunction with other jurisdictions, special districts, or entities and shall be maintained by a special district, the Town, or other entity, as approved by the Board of Trustees.

f. *Trails.* Trails are permitted in all zones. The trail system shall link neighborhoods, parks, schools, open spaces, employment centers, community facilities and neighboring communities and thus provide important transportation connections, as well as recreational opportunities and access.

(1) Developers shall provide trails as designated in the Parks and Open Space Component of the Comprehensive Plan, as well as connections to the Town's existing or proposed trail system and destinations within the neighborhood.

(2) Developers shall contribute a proportional share for the construction of any trail that is adjacent to or serviced by the proposed development.

g. *Regional open space.* The Town's regional open space system includes: Godding Hollow drainage, Bulrush Wetlands and Wildlife Preserve, Frederick Recreation Area, Bella Rosa Golf Course, floodplains, drainage ways, natural areas, natural area buffer zones, wetlands, subsidence areas, agriculture preservation areas and lands of archeological or historic significance. Access is generally limited to trails, educational signs and similar low impact improvements, though additional improvements may be completed.

h. *Storm drainage detention facilities.* Up to forty percent (40%) of the storm drainage detention facilities, including storm water facilities, may function as portions of parks and open space areas for active and passive recreation, trail corridors, or habitat enhancement areas if designed appropriately and approved by the Town. For storm drainage facilities to be credited toward the open space dedication requirements these areas must function as a multi-use facility providing for active recreation with trails, educational signage and other improvements, as approved by the Board of Trustees at the time of Preliminary Plat and Final Plat. To count as open space, in addition to meeting the requirements of Section [2.14](#):

(1) At minimum (2) two of the four (4) side slopes (fifty percent (50%)) of the storm drainage facility shall not exceed 1:4 slope if used as park space.

(2) Access and recreational facilities must meet ADA requirements if used as park space.

(3) Features shall be included for passive and active recreation, including but not limited to, ball fields, play structures, fitness parks, educational centers, structured and unstructured opportunities for learning and recreation, etc.

6. *Ownership and maintenance of Parks.* Ownership and maintenance of public parks shall be determined by the Town at Final Plat.

a. Generally, the owners association or assigns shall own parks. If approved by the Board of Trustees neighborhood parks, community parks, district parks, and public trails may be owned by the Town. Maintenance of parks and open space shall be the responsibility of the owners' association. Maintenance of trails shall be determined on a case-by-case basis.

b. Landscaped outlots and private recreational facilities shall be owned and maintained by a homeowners' association or assign.

c. Environmentally sensitive, archaeological, and historic resources may be dedicated to the Town and maintained by the Town if approved by the Board of Trustees.

d. Conservation areas set aside as part of a rural subdivision shall be owned and maintained by the owners' association or assigns.

e. Storm water detention and retention areas that also function as parks shall be owned and maintained by the owners' association or assigns. Storm water facilities owned by the Town shall be maintained by the Town.

f. Areas designated as park lands shall be maintained according the designated function of the area. In addition, a mechanism to assure that maintenance will be funded in perpetuity shall be in place at the time of the Final Plat, as approved by the Town.

g. *Parks protection and preservation.* Areas designated as parks shall be protected by a deed restriction or other appropriate method to ensure that they cannot be subdivided or developed in the future and remain as park space in perpetuity. They may be dedicated to the public or held in private ownership. Appropriate ownership will be determined through the review process in cooperation with the landowner. Future use may include recreational activities as approved by the Town.

7. *General provisions for Open Space.*

a. Open space should serve as urban relief and preserve natural areas, habitat, vegetation and may allow for compatible recreational uses. Open space, such as the Godding Hollow drainage way and developed parks and plazas, shall be used to organize and focus lot, block, and circulation patterns and to enhance surrounding development. Street, block, lot, and building patterns shall respond to the views, landscape, and recreational opportunities provided by the open space.

(1) *Minimum requirements for open space.* All open space areas shall provide the following:

(a) Native vegetation or agricultural lands generally preserved as a contiguous parcel or land area.

(b) Appropriate fencing to enclose the area.

(c) Signage defining the allowable uses for the property.

(d) Open space areas shall also include a continuous land area, significant resources such as flood plains; natural water bodies; natural areas; wildlife and native plant habitat; important wetlands or watershed lands; stream corridors; passive, low-impact activities; areas with little or no land disturbance; and, or trails for non-motorized activities, or as approved by the Board of Trustees.

b. *Public access.* Areas designated as public open space shall be both visibly and physically accessible to the community. Public access shall be provided to all public open space, natural and developed, directly from the Public Street and trail system. In some instances areas may be closed to the public or open by appointment only, as necessary to preserve the integrity and properly manage the resource.

(1) Open space and trail areas shall have a minimum of seventy-five (75) feet of street frontage unless otherwise authorized approved by the Board of Trustees.

c. *Street frontage for public open space.* Development adjacent to public open spaces shall integrate the open space into the design and avoid enclosing open space with buildings and back yards to the greatest extent feasible.

d. *Buffering.* Appropriate buffering and setbacks shall be used between environmental resources and proposed development to ensure that the proposed development does not adversely affect the resource. Developers shall provide an open space buffer zone around all natural areas unless otherwise authorized by the Board of Trustees. The size of the buffer zone shall be in accordance with studies prepared by a qualified wetland or wildlife ecologist (as applicable) employed by the Town and paid for by the developer.

e. *Open space uses.* Uses designated within the open space shall be appropriate to the context and character of the site and the intensity of the proposed development.

f. *Ownership and maintenance of open space.* Ownership and maintenance of public open space shall be determined by the Town on a case-by-case basis at Final Plat.

(1) Generally, the home owners' association or business owners' association or assigns shall own and maintain public and private open space. Maintenance of trails shall be determined on a case-by-case basis.

(2) Landscaped outlots and private recreational facilities shall be owned and maintained by a homeowners' association or assigns.

(3) Environmentally sensitive, archaeological, and historic resources may be dedicated to the Town and maintained by the Town if approved by the Board of Trustees.

(4) Conservation areas set aside as part of a subdivision within the Residential Estate Zoning District shall be owned and maintained by the owners' association.

- (5) Storm water detention and retention areas that also function as open space shall be owned and maintained by a homeowners' association or assigns.
- (6) Areas designated as open space shall be maintained according the designated function of the area. For areas that remain in private ownership, a mechanism to assure that maintenance will be funded in perpetuity shall be in place at the time of the Final Plat, as approved by the Town.
- (7) *Open space protection.* Areas designated as open space shall be protected by a deed restriction or other appropriate method to ensure that they cannot be subdivided or developed in the future and remain open in perpetuity. They may be dedicated to the public or held in private ownership. Appropriate ownership will be determined through the review process in cooperation with the landowner. Future use may include recreational or agricultural activities if approved by the Town as determined in the annexation agreement, conservation easement, or other Town sanctioned process.

8. *Open space requirements.*

- a. Open space requirements are intended to provide a unified network of public and private facilities to serve as recreational and social outlet and urban relief. Public land dedication requirements are identified in Section [2.12](#). Additional land dedication is required for schools as outlined in Section [2.14](#). Open space includes both private and public lands as follows:
 - (1) Areas within the community designated for the common use of the residents of an individual development and/or the community at large including conservation easement;
 - (2) Areas designated for preservation and protection of environmental resources, including floodplains, natural drainage ways and wetland areas;
 - (3) Areas impacted by subsidence;
 - (4) Areas designated for agricultural preservation;
 - (5) Water bodies in excess of one acre in surface area; and
 - (6) Areas of archeological and historic significance.
- b. Open space shall not include the following:
 - (1) The area within the minimum required one hundred fifty (150) foot lot line setback around all oil and gas production facilities as noted in Article 9;
 - (2) Disconnected remnants of land created by division of sites into lots or parcels that do not qualify as functional open space, unless approved by the Board of Trustees;
 - (3) Private yards whether on a residential or commercial site;
 - (4) Tree lawns in street rights-of-way; or

- (5) Required parking lot landscaping associated with residential uses, except parking specifically designated for access to open space areas or trail head.
- (6) Sidewalks, parking areas, driveways, roads, tree lawns, concrete pads, storage areas, public rights-of-way whether landscaped or not, building footprints, emergency access routes, oil and gas roads, or storm water facilities (unless otherwise noted in the Code).

9. *Amount of open space required by development.* The amount of functional open space required in each development will be based on the density of the development, the recreational requirements of the anticipated users and the anticipated opportunities for public recreation within walking distance of the site (one-quarter [1/4] mile), the Comprehensive Plan, and the findings of the recreational study noted in Section 2.11.1.a of the Land Use Code. To the extent practical, subdivision parks and open space shall be oriented to maximize views of significant natural features, parks, community buildings, and open space while promoting energy efficiency and resource conservation.

- a. *General provisions.* The land area dedicated as parks and open space within subdivision developments shall not be credited toward the minimum landscape requirements or landscape area for site, lot, or parcel specific development as noted in Section 2.14 of the Land Use Code.
- b. Each development shall provide an internal pedestrian way or trail system and any applicable trails designated on the Parks and Open Space Map of the Comprehensive Plan.
- c. All residential developments shall dedicate a minimum of twenty percent (20%) of the gross land area for public parks, trails, open space or other similar purposes at the time of subdivision.
 - (1) Estate zones. The developer shall provide a minimum of twenty percent (20%) of the gross land being subdivided as functional open space, which may include agricultural land, natural areas, storm water facilities (if in compliance with Section 2.14.10), floodplains, subsidence areas, trails, and lands dedicated for other similar purposes, excluding roads.
 - (2) Single-family residential developments zoned R-1 or R-MH1. The developer shall provide:
 - (a) A minimum of twenty percent (20%) of the gross land being subdivided as functional open space which may include: pocket parks, plazas, trails, recreational amenities, homeowners' association-owned landscaped areas (excluding parking lots), ponds, lakes, storm water facilities (if in compliance with Section 2.14.10), natural areas, and amenities for residents or other similar purposes;
 - (b) One (1) centrally located pocket park for every two hundred (200) residential units;
 - (c) The land for one (1) neighborhood park within a one-quarter (1/4) mile radius of the proposed homes; or a fair-share, cash-in-lieu contribution for the cost of the neighborhood park that will serve the development.
 - (3) Multi-family residential developments zoned R-2 or R-3 or zones that allow for residential development. The developer shall provide:

- (a) A minimum of twenty-five percent (25%) of the gross land being subdivided as functional open space which may include: pocket parks, plazas, trails, recreational amenities, homeowners' association-owned or landowner-owned landscaped areas (excluding roads, drives, and parking lots), natural areas and amenities for residents or other civic purposes;
 - (b) One (1) centrally located pocket park for every two hundred (200) residential units;
 - (c) The land for one (1) neighborhood park within a one-quarter-mile radius of the proposed homes; or a fair-share, cash-in-lieu contribution for the neighborhood park that will serve the development.
 - d. All commercial and industrial developments shall dedicate a minimum of twelve percent (12%) of the gross land area for public parks, trails, open space and other civic purposes at the time of subdivision (excluding road rights-of-way).
 - (1) *Commercial and industrial developments.* The developer shall provide:
 - (a) A minimum of twelve percent (12%) of the gross land being subdivided as functional public or private open space, which may include: plazas, trails, landscaped areas (excluding roads, drives, and parking lots), recreational amenities, natural areas, ponds, lakes, and other similar purposes. Additional open space may be required for functional trails, pathways, buffers, and gateways to provide contiguity between existing and planned facilities, or meet the other applicable requirements of this Code, or as directed by the Town; and
 - (b) Within an Industrial subdivision a pocket park will count toward the land dedication and shall be included within or adjacent to the development (see Section [2.11](#)).
 - e. Planned unit developments (PUD). The developer shall provide:
 - (1) A minimum of twenty-five percent (25%) of the gross land area shall be being developed as common functional open space within a residential development; or fifteen percent (15%) in a commercial or Industrial PUD, which may include: pocket parks, trails, owners' association-owned areas (excluding roads and parking lots), natural areas, ponds, lakes, storm water facilities, and amenities for residents, patrons, and other civic purposes;
 - (2) One (1) centrally located Pocket Park for every two hundred (200) residential units;
 - (3) Land for one (1) neighborhood park within a one-quarter-mile radius of the proposed homes; or a fair-share, cash-in-lieu contribution for the neighborhood park that will serve the development; and
 - (4) Up-graded amenities such as parks improvements and features, landscaping, lighting, fountains, etc. shall be of a quality and quantity that exceeds the standard park amenity requirements by a minimum of twenty-five percent (25%).
10. *Parks and Open Space Plans Master Landscape Plans.* Master Landscape Plans shall be provided for all parks, open space and landscape areas. All land development applications with the exception of plot plan applications for individual single-family residences shall be accompanied by an appropriate landscape plan. In addition to

meeting the requirements of Section 2.11 Parks and Open Space as well as Section 2.14 Landscape Requirements, the following information shall be included in the landscape plans for Sketch, Preliminary Plat, and Final Plat.

a. A conceptual parks, open space, and landscape plan shall be submitted with the subdivision sketch plan. The intent of the conceptual open space plan is to identify the resources on a site and show how they are integrated into the overall design for the project, parks and open space and the neighborhood. This information shall be included on the Sketch Plan map or combined with the landscape plan. At minimum, the conceptual open space plan shall contain the following:

- (1) A verbal and graphic description of the design intention and how the open space will function; and
- (2) Specific information required on the conceptual plan as listed in Table 2.5.

b. A Preliminary Parks, Open Space and Landscape Plan shall be submitted with the subdivision Preliminary Plat. The intent of the preliminary open space plan is to discuss the details of how the open space will be used to organize the overall project design, illustrate how it will function in the overall neighborhood and define long-term maintenance requirements and responsibilities. Information included on the preliminary landscape plan shall be legible and clearly illustrated at an appropriate scale. The preliminary open space and ecological characterization plan shall contain the following:

- (1) A description of the design intention and how the proposal is consistent with the purpose and intent of this Section;
- (2) Applicants shall provide a draft master parks, open space, and landscape management plan to be submitted for review and approval with the preliminary plat and preliminary landscape plan; and
- (3) Specific information required on the preliminary plan as listed in Table 2-7.

c. Final parks, open space, and landscape plan shall be submitted with subdivision Final Plat. The intent of the final open space is to ensure that all phases of the final open space plan are consistent with the preliminary open space plan as approved during the Preliminary Plat; or for a PUD development, to identify the resources on the site and discuss the details of how the open space will be used to organize the overall project design, to illustrate how it will function in the overall neighborhood and define long-term maintenance requirements and responsibilities. Information shall be included on the final landscape plan shall be legible and clearly illustrated at an appropriate scale. The final open space and ecological characterization plan shall contain the following:

- (1) A description of the design intention and how the proposal is consistent with the recreational activity study (if required), Comprehensive Plan, ecological conditions of the site, and provisions of this Code;
- (2) Appropriate documentation (i.e., warranty deed, homeowners' association documents, conservation easement and open space management plan) that shows who will own and maintain the open space. Applicants shall provide a master parks, open space, and landscape management plan to be submitted for review and approval with the final plat and final landscape plan;
- (3) Specific information required on the final plan listed in Table 2-7.

Table 2-7			
PARKS AND OPEN SPACE MASTER LANDSCAPE PLAN			
Information Required	Sketch	Preliminary	Final
Scale, north arrow, site boundary	Y	Y	Y
Existing and proposed streets, pathways, and parking areas	Y	Y	Y
Existing and proposed utilities and easements		Y	Y
Existing contours (2' intervals) – may use USGS for concept plan		Y	Y
Existing and proposed site features, including ditches, trees, shrubs and native ground covers and any drainage ways on the site. Indicate which plants will be preserved and method of preservation and which will be removed.	Y	Y	Y
Delineate floodplains, wetlands, wildlife habitat, threatened endangered flora and fauna, archaeological/historic areas or other resources and prominent views and how they will be preserved and integrated into the overall site design	Y	Y	Y
Note all ecological functions provided by the site and its features (i.e. water quality or storage, sensitive flora or fauna (if any), feeding, watering, nesting, roosting, perching, cover, times/seasons area is used and the "value" of the biome (if any))	Y	Y	Y
Show all existing and proposed bank, shoreline and high water mark of any perennial stream or body of water on the site	Y	Y	Y
Illustrate how the open space network, pedestrian and bicycle circulation, and auto access (if any) (both private and public) will function within the proposed development and linkages to the existing neighborhood or planned facilities.		Y	Y
Show how the property will relate to other existing and proposed neighborhood parks and trails in the area	Y	Y	Y
Indicate and the method of irrigation		Y	Y
Define areas to designate as visual relief, passive or active recreation natural buffers, open space, and park land.	Y	Y	Y
Detail if they will be public or private		Y	Y
Indicate how open space (i.e., parks, trails, natural areas, etc.) will be phased and developed, including erosion control, re-vegetation, irrigation and weed management, and the installation of amenities both during and after construction		Y	Y
Describe the design intention		Y	Y

Table 2-7			
PARKS AND OPEN SPACE MASTER LANDSCAPE PLAN			
Information Required	Sketch	Preliminary	Final
Provide a recreational activity and service study with recommendations		Y	Y
Conceptual design of neighborhood park and its uses	Y		
Preliminary design of neighborhood park		Y	
Final design of neighborhood park			Y
Park development phasing plan and proposed triggers (if applicable)			Y
Provide detailed construction drawings and details, specifications, and cost estimates for all proposed improvements.			Y
Provide a maintenance plan, with irrigation, fertilizer, and other applicable specifications and requirements for the establishment, vitality, and longevity of the park and its amenities.			Y
Provide parks plan drawings that meet the requirements of Section 2.14.9 of the Land Use Code.			Y

(Ord. 1145 §§ 3 – 7 (Exh. A), 2013; Ord. 1167 §§ 3, 11 (Exh. A), 2014)

Sec. 2.12. Public sites and dedication requirements.

The developer shall dedicate public sites for open space or other civic purposes in accordance with the following requirements:

1. *Percentage dedication.* Dedication of such sites and land areas to the Town, or to the public, which dedication shall be a minimum of twelve percent (12%) of the total gross area of the land within the proposed subdivision at the time of subdivision. All residential subdivisions shall dedicate an additional eight percent (8%) of the total gross area at the time of subdivision. This land dedication will be credited toward the overall open space required for each subdivision; or
2. *Cash-in-lieu of dedication.* At the option of the Board of Trustees, the subdivider shall pay cash-in-lieu of land dedication in those cases where dedication of land is not the preferred alternative. Such payment shall be based on the fair market value of the entire property, to be determined after completion of the platting process. Such payment shall be held by the Board of Trustees for the acquisition of sites and land areas by the Town. At the option of the Board, the subdivider may meet the dedication requirements of this Section through a combination of cash-in-lieu and land dedication.

Sec. 2.13. Fair contribution for public school sites.

The subdivider shall dedicate or convey land for a public school site to the St. Vrain Valley School District RE-1J, hereinafter "School District," or in the event the dedication of land is not deemed feasible or in the best interests of the School District as determined by the Superintendent or designee of the School District, the subdivider shall make payment in-lieu of land dedication or conveyance. The amount of contribution of either land or payment in-lieu of land shall be determined annually by the School District.

1. *Exemptions from fair contributions for public school sites.* The following uses shall be exempt from the fair contributions for public school sites requirements:

- a. Construction of any nonresidential building or structure.
- b. Alteration, replacement, or expansion of any legally existing building or structure with a comparable new building or structure which does not increase the number of residential dwelling units.
- c. Construction of any building or structure for limited-term stay or for long-term assisted living, including but not limited to bed and breakfast establishments, boarding or rooming houses, family care homes, group care homes, halfway houses, hotels, motels, nursing homes, or hospices.
- d. Construction of any residential building or structure classified as housing exclusively for older persons, pursuant to the Federal Fair Housing Act, as amended.

2. *Land dedication.* In the event the fair contribution for public school sites includes the dedications of land, prior to recording the final plat the following items shall be completed by the subdivider:

- a. The subdivider shall convey to the School District, by general warranty deed, title to the land slated for dedication, which title is free and clear of all liens, encumbrances and exceptions (except those approved in writing by the School District), including, without limitation, real property taxes, which will be prorated to the date of conveyance or dedication.
- b. The subdivider shall provide to the Town proof of the dedication or conveyance.
- c. At the time of dedication or conveyance, the subdivider shall provide a title insurance commitment and policy in an amount equal to the fair market value of the dedicated property.
- d. The public improvement agreement (MOAPI) for the subdivision shall provide for the installation of the streets adjacent to the school site, the installation of water, sewer and other public utilities to the school site, and overlot grading of the school site.

3. *Cash in-lieu of land dedication.* In the event the fair contribution for public school sites includes payment in-lieu of the dedication of land, prior to the issuance of any building permit for any residential dwelling unit not otherwise exempt under Subsection (1) above, the subdivider shall pay to the School District, on behalf of the Town, the cash to be paid in-lieu of land dedication.

Sec. 2.14. Landscape design.

1. *Intent.* The intent of the landscape design requirements is to preserve the Town's special character, and integrate new development into the community by promoting quality landscape design that:

- a. Reinforces the identity of the community and each neighborhood;
- b. Provides tree-lined and landscaped streets;
- c. Anchors new buildings and development into the landscape;
- d. Provides tree canopies and landscaping within paved areas;
- e. Is environmentally sensitive by preserving existing trees, using water conservation techniques, planting native species (when appropriate), and enhances valuable habitat;
- f. Promotes health, wellness, community vitality, interest, public safety and physical comfort;
- g. Provides for structured and non-structured recreation and urban relief; and
- h. Reduces energy and resource consumption.

2. *General provisions.* All land development or redevelopment applications shall be accompanied by an appropriate site analysis and landscape plan. Building permit applications for individual single-family residences will not require landscape plans. However, all landscaping within the community shall comply with these regulations.

- a. All final and approved landscape plans shall be developed and stamped by a professional Landscape Architect Certified by the State of Colorado, or approved equivalent. Landscaping improvements conducted by the property owner on single family lot is exempt from this requirement.

(1) Landscaping improvements on a single family lot shall not alter the drainage pattern or amount of storm water run-off determined by the approved subdivision grading plan.

- b. All approved and required landscaping shall be installed as stipulated in the MOAPI for common space, open areas, tree lawns, etc., and prior to final acceptance. For lot specific development, such as single family residential, multi-family, commercial, industrial or other developments, all landscaping shall be installed prior to Temporary Certificate of Occupancy or Certificate of Occupancy, or final inspection unless prior arrangements are approved by Town staff. In no event shall landscaping be delayed beyond the beginning of the next growing season or seven (7) months from temporary occupancy. Phasing of the landscaping may be approved by Town staff in some instances. Landscaping improvements conducted by the property owner on a single family lot is exempt from this requirement.

If landscaping is not installed at the time of Temporary Certificate of Occupancy, then:

- (1) A detailed cost estimate for the installation and all applicable improvements including labor, equipment, and mobilization for all amenities shall be required.

(2) The financial guarantee may be in the form of an escrow held by the Town or other assurity as approved by the Town. The value of the financial guarantee shall be for one hundred percent (100%) of the total cost for the installation of the landscaping.

c. The Town reserves the right to conduct compliance inspections to verify compliance with code requirements. In addition, the Town reserves the right to enforce these provisions in accordance with the adopted Land Use and Municipal Codes, as amended.

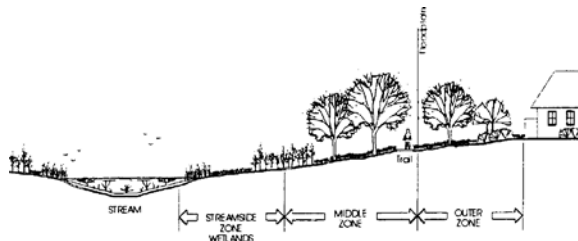
3. *Design Principles.*

a. Landscape plans shall use the following design principles to promote the desired character of the community, connectivity, and enhance the aesthetic while maximizing reductions in energy and resource consumption and minimizing maintenance requirements:

- (1) Well-planned site design using appropriate building orientation, building materials, thematic design, and planting schemes that incorporate climatic and micro-climatic conditions to promote the wise use of water and energy resources;
- (2) Appropriate site and building materials, plant, and turf selection and placement to minimize energy, resource consumption, and maintenance requirements;
- (3) Maintain soil moisture and reduce evaporation through the maximum use of layered landscaping such as organic mulch, ground cover, shrubs, forbes, and over-story landscaping;
- (4) Zoning of plant materials according to microclimatic needs and water requirements;
- (5) Improvement of the soil as needed to promote plant health and longevity;
- (6) Efficient irrigation systems with weather and rain gauges to minimize resource consumption, waste, and maximize efficient water use;
- (7) Proper plant maintenance, care, and irrigation schedules;
- (8) Safe and healthy landscapes that provide for alternative modes of transportation. Landscapes shall provide access to all ages and abilities and reduce opportunities for illicit activity or behavior. Landscaping at pedestrian and vehicle intersections shall meet view triangle requirements as noted in the approved version of the Town of Frederick Design Standards and Construction Specifications, as they may be amended from time to time;
- (9) Encourage the use of permeable construction materials and systems that minimize storm water runoff and maximize infiltration while reducing the potential for non-point source groundwater pollution, including incorporating storm water detention into the landscape design;
- (10) Seasonal variation in interest, as well as framing and buffering of views, and the careful placement of over story and under story materials to block winter winds and summer sun.

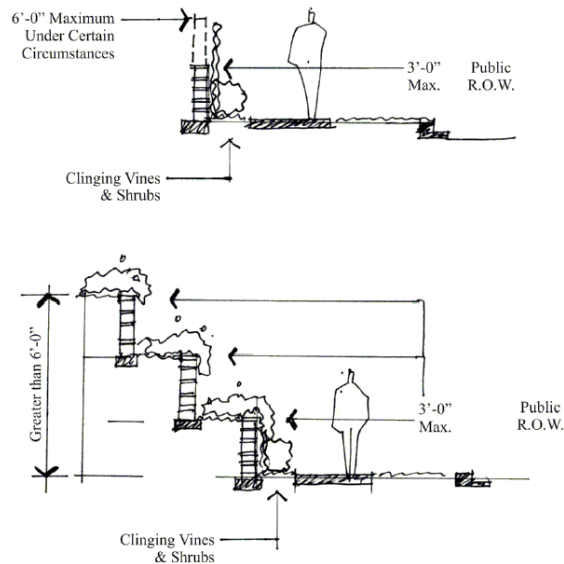
- (a) All landscape shall strive to maximize use of native species. Where native plant material is not appropriate for the intended use, plant species that are regionally adapted and noninvasive may be used.
- (b) Landscapes shall consist of a variety of plant species to enhance biodiversity. No one plant species may make up more than twenty-five percent (25%) of the non-grass plant materials on site.
- (c) Buildings and parking areas shall be located to preserve and promote the health of existing vegetation, environmental resources, and natural drainage ways. No healthy tree or shrub shall be removed without good cause. This requirement is not intended to prevent removal of unhealthy plants in conjunction with development.
- (d) Landscaping shall be placed to provide summer shade and limit winter shade and wind on walks and streets.
- (e) A combination of plantings, berms, walls, and fences shall be used as appropriate to buffer adjacent uses, sensitive habitat, and transition between elevation changes (see Figures 2.7 (a) and (b)).
- (f) All areas disturbed by construction shall be reseeded to prevent erosion. Native, non-invasive grasses shall be used for re-vegetation where practical. Weed control is the responsibility of the landowner or approved designee.
- (g) All parks and open space shall be developed, landscaped, and maintained as noted in Section [2.11](#) of this code.

Figure 2-7(a). Sensitive Habitat Buffers



Use buffers to protect the physical integrity of riparian ecosystems. Preserve vegetation and trees in streamside zone and middle zone. Encourage grass and landscaping in outer zone to filter runoff from backyards, parking areas, roads, etc.

Figure 2-7(b). Transition between uses



Use a combination of berming, buffering, plantings, fencing and walls to integrate transitions between land uses.

4. *Landscaping for new construction.*

- a. *Landscaping.* Landscaping shall anchor structures in the landscape through the use of trees, shrubs and groundcover. The size, intensity, and density of plantings shall be appropriate to the size and context of the improvements and as required in this Code.
- b. *Screening.* Integrate adjacent land uses of different intensities through a combination of berming, plantings and fencing. Use opaque screening only when necessary to mitigate the impact of noise, light, unattractive aesthetics, and traffic. A fence or wall shall not be the only screening material used (see Figure 2-7(b)).
- c. *Transition and buffering.* Use landscaping to provide a transition from developed, managed landscape to more natural vegetation and buffer intensive uses from less intensive uses (see Figure 2-7(b)).
- d. *Comfort.* Provide a tree canopy by installing shade trees within and adjacent to paved areas and incorporate landscaping into parking areas as necessary to minimize heat gain during the summer and minimize the effect of winter winds. Paved areas should utilize a white or light color to minimize heat gain (solar reflective index of no less than twenty-nine (29 SRI)).
- e. *Environmentally sensitive areas.* Improvements within environmentally sensitive areas shall minimize disturbances and enhance the amenity.

- g. *Character.* Improvements shall be an integral part of the overall site design for each property. Improvements shall be designed to enhance the character of neighborhoods.
 - h. *Interconnectivity.* Landscaped areas shall be configured to maximize their interconnectivity with the site, natural areas, and landscaped areas in adjacent developments. Small isolated islands of landscaping should be avoided except as required in parking lots and for screening along roadways.
 - i. *Definition of space.* Landscaping shall create functional open space integration of outdoor rooms appropriate to the location and purpose of the open space within the development. This can be accomplished through a combination of plantings, design features, fencing, and berms and with the use of natural features on the site.
 - j. *Enhancement of natural features.* Landscaping shall enhance natural features, drainage ways, and environment resources while achieving maximum reductions in energy and resource consumption by shading areas from summer sun, blocking winter winds, and providing for infiltration of precipitation to minimize water runoff and improve water quality.
 - k. *Site maintenance.* All landscape improvements shall be designed for mature landscapes and shall provide appropriate visibility and safety for cars, pedestrians, etc.
 - l. *Design hierarchy.* Site development and subdivisions shall incorporate elements of gateway, path, and destination into the design of landscapes that support a hierarchy of space. Gateways are entries that provide transition from one space to another. Pathways are routes that lead to a destination. Destination includes nodes of activity or focal points that may include a bench along a path, plaza, or park, or entry to building.
 - m. *Service areas.* Parking areas, service entrances, recycling, refuse containers and dumpsters, utility boxes, and loading areas shall be screened from view from adjacent properties, public roads and rights-of-way, and other offsite view corridors to the greatest extent feasible while providing for public health and safety in accordance with Section [2.15](#) of the Land Use Code.
 - n. *Fences and Walls.* Fences and walls shall conform to the requirements of Section [2.16](#) of the Land Use Code.
 - o. *Gateway Development Standards.* Developments adjacent to arterial streets such as Highway 52, Highway 119, Colorado Boulevard, Aggregate Boulevard, Bella Rosa Parkway, and Tipple Parkway shall conform to the Gateway Landscape Standards in this Code.
 - p. *Natural amenities.* Where a site abuts a natural amenity such as a flood plain, trail corridor, park, or other open space, the landscape plan shall compliment the natural character and integrity of the amenity and landscaping.
5. *Plant materials.*
- a. The minimum planting sizes on all required landscaping shall be two-inch (2") caliper deciduous trees, one-and-one-half-inch (1 1/2") caliper ornamental trees, six foot (6') tall evergreen trees and five (5) gallon shrubs. Perennials shall be one (1) gallon container size. Ground covers and vines shall be spaced to provide

for eighty percent (80%) ground plane coverage within two (2) growing seasons. Multi-trunk trees shall have three (3) or more canes, and be six inches (6") in diameter measured four inches (4") above ground at a minimum of five feet (5') in height.

(1) When landscaping more than an acre of net land area, forty (40) percent of the required deciduous trees may be one (1) to one and one-half (1 1/2) inch caliper (distributed throughout the site), while shrubs may be two and one-half (2 1/2) gallon container (distributed throughout the site), if previously approved by Town staff and as noted in the approved landscape plan.

(2) Required plant materials shall be grown in a recognized nursery in accordance with proper horticultural practice. Plants shall be healthy, well-branched vigorous stock with a growth habit normal to the species and variety and free of diseases, insects, and injuries. Plantings within the Public lands (rights-of-way, tree lawns, etc.) shall be subject to inspection by Town staff prior to acceptance. Unacceptable plant stock shall be rejected.

(3) All plants shall conform to standards for measurements, grading, branching, quality, ball and burlapping as stated in the *American Standard for Nursery Stock*, and the Colorado Nursery Act (CNA).

(4) Organic mulches shall be applied over a weed control barrier at one (1) cubic yard per eighty (80) square feet and maintained at a minimum depth of three (3) inches and contained within an edging.

(a) Inorganic mulches and decorative rock shall be used as an ornamental feature in a limited area and contained by edging.

(5) *Irrigation.* All required landscaping shall be irrigated as required for plant establishment, health, and maintenance. Irrigation systems shall be zoned appropriate to the type and scope of the landscape improvements and plant requirements, including but not limited to landscaping within the right-of-way. Irrigation systems shall be capable of supporting multiple zones and settings, including adjusting for weather conditions and water restrictions. All irrigation systems shall be connected to a back flow prevention device.

(a) Use of non-treated water for irrigation is encouraged if a permanent, suitable supply is available.

(b) Temporary irrigation may be used to establish and maintain ground cover and plantings within natural areas, or areas set aside for later development, as approved by the Town.

(c) Developer shall provide water taps, irrigation improvements, and dedicate water as needed to supply the landscaping.

(6) *Guarantee of installation.* Required landscape improvements shall be installed prior to issuance of a certificate of occupancy or final inspection for all structures. If weather conditions prevent installation, the developer shall post a financial guarantee for the installation of the improvements, based on an estimate of the total cost for installation plus twenty-five percent (125%). The total cost of installation shall include all required labor, materials, and all necessary activities required for installation of the approved landscaping. This guarantee shall be released upon completion of two growing seasons after initial approval of the installation by the Town.

(7) *Maintenance.* In order to provide for the ongoing health and appearance of required and approved landscape improvements, all landscaping shall be maintained in good health and replaced by the landowner or occupant as necessary. All property owners or occupants shall be responsible for maintenance of landscaping within the portion of the public right-of-way between the back of the curb or street pavement and the adjacent property.

(a) Trees and vegetation, irrigation systems, fences, walls and other landscape elements shall be considered as elements of the project in the same manner as parking, building materials and other site details. The applicant, landowner, or successors in interest shall be jointly and severally responsible for the regular maintenance of all landscaping elements in good condition. All landscaping shall be maintained free from disease, pests, weeds and litter, and all landscape structures such as fences and walls shall be repaired and replaced periodically to maintain a structurally sound condition, or when so directed by the Chief Building Official or Community Service Officer according to Municipal Code Chapter [Z](#), Article II.

(b) Any portion of existing landscaping that is renovated and requires an irrigation system or issuance of a plumbing permit for an irrigation system shall comply with these regulations. Renovations include expansions and rehabilitation of landscape materials and components installed prior to the adoption of these regulations.

(c) Landscaping shall not encroach upon sidewalks or street rights-of-way and trimmed, pruned, and maintained to meet accessible route requirements of the Americans with Disabilities Act.

(d) The Town reserves the right to conduct compliance inspections to verify compliance with code requirements.

(e) The Town reserves the right to enforce these regulations in accordance with the provisions of the Land Use and Municipal Codes, as amended.

(8) *Prohibited plant materials.* In addition to any plant that is listed by the State of Colorado as noxious or invasive, the following species are prohibited in the Town: Russian olive, Lombardy poplar, Siberian elm, Boxelder maple and Cotton bearing cottonwoods.

(a) The Board of Trustees may consider cotton-bearing cottonwood on a site specific basis for restoration projects along riparian corridors, such as along Godding Hollow, Bulrush Wetland, Boulder Creek, etc.

(b) Poisonous plants are prohibited.

6. *Landscaping design standards.* All landscapes shall conform to the following design standards:

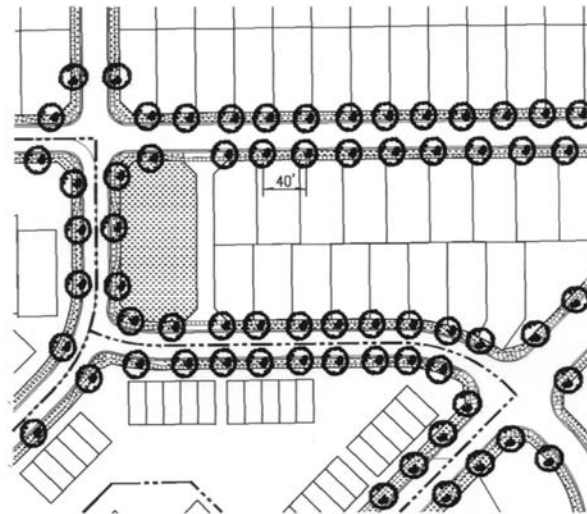
a. *Rights-of-way.* Landscaping within the right-of-way and required common open space, the developer or assigns shall provide:

(1) Street trees: Deciduous or ornamental tree street tree shall be planted, by the developer, within the tree lawn portion of the right-of-way with adequate spacing to allow for the mature spread of the trees.

(a) *Spacing requirements.* Unless otherwise noted in this Code, street trees shall be spaced within the tree lawn, sufficient for mature growth and to avoid conflicts with lighting. For calculating the minimum required number of street trees, there shall be one (1) tree for every forty (40) linear feet of road frontage or curb, unless otherwise specified by this Code (see Figure 2-8).

- i) In the Estate District, street trees may be planted in irregular clusters within the front yard setbacks.
- ii) Street trees are not required in the Agricultural Zone.
- iii) Street trees along parks and open space shall conform to the requirements of Section [2.11.4\(a\)](#).

Figure 2-8. Spacing of Street Trees



Provide one tree for every 40' of block frontage or portion thereof. Space trees to account for mature spread.

- b) Collector and local streets: The developer shall install tree lawns with live groundcover, including a combination of grass, flowers, shrubs, street trees, and mulch. The developer shall also install an automatic irrigation system that conforms to requirements noted in the approved version of the Town of Frederick Design Standards and Construction Specifications, as they may be amended from time to time.
- c) Arterial streets: The developer shall install tree lawns with live groundcover, including a combination of grass, flowers, street trees, planter beds, ornamental structures, paving and one (1) shrub for every one hundred fifty (150) square feet of landscape area clustered into planting

beds. The developer shall also install an automatic irrigation system that conforms to the approved version of the Town of Frederick Design Standards and Construction Specifications, as they may be amended from time to time.

d) Landscaping for required common open space shall be provided by the developer. Landscaping shall be appropriate to the use and function of the area and include trees, shrubs, groundcover, irrigation (where necessary) and paving in conformance with the approved version of the Town of Frederick Design Standards and Construction Specifications, as they may be amended from time to time.

e) Each development shall provide a mechanism for long-term maintenance of common open space and arterial and collector street right-of-way landscaping, such as a homeowners or business owners association and covenants.

b. *Utilities.* Landscape and utility plans shall be coordinated. The following sets forth minimum dimension requirements for the most common tree and utility separations. Exceptions to these requirements may occur where utilities are not located in their

standard designated locations, or as approved by the Town. Tree and utility separations shall not be used as a means of avoiding the planting of required street trees.

- (1) Forty (40) feet between shade trees and streetlights and fifteen (15) feet between ornamental trees and streetlights.
- (2) Fifteen (15) feet between trees and water, sewer mains, and gas collection lines.
- (3) Six (6) feet between trees and water, sewer, and gas service lines.
- (4) Street trees on local streets planted within five (5) feet of underground utility easements may root near underground utilities. Additional conduit may be required to minimize damage to trees when servicing underground utility lines.

c. *Irrigation.* An underground automatic irrigation system shall be installed to meet the requirements of the planted material. Such systems shall be zoned appropriately for the planted material and serviced by a controller capable of accommodating water restrictions and weather conditions, installed by the developer, and zoned appropriately for the planted material, except:

- (1) Certified Xeriscape landscaping which does not require any irrigation for survival.
- (2) Trees and other plants used to landscape a residential local street parkway abutting lots for single-family detached dwellings.

d. *Water Conservation.* All landscaping plans shall be designed to incorporate water conservation materials and techniques through application of Xeriscape landscaping principles. Xeriscape landscaping principles do not include or allow artificial turf or plants, mulched (including gravel) beds or areas without landscape plant material, paving of areas not required for walkways, plazas or parking lots, bare ground, weed covered or infested surfaces or any landscaping that does not comply with the standards of this Section of the Code.

- e. *Parks and Open Space.* See also Section 2.11 of the Land Use Code.
- f. *Parking areas and parking lot landscaping standards.* Parking lot landscaping is intended to break up large expanses of pavement, create shade, buffer views of parking lots from adjacent streets and development, block winter winds, and enhance the overall appearance of each project.
- (1) Applicability – All parking lots with ten (10) spaces or more shall be subject to these requirements.
 - (2) The developer or assigns shall provide landscaping to break up expanses of pavement as follows:
 - (a) Landscape islands: There shall be a minimum of one (1) landscape island for every ten (10) parking spaces. Landscape islands shall contain one tree and a minimum of one hundred and sixty (160) square feet of planting area and at the beginning and end of each run and every 30 spaces. Landscape islands may be attached to a pathway. Tree islands (as shown in Figure 2-9(a) and (b) shall have a minimum of sixteen (16) square feet of area dedicated to tree growth and must be developed with a root management system that minimized damage to the parking area while preserving plant health.
 - b) Tree canopy: At minimum, there shall be on tree for every landscape island. In addition, there shall be a minimum of one (1) tree for every ten (10) parking stalls. Double sided parking areas shall require two trees. See Figure 2-9 (a) and (b).

Figure 2-9(a).

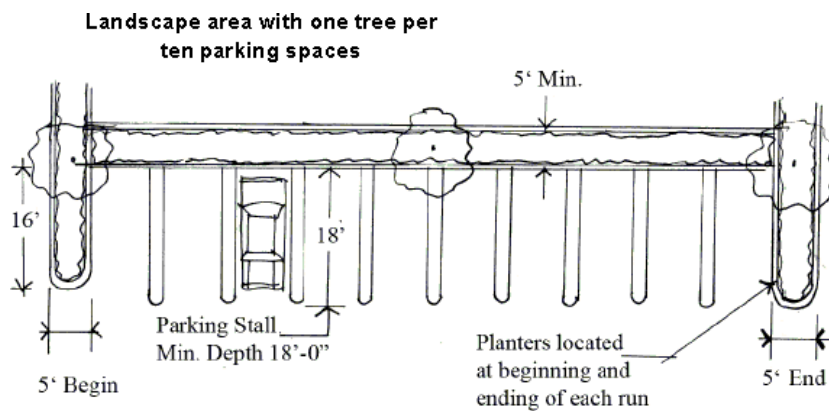
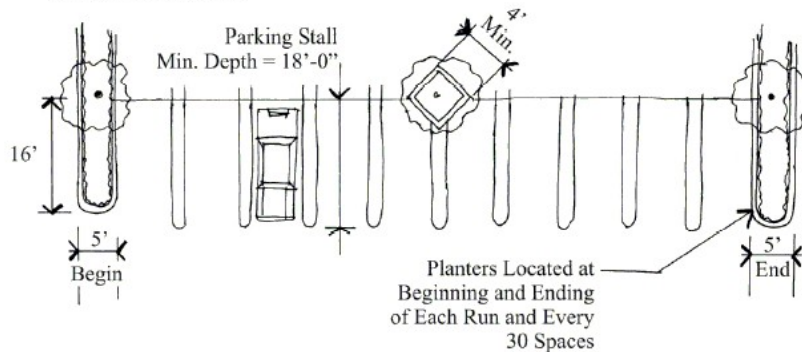


Figure 2-9(b).

Landscape area with one tree per ten parking spaces



(3) *Under-story plantings.* Under-story planting shall be provided to buffer sites and soften views. At a minimum, there shall be one (1) shrub per seventy-five (75) square feet of island and landscaped area adjacent to and within the parking lot. Shrubs should generally be group plantings in landscape islands. Ornamental ground cover may be substituted for one fourth (1/4) of the required shrubs, provided parking areas are screened and buffered from public rights-of-way, and as approved by Town Staff.

(4) *Turf grass and groundcover.* Turf grass shall be limited to areas that are a minimum of ten (10) feet wide or otherwise easily maintained. Ground cover shall be used in areas where turf grass is not practical. Ground covers, forbs, and vines shall be spaced to provide eighty (80) percent ground cover within three (3) years.

(a) Trees within turf areas shall be protected by a mulch ring, maintained at a minimum radius of eighteen (18) inches around the base of the tree and a minimum of three (3) inches deep. Mulch rings protect roots from adverse weather conditions, maintain moisture, minimize weed growth and protect tree trunks from damage by weed trimming. Mulch within the mulch ring is recommended to be replaced annually, typically during the fall.

(5) *Mulch.* No less than seventy-five (75) percent of any planter bed shall be organic. Manmade mulch products such as recycled tires, ground up glass, and the like, are not permitted. Mulch beds shall be underlain by a weed barrier. Organic mulches shall be applied at one (1) cubic yard per eighty (80) square feet of area and maintain a minimum depth of three (3) inches. At minimum, organic mulches are recommended to be replaced every three (3) years.

(6) Ornamental use of rock, gravel mulch, and crushed rock (breeze), shall not exceed fifteen (15) percent of the total landscaped area within and adjacent to the parking lot. Where it is used, it shall include living material such as trees and shrubs that will tolerate heat and evaporation caused by rock mulch and gravel. Crushed rock (breeze) may exceed fifteen percent (15%) of the landscaped area if used as a trail or pathway, as approved by the Town.

(7) *Landscape setback to parking lot.* There shall be a minimum of a twenty-five (25) foot landscape buffer and setback maintained from the edge of right-of-way for adjacent arterial and collector streets. The purpose of the setback is to provide a buffer between the street and parking areas and to soften the view of the parking from the street. This setback may be reduced to ten (10) feet if used in combination with a three (3) foot or taller articulated masonry or stone decorative wall with trees, shrubs, and ground cover on both sides of the wall (see Section [2.16](#)). Signage may be included in this setback. Site distance triangle requirements shall be maintained.

(8) Provide a mechanism for long-term maintenance of landscaping. All landscaping within and adjacent to parking lots shall be owned and maintained by the landowner or occupant.

g. *Gateway Landscape Standards.* Developments adjacent to arterial streets such as Highway 52, Highway 119, Colorado Boulevard, Aggregate Boulevard, Bella Rosa Parkway, and Tipple Parkway shall conform to the Gateway Landscape Standards set forth in this Section.

(1) *Landscape setback.* A minimum landscape setback of thirty (30) feet shall be provided from the edge of rights-of-way. No building, parking, or drive shall be permitted within the landscape setback. Signage may be included in this setback, provided it conforms to Article 7 of the Land Use Code and applicable site triangle requirements. This setback may be reduced to fifteen (15) feet if used in combination with a three (3) foot tall or taller articulated masonry or stone decorative wall with trees, shrubs, and ground cover planted on both sides of the wall.

(a) The landscape setback shall contain sufficient landscaping to promote visual interest, screen parking and service areas, and buffer site development from the noise and visual impact of the adjacent roadway. The quantity and general distribution of plants shall conform to the minimum requirements of the zoning district and other applicable requirements in this Code. Internal and external views of significant cultural, economic, or natural features are to be preserved while plantings are placed to meet the screening requirements of Section [2.16](#). Distribution of the landscape features and addition plantings may be required by the Town to ensure that views of significant cultural, economic, or natural features are preserved and framed.

(2) *Street trees.* Street trees along these corridors may be combined and distributed into a regular massing of trees, shrubs, and ornamental plantings as required interspersed with other surface applications and improvements including character or seasonal lighting, art work, landscape structures, and to promote community identify, harmony, traffic calming, and visual interest as reviewed and approved by Town Staff.

(3) *Planted Medians.* Developers shall provide landscape medians for traffic calming and community character on all arterials that intersect with Highway 52 and Highway 119.

(a) Medians shall extend a minimum of one quarter (1/4) quarter mile from the intersection, as approved by the Town.

- (b) Medians shall be designed with a raised splash pan and maintain consistency with the character of the improvements on Colorado Boulevard near Highway 52, as approved by the Town in terms of articulation and design features.
- (c) Medians shall be landscaped as follows:
 - i) *Planter bed.* No less than one half of the required median shall consist of landscaped area and planter bed. The landscaping shall be contained within a planter bed of organic mulch and maintained as required by the Land Use Code.
 - ii) *Trees.* Trees within medians shall be spaced in accordance with the street tree requirements for the adjacent zoning district. When these requirements conflict, the more restrictive shall govern. Fewer median trees may be placed to ensure that views of significant cultural, economic, or natural features are preserved and framed. Each median tree removed for view preservation shall be replaced by ten shrubs.
 - iii) *Shrubs.* Shrubs shall be provided at a ratio of one shrub per seventy (75) square feet of landscaped area.
 - iv) *Ground cover.* The judicious use of ornamental ground cover is required. Turf grass or lawn area shall not be permitted.
 - v) *Irrigation.* All landscaping shall be irrigated by an underground irrigation system. Water shall be provided by the adjacent owners association.
 - vi) *Works of art and site features.* Lighted exhibit space for works of art and site features are required within the medians. The installation of works of art and site features are encouraged and may substitute for other aspects of the parks and open space requirements as approved by the Board of Trustees.
- (d) Medians shall be lighted in a fashion that is similar to the character of the improvements on Colorado Boulevard near Highway 52, as approved by the Town.
 - i) Medians shall be installed by the Developer. Construction and installation costs may be shared by adjacent developments.
 - ii) Medians shall be maintained by the Town.
 - iii) In some instances, additional rights-of-way may be required to accommodate installation of the median.
- (5) In locations where a landscape master plan has been approved by the Town, such as adjacent to Colorado Boulevard, landscaping shall be substantially consistent with the approved master plan.
 - (a) General parameters of the gateway landscaping requirements:

Each mile of tree lawn requires one hundred thirty-two (132) trees, four hundred forty-four (440) shrubs, three-thousand four-hundred (3,400) perennial plants, and lawn or sod. Shrubs and perennials shall be contained within shrub or mulch beds. Additional landscaping is required along the outer edge of the tree lawns, sidewalk, and rights-of-way as noted in the landscape requirements for each zoning district.

(b) General parameters of the median landscaping requirements for gateway medians shall conform to the tree lawn requirements; however organic mulch shall substitute for turf grass or sod areas.

(6) Roads intersecting with the I-25 Frontage roads are not required to have landscaped medians; however the other applicable requirements of the gateways standards shall apply along the I-25 frontage.

h. *Site Plan, Conditional Uses and Special Use Reviews.* Site Plans, Conditional Use and Special Use Reviews shall include a landscape plan as noted in Section [2.14](#) of the Land Use Code.

(1) Site Plans and Conditional Use landscaping shall be designed as appropriate to the use and requirements of this Code.

(2) For Special Use Reviews, an operations area screening and landscape plan and or a post abandonment reclamation and landscape plan may be required by town staff on a case by case basis. Landscape and screening requirements shall be based on the adjacent uses, needs of the neighborhood, and anticipated development as noted in the Comprehensive Plan. Landscaping requirements may range from reclamation of native grass to screening oil and gas facilities with trees shrubs fencing and other elements, to installation of a landscaped park or open space upon abandonment of the oil and gas facilities and well site.

(3) If a business is proposing to amend their site plan and the site does not meet the current landscape requirements, the business will be required to increase the landscaping based on the percent increase in the size of the building. For example, if the business is expanding its building by five percent (5%), then the landscaped area will be required to be increased by five percent (5%).

i. *Subdivisions.* All subdivisions shall provide the following:

(1) Each phase of the subdivision shall provide a landscape plan as follows:

(a) Conceptual landscape plan (submit with sketch plan). Intent: to illustrate the overall design concept for landscaping and depict how it relates to the overall site development and adjacent planned or existing development.

(b) Preliminary landscape plan (submit with preliminary plat). Intent: to illustrate the master landscape plan for the development.

(c) Final landscape plan (submit with final plat). Intent: to ensure that each phase of the final landscape plan is consistent with the master landscape plan for the development and to illustrate the specific landscaping details for each phase.

- i) The Final Landscape Plan shall constitute a Landscape Master Plan for the development.

Table 2-8			
LANDSCAPE PLAN			
Type of Application	Conceptual Landscape Plan	Preliminary Landscape Plan	Final Landscape Plan
Sketch Plan	X		
Preliminary Plat/PUD		X	
Final Plat/PUD			X

- j. Right-of-way landscaping is required for adjacent streets and highways.

(a) The minimum requirements for landscaping the rights-of-way include the placement of street trees and landscaping within the tree lawn, gateway monumentation, all parks, trails, parking areas, outlots, recreational space, art work, or other features in accordance with the provisions of the Land Use Code. In some instances this requires additional landscape setback as defined by the Code.

- k. Landscaping shall buffer more intensive areas from less intensive areas in accordance with the provisions of the Land Use Code and as required by the Town. This may require landscaping treatments that exceeds the minimum requirements of the Code.

7. Additional landscape requirements by zoning district.

a. *General guidelines.*

(1) *Irrigation.* All required landscaping shall be irrigated with an automatic underground sprinkler system, connected to a backflow prevention device. Such systems shall be zoned appropriately for the planted material and serviced by a controller capable of accommodating water restrictions and adjusting for weather conditions.

(2) *Planter and mulch beds.* Mulch is required for all planter beds. Manmade mulch products, such as recycled tires, ground glass, and the like, are not permitted. Mulch or planter beds shall be underlain by a weed barrier. Organic mulches shall be applied at one (1) cubic yard per eighty square (80) feet of area and maintain a minimum depth of three inches (3"). At minimum, organic mulches are recommended to be replaced every three (3) years. Planting in planter and mulch beds shall be designed to provide seventy-five (75%) coverage by live plant material such as flowers, shrubs, ground cover within three (3) years.

(3) *Community gardens and orchards.* If a community vegetable garden is desired, such garden shall be placed in the rear yard of the property unless, due to extenuating circumstances such as poor sunlight or poor access another location is more applicable and approved by the Town. Gardens that are visible from public lands, roads, or rights-of-way may be screened by shrubs and shall be kept in good order,

maintained weed and rodent free, and arranged to prevent loss of soil from wind or water erosion. Community vegetable gardens or orchards may be approved by the Parks Open Space Committee based on a recommendation by the Planning Department adjacent to open space or park areas on a case-by-case basis.

(4) *Ponds, water bodies, fountains, etc.* Ponds, water bodies, or fountains over eighteen inches (18") deep or five feet (5') in girth require prior approval by the Town and may not be within the minimum required setback or an easement.

b. Single-family residential (R-1, R-MH1, and R-MH2) landscaping development standards.

(1) In addition to the landscaping requirements as noted in Section [2.14.6](#), above, the developer or assigns shall provide:

(a) Front yard landscaping extending from the fence line or front yard setback line (whichever is greater), to the front edge of the property, sidewalk and back-of-curb (whichever is greater):

i) *Turf.* Excluding the driveway and sidewalk, the front yard shall be covered by no less than fifty percent (50%) drought tolerant turf grass. In addition, no less than an additional twenty-five percent (25%) of the front yard shall be covered in other live plant materials such as ground cover, shrubs, ornamental grass, etc. located between the dwelling and the back of curb or edge of road and contained in a planter bed, unless otherwise approved by the Town.

ii) *Shrubs.* There shall be a minimum of five (5) shrubs, for the front yard setback of each home. Additional shrubs may further the intent of these provisions and are encouraged provided view triangle requirements are maintained. Shrubs shall be contained within a planter bed.

iii) *Trees.* There shall be no less than one (1) tree in addition to the minimum required street tree within the front yard unless otherwise approved by the Town. Additional tree plantings may further the intent of these provisions and are encouraged provided view triangle requirements are maintained. It is recommended that a mulch ring or planter bed be maintained at the base of all trees to promote tree health and minimize damage from yard maintenance.

iv) *Decorative rock or gravel.* Decorative rock or gravel mulch is permitted within three feet (3') of the building foundation and shall be underlain by a weed barrier. Plantings are not required within the foundation buffer. In no case shall decorative rock or gravel mulch exceed fifteen percent (15%) of landscaped area within the front yard unless otherwise approved by the Town.

(2) *Additional requirements for corner lots.* Side yard landscaping on corner lots shall extend to the edge of the property or sidewalk and back-of-curb (whichever is greater):

(a) *Turf.* Excluding sidewalks, there shall be no less than fifty percent (50%) coverage in drought tolerant turf grass within the side yard of the lot. In addition, no less than an additional twenty-five percent (25%) of the side lot shall be covered in other live plant materials such as ground cover, shrubs, ornamental grass, flowers, etc. located between the dwelling and the curb / edge or road, unless otherwise approved by the Town.

(b) *Side Yard Shrubs.* A minimum of three (3) shrubs are required for side yards if adjacent to an alley or street in addition to the minimum required shrubs for the front yard. Additional shrubs may further the intent of these provisions and are encouraged provided view triangle requirements are maintained. Shrubs shall be contained within a planter bed.

(c) *Side yard tree.* All corner lots adjacent to a street or alley shall provide a side yard tree in addition to the required street tree, unless otherwise approved by the Town. It is recommended that side yard trees be ornamental. Additional tree plantings may further the intent of these provisions and are encouraged provided view triangle requirements are maintained.

(3) *Additional Requirements for the R-MH1 Zone.*

(a) Within the R-MH1 zone, the on-site tree shall be replaced by one (1) ornamental tree. In addition, there shall be no less than seven (7) shrubs required in the front of each dwelling unit. Dwellings located at intersections, along public thoroughfares, and open space shall be buffered by an additional tree and three (3) shrubs as applicable.

(4) The lot owner shall:

(a) Install remainder of yard, and is encouraged to plant additional trees, shrubs and flowers, etc., using low water plants and techniques to promote energy and resource efficiency as generally set forth in this Section.

(b) Not cover any more than twenty-five percent (25%) of any yard area in decorative rock or gravel.

(c) Maintain a minimum of twenty percent (20%) of the yard in a pervious condition.

b. Medium and high density residential zoning district (R-2, and R-3 zones) landscaping standards.

(1) In addition to right-of-way and parking lot landscaping (see Section [2.14.6.a](#)), the developer or assigns shall provide:

(a) Landscape area and open space: No less than twenty percent (20%) of the site shall be maintained as landscaped area. Each development within these zones shall provide a recreational amenity as approved by Town staff and in accordance with Section [2.11](#) of the Land Use Code. Right-of-way landscaping is required for adjacent streets and highways, but is not included in the required twenty percent (20%) landscape area calculation.

(b) Plantings: Turf grass, ground covers, shrubs, and trees shall be provided to buffer sites, soften views, promote energy efficiency and minimize water consumption.

i) *Turf grass and groundcover.* There shall be a minimum of seventy-five percent (75%) live materials between the front of the dwelling or structure and the curb unless approved by the Town, and no less than forty percent (40%) of the required landscaped area shall be maintained as drought tolerant turf grass, unless otherwise approved by the Town. In addition, no less than an additional twenty-five percent (25%) of landscaped area shall be covered in other live plant materials such as ground cover, shrubs, ornamental grass, etc. Turf grass shall be limited to

areas that are a minimum of ten feet (10') wide or otherwise easily maintained. Ground cover shall be used in areas where turf grass is not practical. Ground covers, vines, or native plants shall be spaced to provide eighty percent ground cover within three years of planting. No portion of the site shall remain void of vegetation or landscape cover.

ii) *Trees and shrubs.* There shall be a minimum of two (2) trees and four (4) shrubs per one thousand (1,000) square feet of landscaped area, distributed on the site. One (1) tree may be substituted for four (4) shrubs, or vice-versa provided the development meets screening, buffering, and other landscape requirements of the Code.

Where appropriate, use native grass for areas that will not function as active recreation areas. Non-ornamental native grass areas shall be weed-free and maintained at a maximum height of eight inches (8").

iii) *Decorative rock or gravel mulch* is permitted within ten feet (10') of the building foundation. Plantings are not required within the foundation buffer. In other applications, decorative rock or gravel mulch may not exceed fifteen percent (15%) of the total landscaped area unless otherwise approved by the Town. When decorative rock is used, it must be combined with hardy plantings capable of withstanding the heat and evaporation caused by rock mulch.

c. Estate District and Agricultural District (R-E and A) development landscaping standards. Each home shall be landscaped using a combination of turf grass, ground cover, ornamental grass and shrubs, and trees designed to retain a naturalized character while maintaining consistency with the Town landscape requirements.

(1) In addition to landscaping the right-of-way tree lawn as noted in Section 2.14.6.a, the developer or assigns shall provide landscaping in accordance with the following minimum and maximum requirements.

(a) *Turf grass.* No less than one third (1/3rd) of the front yard shall consist of drought tolerant turf grass up to 6,000 sq. ft. The remaining yard shall be maintained weed free native drought tolerant vegetation, unless otherwise approved by the Town.

(b) *Ground cover.* Ground cover in combination with irrigated and native grasses, wildflowers, shrubs, and trees as appropriate to the design of the individual home. The minimum number of required shrubs is ten (10), located between the dwelling and adjacent roadway.

(c) *Decorative rock.* Decorative rock or gravel mulch is permitted within five feet (5) of the building foundation. Plantings are not required within the foundation buffer. Organic mulch is preferred within landscape beds. In no case shall decorative rock or gravel mulch exceed fifteen percent (15%) of landscaped area within the front and side yards (if adjacent to a street or alley) unless otherwise approved by the Town. When decorative rock is used, it must be combined with hardy plantings capable of withstanding the heat and evaporation caused by rock mulch.

(d) *Trees.* The developer shall provide a minimum number of two (2) trees in the front yard, located between the dwelling and adjacent roadway.

(e) *Shrubs*. The developer shall provide a minimum of five (5) shrubs for the front yard of each lot. Corner lots shall provide for a minimum of four (4) additional shrubs between the dwelling and the access way.

(2) The lot owner shall:

(a) Install remainder of yard, and is encouraged to plant additional trees, shrubs and flowers using Xeriscape principles and promote energy and resource efficiency as generally set forth in this Section of the Code.

(b) Maintain the yard and landscaping within their parcel and the adjacent right-of-way to the edge of curb or road in accordance with Town Code. No portion of the lot or adjacent public land, right-of-way, or landscape area may remain denuded, void of vegetation or in an unkempt condition.

(3) *Vegetable gardens*. Except in the Agricultural district, if a personal vegetable garden is desired, such garden shall be placed in the rear yard of the property unless, due to extenuating circumstances such as shade or poor access another location is more applicable and approved by the Town. Gardens that are visible from public lands, roads, or rights of way may be screened by shrubs and shall be kept in good order, maintained weed and rodent free, and arranged to prevent loss of soil from wind or water erosion.

(a) Private, non-profit, and commercial agricultural operations in the Agricultural District are exempt from this requirement.

d. Commercial landscaping standards for the Downtown Commercial, Neighborhood Commercial, Community Commercial, and Mixed Use Highway 52 Zoning Districts (C-D, C-N, C-C, and C-H52). Urban landscaping within a commercial zone is intended to provide an attractive environment for people to walk and shop, buffer unsightly views and uses, and link the structure to the ground and surrounding development. Accordingly landscaping shall be integrated into the site design to soften views, provide visual relief, variety, interest, color and texture, and buffer adverse environmental conditions such as summer heat and winter winds, as well as screen service areas and utilities.

(1) In addition to landscaping requirements noted in Section [2.14.6](#) above at minimum, the developer or assigns shall provide:

(a) *Site specific landscaping area*. Each lot or parcel within these districts shall provide a minimum of fifteen percent (15%) landscaped area, excluding sidewalks, drives, and parking areas. No more than fifteen percent (15%) of the land dedicated to storm water management (such as grass swale or detention pond) may count toward the minimum required landscape area. This landscaped area is in addition to any public open space land dedication provided at the time of subdivision. Right-of-way landscaping is required for adjacent streets and highways, but is not included in the calculation for minimum required landscape area. Right-of-way and parks or open space landscaping is required, but is not included in the minimum required fifteen percent (15%) calculation.

(b) *Street trees*: Street trees are required spaced at one (1) tree per forty (40) feet of curb length or street frontage for all perimeter streets.

(c) Site trees. Site trees are required at one (1) tree per one thousand-five hundred 1,500 square feet of landscaped area. Within the original Town site, site trees shall be planted as practical for the development and in character to the neighboring properties.

(d) Shrubs, flowers, and ground cover: There shall be one shrub per every one hundred fifty (150) square feet of landscape area and turf or ground cover encompassing no less than ten percent (10%) of the site. Within the original Town site, shrubs, flowers, and ground cover shall be planted as practical for the development.

(e) Raised planter beds, benches, street lights, walls, etc., are required as appropriate to enhance building entries and the streetscape.

(f) Gateway features. Thematic gateway and plaza features that minimize corporate influences while promoting consistency with the character of the Town and promoting an urban landscape are required.

(g) Decorative Rock and gravel. The use of decorative rock or gravel mulch shall be minimized to prevent the potential for vandalism. Organic mulch is preferred within landscape beds. In no case shall decorative rock or gravel mulch exceed fifteen percent (15%) of landscaped area unless otherwise approved by the Town. When decorative rock is used in the planter bed, it shall be combined with hardy plantings capable of withstanding the heat and evaporation caused by rock mulch.

(h) Gateway Projects. Developments adjacent to and visible from I-25, Highway 52, Colorado Boulevard, Aggregate Boulevard, Bella Rosa Parkway, and Tipple Parkway shall also conform to the Gateway Landscape Standards set forth in Section 2.14.6.g of the Land Use Code

(i) A landscape buffer shall be provided between developments within this zone and less intensive uses, in accordance with Section 2.15 of the Land Use Code.

(j) Loading, service, storage, and utility areas. Loading areas (including vehicles being loaded), service, and storage areas are not to be visible from the public right-of-way or adjacent property and shall be shielded from view with an opaque screen that is an integral part of the building architecture and landscaping as defined in Section 2.15.3.

e. Employment District (C-E) landscaping standards. Employment District landscaping is intended to provide an attractive environment for people to work in an urban campus like environment. Accordingly landscaping shall be integrated into the site design to soften views, provide visual relief, provide variety, interest, color and texture, and buffer adverse environmental conditions such as summer heat and winter winds, as well as screen service areas and utilities.

(1) In addition to meeting the landscaping requirements as noted in Section 2.14.6, at minimum, the developer or assigns shall provide:

(a) *Site specific landscaping area.* Each lot or parcel within these districts shall provide a minimum of fifteen percent (15%) of the gross site as landscaped area, excluding sidewalks, drives, parking areas,

and parking lot landscaping. This landscaped area is in addition to any public open space land dedication provided at the time of subdivision. Right-of-way landscaping is required for adjacent streets and highways, but is not included in the calculation for minimum required landscape area. No more than ten percent (10%) of the lands dedicated to storm water management may count toward the minimum landscaping requirement. Waivers to the height requirements within this zone may be granted by the Board of Trustees provided a proportional increase in landscaped open space and recreational or pocket park areas are provided. Right-of-way landscaping is required for adjacent streets and highways, but is not included in the minimum required fifteen percent (15%) calculation.

(b) Street Trees: Street trees spaced at one (1) tree per forty (40) feet of curb length / street frontage.

(c) Site Trees: Site trees are required at one (1) per every two-thousand (2,000) square feet of landscaped area. Up to one fourth (1/4) of the required site trees may be substituted by shrubs at a ratio of ten (10) shrubs per each substituted site tree.

(d) Shrubs, flowers and ground cover: Shrubs, flowers, and ground cover shall encompass no less than fifteen percent (15%) of the required landscape area. Plants shall be placed in planter beds. There shall be one (1) shrub per every one-hundred (100) square feet of planter bed. Up to one-half (1/2) of the required shrubs may be substituted by site trees at a ratio of one (1) tree per ten (10) required shrubs.

(e) Planter Bed: Planter beds shall be mulched with organic materials. Raised planter beds, benches, street lights, walls, etc., shall be provided as appropriate to enhance building entries, pedestrian walk ways, and the streetscape.

Manmade mulch products, such as recycled tires and the like, are not permitted. Planter or mulch beds shall be underlain by a weed barrier. Organic mulches shall be applied at one (1) cubic yard per eighty (80) square feet of area and maintain a minimum depth of three inches (3").

(f) Decorative rock or gravel: Decorative rock or gravel mulch is permitted within fifteen feet (15) of the building foundation. Organic mulch is preferred within landscape beds. In no case shall decorative rock or gravel mulch exceed fifteen percent (15%) of landscaped area within the front and side yards (if adjacent to a street or alley) unless otherwise approved by the Town.

(g) Gateway projects: Developments adjacent to and visible from I-25, Highway 52, Colorado Boulevard, Aggregate Boulevard, Bella Rosa Parkway, and Tipple Parkway shall also conform to the Gateway Landscape Standards set forth in Section [2.14.6.g](#) of the Land Use Code.

(h) Landscape buffer: A landscape buffer shall be provided between developments within this zone and less intensive uses (see Section [2.15](#)).

(i) Loading, service, storage and utility areas. Loading areas (including vehicles being loaded), service and storage areas are not to be visible from the public right-of-way or adjacent property and shall be shielded from view with an opaque screen that is an integral part of the building architecture and landscaping (see Section [2.15.3](#)).

f. Business Light Industrial and Industrial Zoning districts (BLI and I).

(1) *Site specific landscaping area.* Each lot or parcel within these districts shall provide a minimum of twenty percent (20%) of the development site (gross land area) shall be landscaped area. This landscaped area is in addition to any public open space land dedication provided at the time of subdivision. Right-of-way landscaping is required for adjacent streets and highways, but is not included in the calculation for minimum required landscape area. Landscape improvements shall be designed to enhance the overall appearance of the development and integrate the project with adjacent land uses and into the surrounding neighborhood. All improvements shall consider the people who will use the site and travel through or by the site and adjacent land uses.

(2) In addition to the landscaping requirements noted in Section [2.14.6](#) at minimum, the developer or assigns shall provide:

(a) Street trees: Street trees are required spaced at one (1) tree per forty (40) feet of curb length / street frontage. Developments located along a gateway corridor shall comply with the gateway landscape requirements noted in Section [2.14.6](#) of the Land Use Code.

(b) Site trees: Site trees are required at one per every two thousand (2,000) square feet of landscaped area, distributed on the site. Up to one fourth (1/4) of the required site trees may be substituted by shrubs at a ratio of ten (10) shrubs per each substituted site tree.

(c) Shrubs: Shrubs, flowers, and ground cover shall consist of no less than fifteen percent (15%) of the landscape area. Plants shall be placed in planted beds. There shall be one (1) shrub per every one-hundred fifty (150) square feet of planter bed. Group shrubs and distribute throughout the site. Trees may be substituted for up to one-third (1/3) of the required shrubs at the rate of one (1) tree for five (5) shrubs. Up to one-third (1/3) of the required shrubs may be substituted by site trees at a ratio of one (1) tree per ten (10) required shrubs.

(d) Groundcover. Establish drought tolerant irrigated turf grass covering no less than ten (10) percent of the landscape area. Where appropriate, use native grass for areas that will not function as active recreation areas. Native grass must be weed-free and maintained at a maximum height of eight (8) inches. There shall be a minimum of seventy-five percent (75%) live materials between the building and the street unless approved by the Town.

(e) Building entries and streetscapes. Raised planter beds, benches, street lights, walls, etc., shall be provided as appropriate to enhance building entries and the streetscape.

(f) Decorative rock. Decorative rock or gravel mulch is permitted within fifteen feet of the building foundation. Organic mulch is preferred within landscape beds. In no case shall decorative rock or gravel mulch exceed fifteen percent (15%) of landscaped area within the front and side yards (if adjacent to a street or alley) unless otherwise approved by the Town. All rock mulch or decorative rock areas shall be planted with trees and shrubs. However, plantings are not required within the foundation buffer.

(g) View Corridors. Developments adjacent arterials such as Highway 52, Colorado Boulevard, Aggregate Boulevard, Bella Rosa Parkway, and Tipple Parkway shall also conform to the Gateway Landscape Standards set forth in Section [2.14.6](#) of the Land Use Code

(h) Landscape Buffer. A landscape buffer shall be provided between developments within this zone and less intensive uses. See buffering requirements in Section [2.15](#) of the Land Use Code.

(i) Loading Areas. Loading areas (including vehicles being loaded), service and storage areas visible from the public right-of-way or adjacent property shall be screened with an opaque screen that is an integral part of the building architecture and landscaping. Particular care shall be made to screen storage, service and utility areas from I-25, Highway 52, and any adjacent arterial road (see Section [2.15.3](#)).

(j) Outdoor Storage area. Outdoor storage areas shall be screened through the combination of fencing, landscaping, walls, and architectural elements. The use of chain link within the industrial zone, while permitted, shall not be located within areas that are visible to adjacent properties or rights-of-way. Particular care shall be made to screen storage, service and utility areas from I-25, Highway 52, and any adjacent arterial road (see Section [2.15](#)).

8. *Mitigation*. Healthy, mature trees that are removed shall be replaced with not less than one (1) or more than six (6) replacement trees sufficient to mitigate the loss of value of the removed tree.

a. A significant tree that is removed shall be replaced with not less than one (1) or more than six (6) replacement trees sufficient to mitigate the loss of value of the removed significant tree. The applicant shall select a qualified landscape appraiser to determine such loss based upon an appraisal of the tree to be removed by using the most recent published methods established by the Council of Tree and Landscape Appraisers. Replacement trees shall meet the following minimum size requirements:

- (1) Canopy Shade Trees three inch (3.0") caliper balled and burlap or equivalent.
- (2) Ornamental Trees two and one half inch (2.5") caliper balled and burlap or equivalent.
- (3) Evergreen Trees eight foot (8') height balled and burlap or equivalent.
- (4) Plants that meet one (1) or more of the following removal criteria shall be exempt from the requirements of this subsection:
 - (a) Dead, dying, or naturally fallen trees, or trees found to be a threat to public health, safety, welfare, or property;
 - (b) Trees that are determined by the city to substantially obstruct clear visibility at driveways and intersections;
 - (c) Plant species that are listed by the State as noxious or invasive or determined to be a nuisance such as cotton-bearing cottonwood, Siberian elm, Russian olive and female box-elder, or known to be poisonous. Native cotton-bearing cottonwood trees and female box-elder trees, when located in a natural area buffer zone, are not nuisance tree species.

9. *Submittal standards for all landscape plans.* All land development applications will be accompanied by the appropriate landscape plan.

a. Submitted landscape plans shall include:

- (1) Hydrozones must be identified on all landscape plans. The four (4) hydrozones are defined as:
 - (i) High Hydrozone: eighteen (18) gallons/s.f./season;
 - (ii) Moderate Hydrozone: ten (10) gallons/s.f./season;
 - (iii) Low Hydrozone: three (3) gallons/s.f./season;
 - (iv) Very Low Hydrozone: zero (0) gallons/s.f./season.
- (2) High hydrozones shall not exceed fifty percent (50%) of the landscape area, except for right-of-ways, parks and other areas as approved by the Town.
- (3) The total annual water use shall not exceed an average of fifteen (15) gallons/square foot over the site; including all hydrozones.
- (4) A note calling for mulch; a minimum depth of three inches (3") to a maximum of five inches (5").
- (5) A detailed irrigation plan is required to be submitted at the same time as the landscape plan.
- (6) A Water Budget Chart that shows a maximum overall water need of fifteen (15) gallons per square foot over the site.

b. The minimum required information for all landscape plan is provided in the following Table 2-9.

Table 2-9			
REQUIRED LANDSCAPE PLAN INFORMATION			
Information Required	Concept	Preliminary	Final
Scale, north arrow, site boundary	Y	Y	Y
Existing and proposed streets		Y	Y
Existing and proposed utilities and easements		Y	Y
Existing contours (2' intervals), can be USGS for conceptual landscape plan	Y	Y	Y
General grading concepts detailed for proposed improvements, with typical cross-sections of streets and special treatment areas		Y	
Existing and Proposed contours at two foot (2') intervals. With earth work calculations.		Y	Y

Table 2-9			
REQUIRED LANDSCAPE PLAN INFORMATION			
Information Required	Concept	Preliminary	Final
Description of the design intention. Describe the general character and location of proposed landscaping and open space and how it meets the purpose of these regulations			
The landscape plan shall be on a separate page from the plat map or site plan and shall include square footages and percent coverage for all site features such as permeable and impermeable surfaces, landscape area, building and parking foot print, etc. The plan shall be scaled sufficient for readability.	Y	Y	Y
Illustrate how the open space network and pedestrian circulation system will function and connect to adjacent existing and proposed development.	Y	Y	Y
Show existing and proposed site features including ditches, trees, shrubs and groundcovers and any drainage ways, wetlands or wildlife habitat present on the site. Indicate which plants will be preserved, the method of preservation and which will be removed.	Y	Y	Y
Show the proposed landscaping including: trees, shrubs, groundcover, walks, and fences. Show which plantings are deciduous and evergreen.	Y	Y	Y
Indicate which areas will be irrigated and method of irrigation		Y	Y
Detail drawings for all proposed improvements including but not limited to irrigation plans, signs, walls, site features, etc.		Y	Y
Define areas to be considered open space and if they will be public or private. Indicate how open space will be maintained including: erosion control, re-vegetation, and weed management both during and after construction.		Y	Y
Dimensioned construction drawings.		Y	Y
Detailed planting plan indicating location, species, size and quantity of all proposed plantings and groundcover. Improvements shall be shown in their final location and mature size. Include a plant list in chart form and description of the type and location of improvements such as groundcover, walks, fences, and mulches. Include a cost estimate for all improvements. (This may be submitted as a separate sheet and is not required on the plans.)			Y

Table 2-9			
REQUIRED LANDSCAPE PLAN INFORMATION			
Information Required	Concept	Preliminary	Final
Construction and maintenance specifications.			Y
Hydro-zone information and irrigation plan			Y
Any additional information noted in the applicable portion of Appendix A and this Code.	Y	Y	Y

10. *Storm drainage facilities.*

a. *Intent.* The intent of this Subsection is to promote innovative and effective land and water management techniques that protect and enhance water quality.

b. *General provisions.*

- (1) Landscaping associated with storm drainage facilities shall be integrated into the overall design of the project.
- (2) It shall enhance the overall appearance of the project, prevent erosion and improve water quality of storm water runoff whenever possible.
- (3) Portions of the storm drainage facilities may function as parks or open space if they include improvements for active recreation, trail corridors, or habitat enhancement areas as noted in the park and landscape requirements of this Code (see Section [2.11](#)).
- (4) The use of planting strips and shallow landscaped depressions in parking lots and along roads is encouraged to help trap and remove pollutants from storm water runoff (See Figure 2-10).

Figure 2-10. Storm Drainage



Develop storm drainage systems as landscape amenities which can enhance the overall project.

c. *Minimum requirements.*

(1) All facilities shall be seeded to grass appropriate to the function of the area. Areas to be used for active recreation shall be seeded to a turf-type grass and irrigated with a permanent irrigation system. Areas to be maintained for habitat enhancement shall be seeded to native grasses and native wildflowers. The developer is responsible for establishment of a complete, weed-free stand of native grass.

(2) Maximum side slope on drainage facilities shall be 4:1. Side and bottom slopes shall be reduced to rise to run ratio of 1:4 if used for recreational purposes.

(3) Landscape improvements shall be designed to enhance the function of the facility. Areas designed for recreation shall include clusters of trees to provide shade, and other amenities located so they do not impair the function of the facility.

(4) Habitat and water quality enhancement, including wetland plantings in low wet areas, is encouraged.

d. *Ownership and maintenance.* All drainage facilities shall be owned and maintained by the landowner or owners' association.

11. *Alternative compliance.* Should the developer propose an alternative landscape plan that meets the intent of the standards identified above, the Planning Director may approve the alternative plan. (Ord. 1145 §§ 12, 13 (Exh. A), 2013; Ord. 1167 § 12 (Exh. A), 2014)

Sec. 2.15. Buffering and screening techniques.

1. *Intent.* It is the intent of this Section to integrate adjacent land uses and provide seamless transitions from one (1) use to another through the use of building orientation and access, landscaping, and appropriate architectural elements.

2. *General provisions.*

a. Special consideration shall be given to adjacent land uses of different intensities. It shall be the responsibility of the developer of the more intensive use to ensure that the transition from one (1) use to another is attractive, functional, and minimizes conflicts between the current and planned uses.

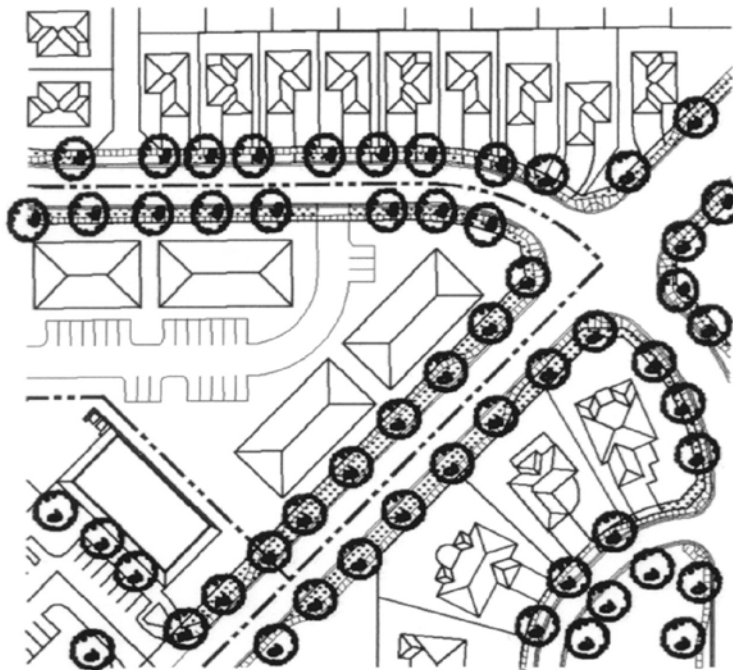
b. It is the responsibility of the developer of the higher intensity use to demonstrate that the uses will be compatible. This can be accomplished through the effective use of shared access and parking, appropriate building orientation and setbacks, landscaping, architectural treatment, and limited use of fencing and screening walls. Special consideration shall be given to the impact of aesthetics, noise, lighting, and traffic. See Figure 2-10.

c. Buffering may be required between any development and adjacent natural or environmentally sensitive areas. This will be determined on a case-by-case basis.

d. Landscaping intended to provide buffering and screening shall be maintained in a healthy condition, trimmed, and pruned as appropriate for the plant type.

- e. Dead plant material shall be removed and/or replaced as appropriate when so ordered by the Building Inspector or Community Service Officer according to Municipal Code Chapter [Z](#), Article II.
- f. Landscaping shall not encroach upon sidewalks or street rights-of-way.
- g. *Prohibitions.*
 - (1) Under no circumstances shall a fence be the only screening material used as a buffer between land uses.
 - (2) Chain link fencing with or without slats shall not be used for screening purposes.

Figure 2-10. Integration of Land Uses



Integrate adjacent land use through appropriate:

- Building orientation and setback
- Landscaping
- Access
- Architectural elements

3. *Location and screening of required loading and service areas.*

- a. Loading docks, solid waste facilities, recycling facilities and other service areas shall be placed to the rear or side of buildings in visually unobtrusive locations.
- b. Screening and landscaping shall prevent direct views of the loading areas and their driveways from adjacent properties or from the public right-of-way. Screening and landscaping shall also prevent spill-over glare, noise, or exhaust fumes. Screening and buffering shall be achieved through walls, architectural features, and landscaping; and shall be visually impervious. Recesses in the building or depressed access ramps may be used.

4. *Trash/refuse/recycling areas.*

- a. The following regulations shall apply to all development except for one (1) family and two (2) family dwellings:
 - (1) Each lot or tract containing a principal structure shall provide a designated trash collection or compaction area, and may designate a recycling area, which shall be located and designed to ensure adequate on-site maneuvering area for collection vehicles.
 - (2) Trash collection/compacting and recycling collection shall be located to facilitate collection and minimize any negative impact on persons occupying the development site, neighboring properties or public rights-of-way; and
 - (3) Constructed to allow for collection without damage to the development site or the collection vehicle.
- b. All such trash/refuse/recycling areas shall be screened to prevent them from being visible to:
 - (1) Persons located within any dwelling unit on residential property other than that where the dumpster is located;
 - (2) Occupants, customers, or other invitees located within any building on nonresidential property other than that where the trash collection/compacting and recycling collection is located; and
 - (3) Persons traveling on any public street, sidewalk, or other public way.

5. *Buffering and screening land uses.*

- a. When a property is developed with multiple land uses, buffer areas must be provided between residential and non-residential zones. The minimum allowable buffer area is fifteen (15) feet.
- b. All air conditioning, HVAC systems, exhaust pipes or stacks, elevator housing, satellite dishes and other telecommunications receiving devices shall be thoroughly screened from view from the public right-of-way and from adjacent properties through the use of roof elements and landscaping.
- c. When excess weight vehicles, recreational vehicles, and utility trailers are stored on private property in accordance with this Code and Frederick Municipal Code Chapter 8, Article III, Sections [8-41](#) and [8-42](#),

screening is required to limit visual exposure from adjoining properties. Screening may be accomplished with a combination of fencing and landscaping.

d. *Outdoor storage areas.* Outdoor storage areas shall be screened through a combination of fencing, landscaping, walls, and architectural elements. Particular care shall be made to screen storage, service, and utility areas from I-25, Highway 52, and any adjacent arterial road.

e. Parking lots shall be appropriately screened with landscaping to prevent headlights from shining into less intensive land uses. (Ord. 1145 § 14 (Exh. A), 2013; Ord. 1167 § 13 (Exh. A), 2014)

Sec. 2.16. Fences and walls.

1. *Intent.* It is the intent of this Section to ensure that walls and fences are attractive and in character with the neighborhood.

2. *General provisions.*

a. *Compatibility.* Walls and fences shall be architecturally compatible with the style, materials and colors of the principal buildings on the same lot.

b. *Visual interest.* If used along collector or arterial streets, such features shall be made visually interesting by integrating architectural elements such as brick or stone columns, varying the alignment or setback, softening the appearance with plantings, or through similar techniques.

(1) In order to prevent mundane expanses of fencing, a fence must have a unique element located every fifty (50) feet.

(2) Retaining walls in residential districts:

(a) Adjacent to a local street are exempt from this requirement;

(b) Adjacent to a collector or arterial street and more than three hundred (300) square feet shall have a unique element every fifty (50) feet.

(3) Retaining walls in a non-residential zoning district and more than three hundred (300) square feet shall have a unique element every fifty (50) feet.

c. *Fence/wall materials.*

(1) Stone walls, brick walls with a stone or cast stone cap, treated wood fences, decorative metal, cast iron fences, stucco walls, and stone piers are encouraged.

(2) Solid walls and fences are permitted in rear and side yards of all zoning districts, provided they are not within the site distance triangle.

(3) Fences used within front setbacks of all zoning districts shall be at least fifty percent (50%) open. Allowable fences are split rail, wrought iron, picket or other opaque fences of a similar nature.

- (4) Hedges may be used in the same manner and for the same purposes as a fence or wall.
- (5) Solid fences shall be constructed to meet the wind design criteria of the currently adopted building code, using a basic wind speed of ninety (90) miles per hour.
- (6) Other materials may be incorporated in fences and walls as may be approved by the Planning Director.
- (7) Chain link fencing is permitted in the following instances:
 - (a) In the Industrial zoning district with the following restrictions:
 - i) The chain link is vinyl coated;
 - ii) It is no taller than eight (8) feet anywhere on the premises.
 - (b) Around a publicly owned recreation area with the following restrictions:
 - i) The chain link is vinyl coated.
 - (c) Around the playground area of a state licensed child care center with the following restrictions:
 - i) The chain link is vinyl coated.
 - ii) The fence is less than five (5) feet tall.

d. *Prohibited materials.*

- (1) Contemporary security fencing such as concertina or razor wire, barbed wire or electronically charged fences are prohibited unless specifically allowed by the Board of Trustees. Electric barrier fencing installed and used with a transmitter collar worn by a dog(s) for the purpose of maintaining the dog(s) within the owner or keeper's premises shall be permitted.
- (2) Chain link fencing with or without slats shall not be used as a fencing material except as identified in Section [2.16.2.c\(7\)](#).

e. *Retaining walls.* Retaining walls shall be designed to resist loads due to the lateral pressure of retained material in accordance with accepted engineering practice and shall not be unsightly or detrimental to abutting property.

- (1) Retaining walls are permitted where required for landscaping or architectural purposes.

f. *Height limitations.* Fences or walls shall be:

- (1) No more than forty-two (42) inches high between the front building line and the front property line. For corner lots, front yard fence regulations shall apply to both street sides of the lot.
- (2) No more than forty-two (42) inches high if located on a side yard line in the front yard, except if required for demonstrated unique security purposes.

- (3) No more than seven (7) feet high for an opaque privacy fence located on a rear property line or on a side yard line in the rear yard.
- (4) No more than seven (7) feet high for opaque privacy fences that are located directly adjacent to and integrated with the architecture of the house or connected to a courtyard.
- (5) No more than thirty (30) inches high when located within the [site-sight](#) distance triangle, and fences or walls within this [site-sight](#) distance triangle shall not be solid.
- (6) In the Industrial (I) zone district, a chain link fence may be up to eight (8) feet tall.
- (7) Fences around a recreation court (e.g., tennis, squash racket, squash tennis or badminton) or around a publicly owned recreation area may exceed seven (7) feet in height if the fence is at least fifty percent (50%) open.

g. *Maintenance.*

- (1) Dilapidated, unsightly, or dangerous fences, walls, or retaining walls shall be removed or repaired when so ordered by the Building Inspector or Community Service Officer [according to Municipal Code Chapter 7, Article II or Chapter 11, Article III.](#)

3. *Warranty period.* Developers shall provide a warranty period for perimeter fences along arterial and collector streets of two (2) years. Provision for compliance shall be as outlined in the warranty section of the Memorandum of Agreement for Public Improvements (MOAPI). (Ord. 1145 § 15 (Exh. A), 2013)

Sec. 2.17. Residential architecture (single-family and multi-family dwellings).

1. *Intent.* Architecture plays an important part in developing an identity for neighborhoods and dwellings. Thus, the Town wants to build upon the architectural traditions of the region, yet allow for diversity of expression. In addition, the Town wants to encourage a variety of housing types, sizes, and prices in each neighborhood to allow people to remain in their neighborhoods, as their housing needs change.
2. *Housing diversity/neighborhood identity.* Housing diversity is an important goal for new residential development in the Town. In support of this, the integration of detached and attached single-family dwellings, and multi-family dwellings, within neighborhoods, even in the same block, is encouraged.
3. *Prohibited buildings in the residential zoning districts.*
 - a. Metal buildings greater than two hundred (200) square feet are not permitted in a residentially zoned neighborhood.
 - b. Clear span buildings are not permitted in a residentially zoned neighborhood.

4. *Single-family detached and duplex dwellings.* The intent of this Section is to build a significant proportion of single-family detached and duplex dwellings with architectural designs that relate homes to the street, create diversity and variety along residential streets, have front porches, rear-loaded garages or alternatively loaded street-accessed garages, and that reflect traditional Colorado styles and neighborhoods, as well as more modern designs.

a. *Streetscape diversity.* Single-family detached and duplex building requirements are intended to ensure that an adequate mix of models and styles are offered within a neighborhood and within each block face. Prior to the issuance of a building permit, the building permit applicant shall illustrate, how the new home will comply with the requirements set forth in this Section.

b. *Model diversity.*

(1) Each block face shall contain at least three (3) different models or duplex buildings that have significant variations in exterior elevations and massing. Differentiation in models requires all of the following variations:

- (a) Massing;
- (b) Size;
- (c) Color scheme;
- (d) Use of exterior material;
- (e) Garage component (at street-access condition); and
- (f) Garage access (at street-access condition).

(2) Each block face shall contain no more than two (2) of the same model or duplex building with the same architectural style.

(3) Significant variation in the range of wall colors on a block face is encouraged. Use different colors on adjacent building facades and the home across the street.

(4) Each block face shall contain at least three (3) roof colors.

(5) The same model with the same architectural style shall not be placed adjacent to each other or directly across the street from one another.

(6) At least one-third (1/3) of the buildings on each block face shall have a front porch.

c. *Stylistic diversity.* Each model or duplex building shall have at least two (2) architectural styles and color schemes. This requires:

- (1) Distinctly different roof forms/lines/profiles.
- (2) Distinctly different facade compositions consisting of:

- (a) Different window and door style and placement;
- (b) Different garage and entryway locations.
- (3) Distinctly different entry treatments and locations including porches, columns, etc.
- (4) Different number of stories.

Changing roof or siding materials and colors, adding garages, providing "mirror images" of models, or different elevations of the same model do not constitute distinctly different models.

d. *Enhancements at corners.* At corners, buildings shall address the side street or open space. Corner lots shall be wide enough to allow for side elevation enhancements. At least two (2) of the following enhancements are required:

- (1) A side- or wrap-around porch, or a bay window. Wrap-around porches are encouraged.
- (2) Windows or glazed doors that face the side street or open space.
- (3) A change in the vertical or horizontal wall plane.
- (4) Brackets, projections, belt courses, or other such details.

e. *Architectural style.* New residential architecture shall resemble the architecture commonly found in Colorado neighborhoods as well as more modern designs. The goal is to create the memorable character, identity, and appeal that these neighborhoods display, not to provide exact replicas of historic buildings.

f. *Massing.* The mass of a house or duplex should strongly reflect its architectural style and be scaled to provide visual interest and depth, reduce boxiness, and achieve an articulated form on all four (4) sides.

g. *Roof.* The roof forms and pitches of a house or duplex shall strongly reflect its architectural style. In general, a simple dominant roof form should be used in combination with complementary secondary and minor roof forms and elements.

- (1) Roof overhangs, eaves, fascias, and soffit detail shall be detailed appropriately for the architectural style of the building.
- (2) The character and placement of dormers, when used, shall also reflect the architectural style of the building.

h. *Covered entries and porches.*

- (1) A covered entryway for the front door is encouraged.
- (2) Porch designs shall reflect the architectural style of the building. Where provided, a porch shall be at least six (6) feet deep, eight (8) feet wide, and be defined by a railing, columns or similar architectural features that are scaled and detailed to reflect their style.
- (3) Raised porch floors, sixteen (16) inches or more above the finished grade, are encouraged.

i. *Exterior embellishments.*

- (1) Bays, projections, brackets, trim, and material changes that are appropriate for the expression of the architectural style of a building are encouraged.
- (2) Highly reflective materials are not allowed.

j. *Exterior color.* The skillful use of color variation is especially important. Monotonous color palettes are strongly discouraged.

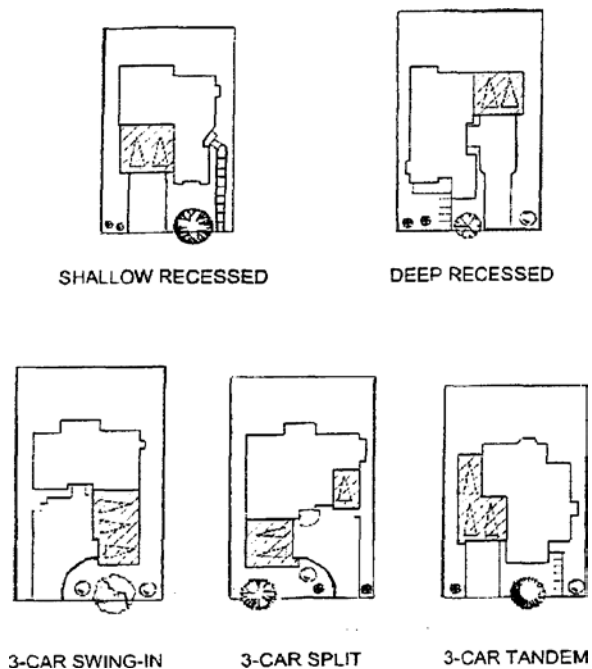
- (1) Strong colors should be muted shades or tints of the pure hue to ensure that colors are subdued. High gloss paints are discouraged. Use saturated color hues sparingly as accents.
- (2) Primary or other bright colors should be used sparingly and only as accents.
- (3) Wall, trim, accent, roof, and masonry colors shall be coordinated.
- (4) Generally, corner trim should be of similar or lighter value than the main body color.

k. *Garages.* Homes, not garages, shall have the emphasis on residential streets. The intent is that residential streets have variety and that garages do not dominate homes and streets. For the purpose of this section, street-facing shall include all dwelling units facing onto public rights-of-way and private driveways or streets.

- (1) At least fifty (50) percent of the dwellings located on any block face shall have garages that are either:
 - (a) Recessed or flush with the street-facing facade of the living area of the dwelling, provided the living area is at least twelve (12) feet wide;
 - (b) Recessed or flush with the street-facing facade of an unenclosed, covered porch, provided the area of the porch is at least sixty (60) square feet; or
 - (c) Side-loaded (garage doors are perpendicular to the front lot line).
- (2) No garage with street-facing doors shall protrude more than six (6) feet from the street-facing facade of a first story living area (measuring at least twelve (12) feet wide) or from a first story unenclosed, covered porch (measuring at least sixty (60) square feet and at least ten (10) feet wide. No more than three (3) adjacent dwellings located on the same block face shall have a protruding garage with street-facing doors.
- (3) When garage doors are other than street-facing (e.g., the doors face a side or rear lot line), the side of the garage facing the street shall include windows or other architectural details that mimic the features of the living area portion of the dwelling.
- (4) Garage doors shall not comprise more than fifty (50) percent of the street-facing linear building frontage, except that garage doors located on the side of a dwelling facing a side yard street may comprise up to two-thirds (2/3) of the street-facing linear building frontage. For purposes of this provision, the width of the garage door(s) shall be measured as the linear distance between the outer edges of the door(s), including any wall area separating two or more garage doors that is less than (2) feet wide.

- (5) For new development on a lot or parcel where the existing dwelling has been removed, the replacement dwelling and garage shall comply with the standards this article.
- (6) Building permit applicants shall demonstrate on the application that the garage for a dwelling complies with these standards.
- (7) The Planning Director may accept alternative garage door treatments, orientation, or design, through review of a minor modification if:
- (a) The configuration of the lot or other existing physical conditions of the lot make the application of these standards impractical; and
 - (b) The proposed design alternative substantially meets the intent of this section to line streets with active living spaces, create pedestrian-oriented streetscapes, and provide variety and visual interest in the exterior design of residential buildings.

**Figure 2-11. Allowed Types of Street-Accessed
Single-Family Residential Garages**



5. *Single-family attached housing, including four-plexes and townhomes.* The intent of this Section is to build single-family attached homes with architectural designs that relate buildings to the street, and that achieve a harmonious balance between repetition and variety.

a. *Individual dwelling identity.* When a single-family attached project is proposed, the developer shall work to create visual variety and, at the same time, promote an integrated character for the project.

b. *Building design.*

(1) Architectural detailing, horizontal off-sets, architectural window details, and other features shall be provided on all sides of the building to avoid blank walls. All sides of all buildings shall be designed with quality materials (360 degree architecture).

(2) Vertical and horizontal elements shall be used in contrast to one another. Contrast and interest are affected by offering exterior selections that emphasize a dominant building material but include complementary materials and colors.

(3) Buildings shall incorporate visually heavier and more massive elements at their bases, and lighter elements above these components.

(4) For projects with multiple buildings, variety shall be used in site orientation and among buildings to avoid a "barracks" appearance.

(5) Two or more distinct building models shall be required for projects with three to six buildings.

(6) For projects with more than six buildings, a minimum of three distinct building models shall be required.

(7) Fireplace "box-outs" shall extend vertically from ground level to meet the roofline and avoid a "tacked-on" look.

c. *Exterior building materials and colors.*

(1) Building materials for single-family attached developments should be of a high quality as approved by the Town. Suggested exterior wall materials include natural wood, stucco, brick, and stone. In general, due to the imposing nature of many multi-dwelling unit buildings, the exterior materials should reflect subdued colors and muted tones. In general roof material colors should be darker and warm, earth-toned hues that accent and complement other building colors.

d. *Garages.* To add visual interest and avoid the effect of a long blank wall with no relation to human scale, accessibility needs, or internal divisions within a multi-family building, the following standards for minimum articulation shall apply.

(1) *Perimeter garages.*

(a) Any garage located with its rear wall along the perimeter of a multi-family development and within fifty (50) feet of a public right-of-way or the property line of the development site shall not exceed fifty-five (55) feet in length. A minimum of ten (10) feet of landscaping shall be provided between any two (2) such perimeter garages.

(b) No rear garage wall that faces a street or adjacent development shall exceed thirty (30) feet in length without including at least one (1) of the following in at least two (2) locations:

- i) Change in wall plane of at least six (6) inches;
- ii) Change in material or masonry pattern;
- iii) Change in roof plane;
- iv) Windows;
- v) Doorways;
- vi) False door or window openings defined by frames, sills, and lintels; and/or
- vii) An equivalent vertical element that subdivides the wall into proportions related to human scale and/or the internal divisions within the building.

(2) *All garages.*

(a) Rear doorways shall be provided as reasonably necessary to allow direct access to living units without requiring persons to walk around the garage to access living units.

(b) At a minimum, a vertical trim detail that subdivides the overall siding pattern shall be provided at intervals not to exceed two (2) internal parking stalls.

6. *Multi-family housing, including condominiums and apartments.* The intent of this Section is to build multi-family stacked units that achieve a harmonious balance between repetition and variety with a residential style. Each multi-family dwelling containing more than three (3) dwelling units shall feature a variety of massing proportions, wall plane proportions, roof proportions and other characteristics. The following specific standards shall apply to multi-family stacked units, including condominiums and apartments:

a. *Individual building identity.* For all developments of three (3) or more multi-family stacked buildings, a floor plan may be repeated; however, identical building facades must not be replicated more than twice within the development.

b. *Articulation.* Each multi-family dwelling or condominium shall be articulated with projections, recesses, covered doorways, balconies, box or bay windows and/or other similar features, dividing large facades and walls into human-scaled proportions. Each multi-family building shall feature walls that are articulated by at least two (2) of any of the following elements within every thirty-six-foot length of the facade.

- (1) Recesses, projections or significant offsets in the wall plane;
- (2) Distinct, individualized, and covered entrances;
- (3) Chimneys that project from the wall plane;
- (4) Balconies and/or other outdoor living space; or

(5) Bay or box windows.

c. *Roofs.* Each multi-family building shall feature a combination of primary and secondary roofs. Primary pitched roofs shall be articulated by at least one (1) of the following elements:

- (1) Changes in plane and elevations;
- (2) Dormers, gables or clerestories; or
- (3) Transitions to secondary roofs over entrances, garages, porches or bay windows.

d. *Exterior building materials and colors.*

(1) Building materials for multi-family developments should be of a high quality as approved by the Town. Suggested exterior wall materials include natural wood, stucco, brick, and stone. In general, due to the imposing nature of many multi-dwelling unit buildings, the exterior materials should reflect subdued colors and muted tones. In general roof material colors should be darker and warm, earth-toned hues that accent and complement other building colors.

e. *Garages.* To add visual interest and avoid the effect of a long blank wall with no relation to human scale, accessibility needs, or internal divisions within a multi-family building, the following standards for minimum articulation shall apply:

(1) *Perimeter Garages.*

(a) Any garage located with its rear wall along the perimeter of a multi-family development and within fifty (50) feet of a public right-of-way or the property line of the development site shall not exceed fifty-five (55) feet in length. A minimum of ten (10) feet of landscaping shall be provided between any two (2) such perimeter garages.

(b) No rear garage wall that faces a street or adjacent development shall exceed thirty (30) feet in length without including at least one (1) of the following in at least two (2) locations:

- i) Change in wall plane of at least six (6) inches;
- ii) Change in material or masonry pattern;
- iii) Change in roof plane;
- iv) Windows;
- v) Doorways;
- vi) False door or window openings defined by frames, sills, and lintels; and/or
- vii) An equivalent vertical element that subdivides the wall into proportions related to human scale and/or the internal divisions within the building.

(2) *All garages.*

- (a) Rear doorways shall be provided as reasonably necessary to allow direct access to living units without requiring persons to walk around the garage to access living units.
- (b) At a minimum, a vertical trim detail that subdivides the overall siding pattern shall be provided at intervals not to exceed two (2) internal parking stalls. (Ord. 1167 § 14 (Exh. A), 2014)

Sec. 2.18. Commercial and industrial architecture.

1. *Purpose and intent.* The following standards are intended to enhance the appearance of buildings and promote a high quality of design in order to protect the public health, safety, and welfare. The intent of these standards is to:

- a. Encourage greater design compatibility with surrounding areas and establish a precedent for high quality design in areas with no established character;
- b. Achieve greater architectural variation and interest through standards for the design of roofs, exterior walls, and the use of exterior finish materials;
- c. Encourage greater architectural cohesiveness and compatibility within a new development of multiple buildings; and
- d. Reduce the negative visual impact of features and site improvements such as mechanical equipment.

2. *General application.*

- a. *New construction.* These standards shall apply to new construction of buildings and structures as specified in the following sections.
- b. Improvement to existing structures and development sites.
 - (1) These standards shall apply to existing buildings only when a proposed building expansion exceeds twenty-five (25) percent of the existing floor area measured on a cumulative basis starting from the date of the adoption of this Section. For example, if a business owner increases the gross floor area by five (5) percent each year, for five (5) years beginning on the date of adoption of the Section, the provisions of the Section shall apply when the gross floor area has increase by twenty-five (25) percent in the fifth year.
 - (2) It is intended that a building expansion subject to these standards be reasonably integrated with the existing structure or site condition consistent with these standards.
 - (3) These standards shall not be construed to necessitate improvement to existing buildings or site conditions beyond those necessary to integrate the proposed improvement with existing conditions in a manner consistent with these standards.
- c. *Development or permit applications.* These standards shall not apply to any complete development, zoning, or building permit application submitted or approved prior to the adoption of these standards.

3. *Compliance.* The following definitions apply to both Commercial and Industrial Standards.

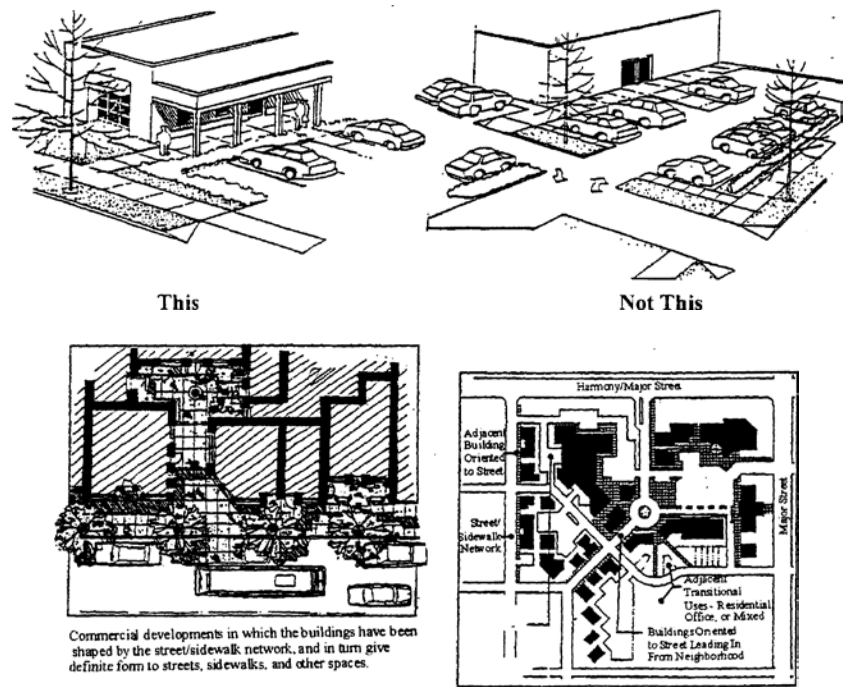
- a. *Type 1 Standards.* Compliance with the Type 1 standards set forth in this Section is mandatory, unless a waiver is granted pursuant to Section [4.7.8](#).
- b. *Type 2 Standards.* Compliance with the Type 2 standards set forth in this Section is mandatory, unless the Planning Director grants alternative compliance in accordance with the following provisions.
 - (1) The Planning Director may allow application of an alternative standard, different than a Type 2 standard, provided the Planning Director determines that:
 - (a) Site-specific, physical constraints necessitate application of the alternative standard, and such constraints will not allow a reasonable use of the property without application of such alternative standard; or
 - (b) The alternative standard achieves the intent of the subject Type 2 standard to the same or greater degree than the subject standard, and results in equivalent or greater benefits to the community as would compliance with the subject standard.
 - (2) *Statement of findings.* Whenever the Planning Director grants alternative compliance, the Planning Director shall formulate a written statement of findings based on the above criteria for such action. Such statement shall be filed in the development application file.
 - (3) *Appeals.* Decisions by the Planning Director with respect to such alternative compliance may be appealed to the Board of Directors in accordance with Section [4.7.7](#).

4. *General provisions.*

- a. *Connections.* Non-residential developments must be linked with surrounding areas by extending town streets, sidewalks, and/or walk paths directly into and through the development, thereby providing convenient, direct pedestrian, bicycle, and vehicle access to and from all sides of the development.
- b. *Accessibility.* Developments must be accessible to pedestrians and bicyclists as well as motorists. Site plans shall equally emphasize the following:
 - (1) Pedestrian access to the site and buildings;
 - (2) Gathering areas for people; and
 - (3) Auto access and parking lots.
- c. *Walkways.* Walkways must be located and aligned to directly and continuously connect areas or points of pedestrian origin and destination, and not be located and aligned solely based on the outline of a parking lot configuration that does not provide such direct pedestrian access.
- d. *Building orientation.* Where possible, buildings shall be located to front on and relate primarily to streets. Building setbacks from local and collector streets should be minimized in order to establish a visually continuous, pedestrian-oriented streetfront. In the case of large buildings for employment, storage, or auto-

related uses, where greater setbacks are needed, a minimum of thirty (30) percent of the building shall be brought to the setback line. If a minimized setback is not maintained, the larger setback area shall have landscaping, low walls or fencing, a tree canopy and/or other site improvements along the sidewalk designed for pedestrian interest, scale and comfort. See Figure 2-12.

Figure 2-12. Examples of Neighborhood Commercial Setback



Illustrations from City of Fort Collins, *Design Standards and Guidelines for All Commercial Development*, March 1996 (reprinted with permission).

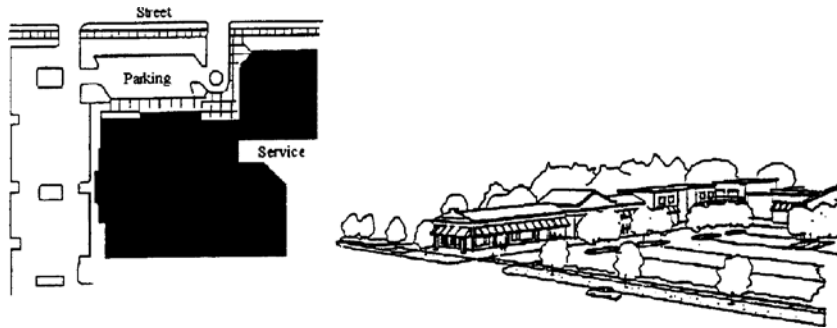


Illustration from City of Fort Collins, *Design Standards and Guidelines for All Commercial Development*, March 1996 (reprinted with permission)

- e. *Pedestrian scale.* The establishment of buildings on isolated "pad sites" surrounded by parking lots and driveways, and that offer mainly auto-oriented signage to define entrances, is discouraged. Even relatively massive development can be configured into "blocks" or other spaces proportioned on a human scale and city block scale; and need not be proportioned on a monolithic, auto-oriented scale.
 - f. *Blank walls.* Blank, windowless walls are discouraged. Where the construction of a blank wall is necessary, the wall shall be articulated.
 - g. *Wall articulation.*
 - (1) Walls shall not have an uninterrupted length exceeding fifty (50) feet. A combination of pilasters, texture transitions, windows and stepping of the wall plane is required.
 - (2) All exterior elevations shall maintain the integrity of the adjacent buildings' architectural character and detailing.
 - (3) Continuous cornice lines or eaves are encouraged between adjacent buildings.
 - (4) Buildings with flat roofs shall provide a parapet with an articulated cornice.
 - h. *Awnings.* Fixed or retractable awnings are permitted. Canvas is the preferred material, although other waterproofed fabrics and metal or aluminum may be used where appropriate.
 - i. *Screening.* All air conditions units, HVAC systems, exhaust pipes or stacks, elevator housing, satellite dishes and other telecommunications receiving devices shall be thoroughly screened from view from the public right-of-way and from adjacent properties by using walls, fencing, roof elements and landscaping. In addition, all trash facilities and loading and parking areas shall be properly screened as outlined in Section [2.15](#).
5. *Commercial (non-industrial) architectural standards.*
- a. *Application.*

(1) The following standards apply to all commercially zoned projects, including Downtown Commercial, Neighborhood Commercial, Community Commercial, Mixed Use Highway 52, and Employment. In the case of commercially zoned projects with a Planned ~~Urban Unit~~ Development (PUD) overlay, standards may be different or more stringent than those set forth in this Section. These standards shall not apply to buildings located in industrially zoned areas, except as provided herein.

(2) These standards shall apply to buildings ~~in industrially-zoned projects~~ that are located on sites adjacent to an arterial roadway, ~~provided that when~~ fifty (50) percent or more of the building gross floor area or use is devoted to a non-industrial use. Non-industrial uses include uses such as office, retail goods or services, restaurants, or institutional use. In calculating the use devoted to such non-industrial use, any ~~commercial~~ outdoor area devoted to the display of goods for sale shall be included in the calculation of area devoted to non-industrial use. For ~~such buildings that are subject to these standards in industrially-zoned projects~~, exterior portions of the building enclosing such non-industrial space shall comply with the commercial architectural standards in this Section. ~~Exterior portions of such buildings enclosing space devoted primarily to industrial uses, such as manufacturing or warehouse space, are exempt from application of commercial architectural standards in this Section.~~

(3) It is intended that these standards apply to the primary facade of the building and that all sides of building, where visible from public rights-of-way and private roads or service drives or adjacent residential neighborhoods, shall include design characteristics and materials consistent with those of the primary facade, except as provided in paragraph 2.18.5.b below. Also, standards specified in Section [2.18.5](#) shall be limited to the facade and walls as specified in that Section.

b. *Exceptions.* The Planning Director may waive the application of the standards set forth in this Section in cases where the visibility of side or rear walls of the building is substantially diminished by landscaping, or by a decorative screening wall, or earthen berm combined with landscaping, located between the building wall and any such right-of-way or adjacent property. A waiver may also be considered in cases where the distance of the building from the right-of-way or adjacent property, and/or intervening structures or other landscape features, diminish the visibility of the proposed structure in a manner consistent with the intent of this paragraph. Landscape screening shall be designed to be at least sixty (60) percent opaque to a height of six (6) feet upon installation and a minimum of eighty (80) percent opaque to a height of six feet within five (5) years of planting. Such landscaping shall consist of primarily evergreen plant material to provide year-round screening. The required landscaping shall be maintained in healthy condition by the current owner. In the event any required landscaping material dies or is destroyed, it shall be replaced by the owner within six (6) months. Replacement material shall conform to the original intent of the approved landscape plan. Waiver requests may be forwarded to the Board of Trustees for their decision in accordance with Section [4.7.8](#).

c. *Design compatibility.*

(1) *Type 2 Standards.*

(a) Building design shall contribute to the special or unique characteristics of an area and/or development through the use of predominant building massing and scale, building materials, architectural elements and color palette.

(b) Design compatibility shall be achieved through techniques such as the repetition of roof lines, the use of similar proportions in building mass and outdoor spaces, similar relationships to the street, similar window and door patterns, and/or the use of building materials that have color shades and textures similar to those existing in the immediate area of the proposed development.

(c) Where there is no established or consistent neighborhood, area character, or unifying theme, or where it is not desirable to continue the existing character because it does not reflect a design theme consistent with the architectural standards as described in this chapter, the proposed development shall be designed to establish an attractive image and set a standard of quality for future developments and buildings within the area. Greater attention to design with respect to design compatibility standards in this paragraph shall be required in areas of high visibility, such as community entryways and arterial and collector roadways.

d. *Building design elements.*

(1) *Type 2 Standards.* All buildings shall be designed and maintained using the following building elements, with a minimum of one (1) item each selected from four (4) of the five (5) groups below:

(a) *Group 1 – exterior wall articulation.*

- i) Openings or elements simulating openings that occupy at least twenty (20) percent of the wall surface area (excluding overhead or dock doors); or
- ii) Building bays created by columns, ribs, pilasters, or piers or an equivalent element that divides a wall into smaller proportions or segments with elements being at least one (1) foot in width, a minimum depth of eight (8) inches, and spaced at intervals of no more than twenty five (25) percent of the exterior building walls. For buildings over twenty thousand (20,000) square feet in floor area, such elements shall be at least eighteen (18) inches in width, with a minimum depth of twelve (12) inches, and spaced at intervals of no more than twenty (20) percent of the exterior building walls; or
- iii) A recognizable base treatment of the wall consisting of thicker walls, ledges, or sills using integrally textured and colored materials such as stone, masonry, or a decorative concrete; or
- iv) Some other architectural feature that breaks up the exterior horizontal and vertical mass of the wall in a manner equivalent to (i), (ii), or (iii) above.

(b) *Group 2 – roof articulation.*

- i) Changes in roof lines, including the use of stepped cornice parapets, a combination of flat and sloped roofs, or pitched roofs with at least two (2) roof line elevation changes; or
- ii) Some other architectural feature or treatment which breaks up the exterior horizontal and vertical mass of the roof in a manner equivalent to (i) above.

(c) *Group 3 – building openings, walkways, and entrances.*

- i) Canopies or awnings over at least thirty (30) percent of the openings of the building; or
- ii) Covered walkways, porticos and/or arcades covering at least thirty (30) percent of the horizontal length of the front facade; or
- iii) Raised cornice parapets over entries; or
- iv) Some other architectural feature or treatment which adds definition to the building openings, walkways, or entrances in a manner equivalent to (i),

(d) *Group 4 – building materials.* (The area of windows and doors, including overhead doors, shall be excluded from the wall area calculation for the following standards.)

- i) At least two (2) kinds of materials distinctively different in texture or masonry pattern, at least one of which is decorative block, brick, or stone, with each of the required materials covering at least twenty-five (25) percent of the exterior walls of the building; or
- ii) Brick or stone (including synthetic stone) covering at least fifty (50) percent of the exterior walls of the building.

(e) *Group 5 – other architectural definition.*

- i) Overhanging eaves extending at least twenty-four (24) inches past the supporting walls, or with flat roofs, cornice parapets, or capstone finish; or
- ii) Ornamental lighting fixtures (excluding neon) for all exterior building lighting; or
- iii) A feature that adds architectural definition to the building, in a manner equivalent to (i) or (ii) above.

e. *Articulation of Walls.*

(1) *Type 2 Standard.* Building fronts and any wall of the building facing any road or public or private service drive, greater than one hundred (100) feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least four (4) percent of the length of the facade, extending at least twenty (20) percent of the length of the facade.

(2) No uninterrupted length of any facade shall exceed fifty (50) horizontal feet. Acceptable interruptions include pilasters, texture transitions, windows, and awnings.

f. *Delivery/Loading Doors and Docks.* Type 2 Standard: No delivery, loading dock, or trash removal door or facility shall be located on the main street facing facade of the building. Any such door or facility located on the side or rear wall of the building shall be screened in accordance with the provisions of Section 2.15. For sites that have road frontage on multiple sides, these facilities shall be located in the least obtrusive manner, preferably on a non-road facing side of the building, or the road frontage that has the least public visibility.

g. *Rooftop Mechanical Units.* Type 2 Standard: Rooftop mechanical units and other miscellaneous rooftop equipment shall be substantially screened from view from public rights-of-way and other public places.

Screening materials shall be of the same or comparable material, texture, and color as the materials used on the building. Roof-mounted equipment screening shall be constructed as an encompassing monolithic unit, rather than as several individual screens (i.e., multiple equipment screens, or "hats," surrounding individual elements shall not be permitted). The height of the screening element shall equal or exceed the height of the structure's tallest piece of installed equipment.

h. *Cart Storage and Vending Machines.* Type 2 Standard: Cart storage areas, vending machines, and video and book return containers shall be placed inside the principal building, placed in an accessory structure designed to complement the principal building, or screened with walls and landscaping.

i. *Multi-building Developments.* Type 1 Standard: Developments with multiple buildings shall include predominance characteristics in each building so that the buildings within the development appear to be part of a cohesive, planned area, yet are not monotonous in design. Predominant characteristics may include use of the same or similar architectural style, materials, and colors.

j. *Building Entrances.* Type 1 Standard: Primary public entrances shall be clearly defined and recessed and projected or framed by elements such as awnings, arcades, porticos, or other architectural features.

k. *Building Colors.*

(1) *Type 1 Standard.* Colors shall be used to blend buildings into an area and to unify elements of a development. Color should be drawn from the surrounding area and, if in a new development area, shall be selected to establish an attractive image and set a standard of quality for future developments and buildings within the area. Monotonous or monochromatic color palettes are strongly discouraged. Primary or other bright colors should be used sparingly and only as accents. Accent colors used to call attention to a particular feature or portion of a building, or to form a particular pattern, shall be compatible with predominant building base colors and may be incorporated using such elements as shutters, window mullions, building trim and awnings.

(2) *Type 2 Standard.* Accent colors shall cover no more than five (5) percent of a building facade.

l. *Franchise Architecture.* Type 1 Standard: Prototypical or franchise architectural designs may be required to be modified to meet these architectural standards. Changes to prototypical franchise styles to meet these standards may include, but not be limited to, modifications to roofs, windows, doors, building mass, materials, colors, placement of architectural features and details, etc. Care should be taken to ensure that such modifications comply with Section 2.18.5.c. Design Compatibility. Franchise architectural styles found to meet these standards will not require any modification.

m. Type 2 Standard: Illumination highlighting the entire facade of a building, or a significant portion of the building, or back lighted translucent awnings intended to function as signage, shall not be permitted as part of a building design. This standard is not intended to preclude the use of lighting (including neon lighting) to accent limited portions of the building facade.

n. *Metal Siding.* Metal siding may be used as an exterior finish material as long as the amount used does not exceed twenty-five (25) percent of the area of any single wall, exclusive of the roof, and provided it matches or complements the building color and/or material scheme. Further, such metal siding shall be a "standing

seam" type or equivalent quality, not a "corrugated" type. Architectural metals, such as bronze, brass, copper, and wrought iron, may be used and may exceed the twenty-five (25) percent area limit.

6. *Industrial architectural standards.*

a. *Purpose and intent.* These standards are intended to apply to industrial buildings on sites adjacent to major roads (as defined in Section 2.18.6.b), because of the visibility of such development and its impact on the image and character of the community. Industrial development that is adjacent to collector or local roads is not subject to the following standards; however, it is subject to the standards set forth in Section 2.18.5.d.

b. *Application.* Standards in this section apply to all industrially zoned projects, including Business Light Industrial and Industrial. In the case of industrially zoned projects with a planned urban-unit development (PUD) overlay, standards may be different or more stringent than those set forth in this Section.

(1) Subsection 2.18.2 General Application, which addresses how standards apply to new construction and existing buildings and Section 2.18.3 Compliance, regarding the application of Type 1 and Type 2 Standards, shall apply to standards in this Section.

c. Metal siding. Metal shall not comprise more than twenty-five (25) percent of the exterior building finish material on walls (roof excluded) of industrial buildings.

(1) Metal siding includes any form of metal exterior finish material, including corrugated or standing seam metal siding. The Planning Director may permit metals such as bronze, brass, copper, and wrought iron, in excess of the twenty-five (25) percent limitation if a determination is made that such materials are equal or superior to the primary building materials.

(4)d. Additional standards.

(2) Industrial buildings shall also comply with the standards set forth in Section 2.18.5.2 Commercial Architectural Standards paragraphs: c. Design Compatibility, e. Articulation of Walls, f. Delivery/Loading Doors and Docks, g. Rooftop Mechanical Units, k. Building Colors, and m. Illumination.

7. ~~*Downtown architectural standards.*~~

~~a. *Setbacks.* Buildings shall abut the front property line. Building facades may be recessed if an arcade or similar structure abuts the front setback. Architectural projections, including cornices, balconies, canopies and entry features, may encroach into public rights-of-way, subject to permits as required by the Town's Code.~~

~~b. *Multi-story, mixed-use structures.* Commercial uses contained in multi-story (two- and three-story) mixed-use structures with commercial/retail uses on the ground level and above and/or apartment dwellings or offices on the upper levels are encouraged. Such buildings shall vary in terms of footprint and architectural elevations. The maximum ground-level footprint of a commercial building shall be five thousand (5,000) square feet.~~

~~c. *Facade treatments.* Large buildings shall be articulated or designed to resemble the character and scale of the original downtown buildings, with each facade twenty-five (25) feet or less.~~

~~d. *Entries.* Transparent entries and large store front windows are strongly encouraged. Recessed and other~~

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~~styles of window openings are desired.~~

~~e. —Windows. Street-level storefront windows are strongly encouraged. Office and residential windows organized in a generally regular pattern are encouraged.~~

~~f. —Awnings/canopies. Awnings or canopies which provide a generally consistent cover along the pedestrian walk are strongly encouraged. Arcades are desired to maintain a more continuous weather-protected walk. (Ord. 1167 §§ 15, 16 (Exh. A), 2014)~~

Sec. 2.19. Lighting.

1. *Intent.* It is the intent of this Section to:

- a. Create an attractive lighting system to enhance visibility and safety, while minimizing glare and contrast.
- b. Encourage exterior lighting that is functional, aesthetically pleasing and complementary to the architectural style of buildings.

2. *General provisions.*

- a. *Evaluation of exterior lighting.* Exterior lighting shall be evaluated in the development review process to ensure that the functional and security needs of the project are met in a way that does not adversely affect the adjacent properties or neighborhood. The degree to which exterior night lighting affects a property owner or neighborhood will be examined considering the light source, level of illumination, hours of illumination, and need for illumination in relation to the effects of the lighting on the adjacent property owners and the neighborhood.
- b. *Light style.* The style of lights shall be consistent with the style and character of architecture proposed on the site. Light fixtures that illuminate signage shall be compatible with the architecture of the building on which they are placed.
- c. *Concealed light source.* Light sources shall be concealed or shielded to the maximum extent feasible to minimize the potential for glare and unnecessary diffusion on adjacent property and away from the vision of passing motorists. All lights shall be directed downward and the light source shall be equipped with "cut-off" devices so that it will not be visible from any adjacent property and to ensure that ambient skyward light is eliminated. Accent and flagpole lighting shall be permitted to be directed upward as long as the light source is shielded and not visible from any adjacent property. Light fixtures installed under canopies, awnings, overhangs and the like shall be fully recessed.
- d. *Hours of lighting operation.*
 - (1) All parking lot lighting fixtures and exterior building lights, except those required for security purposes, shall be extinguished within one (1) hour after the end of business hours and remain extinguished until one (1) hour prior to the beginning of business hours. If a portion of a parking lot is used after dark, only that portion shall be lighted.

(2) Exterior lighting for ball diamonds, playing fields, tennis courts, and other similar outdoor recreational uses shall be extinguished no later than 11:00 p.m.

e. *Height standards for lighting.*

(1) *Street lighting.*

(a) All street lights adjacent to Town of Frederick local and collector rights-of-way shall be mounted such that the top of the fixture is no higher than twenty-five (25) feet.

(b) All street lights adjacent to Town of Frederick arterial rights-of-way shall meet the height requirements of the Engineering and Public Works Departments.

(2) *Outdoor light fixtures.*

(a) *Parking lot fixtures.* Parking lot pole mounted fixtures shall be mounted such that the top of the fixture is no higher than twenty-five (25) feet.

(b) Fixtures mounted on the exterior of buildings shall be mounted such that the top of the fixture is no higher than twenty (20) feet.

(3) Because of their limited hours of operation and their unique requirements for nighttime visibility, ball diamonds, playing fields, tennis courts, and other similar public and private outdoor recreational uses shall be exempt from the general provisions of this Section.

f. *Lighting levels.* With the exception of lighting for public streets, all other project lighting used to illuminate buildings, parking lots, pedestrian walkways, bikeways, or landscaping, shall be evaluated during the site plan review process. Table 2-10 gives maximum lighting levels for outdoor facilities used at night averaged over the entire activity area.

Table 2-10	
Maximum Lighting Levels	
Area/Activity	Footcandles (Maximum Unless Otherwise Noted)
Bikeways along roadside:	3.5
Canopies	25.0
Loading and unloading platforms	10.0
Park walkways	3.5
Pedestrian stairways	3.0
Parking areas	
Commercial zones	10.0
Residential zones	5.0

Table 2-10	
Maximum Lighting Levels	
Area/Activity	Footcandles (Maximum Unless Otherwise Noted)
Playgrounds	5.0
Outdoor sales and display	25.0
Secured areas and service yards	10.0

- (1) All lighting levels will comply with the following requirements:
 - (a) All lighting fixtures will be full cut off fixtures.
 - (b) The point by point illuminance plan uses a Light Loss Factor (LLF) of one (1).
 - (c) Prior to a Certificate of Occupancy, a lighting inspection and measurement must be completed to ensure compliance with the illuminance plan.
 - (d) The photometric grid used is no greater than ten (10) feet by ten (10) feet and provides lighting levels directly under the fixtures.
 - (e) All lighting for this site is included in, and shown on this plan. No other lighting will be added to the site without written approval of the Town of Frederick after a review of a new Point by Point Illuminance Plan. (Ord. 1145 § 16 (Exh. A), 2013)

Sec. 2.20. Environmental considerations.

1. *Intent.* The intent of this Section is to ensure that new development limits/mitigates its impact to wildlife and wildlife habitat and that it minimizes environmental impacts.

2. *General provisions.*

a. *Protection of wildlife and natural areas.* To the maximum extent practical, development shall be designed to ensure that disturbances which occur to any natural area as a result of development shall be minimized through the use of natural buffer zones. If any development materially disturbs a natural area, the development project shall mitigate such lost natural resource either on- or off-site. Any such mitigation shall be roughly proportional to the loss suffered as a result of the disturbance.

- (1) Natural areas shall include: floodplains and floodways; natural drainage and water ways; significant native trees and vegetation; wildlife travel corridors; special habitat features such as raptor nest sites, key nesting, breeding or feeding areas for birds; fox and coyote dens; prairie dog colonies over twenty-five (25) acres in size; remnant native prairie habitat; plains cottonwood galleries; and any wetland greater than one-quarter (1/4) acre in size, as identified on the Town of Frederick Environmental Constraints map within the Comprehensive Plan.

(2) The natural area buffer zone shall be used between natural areas and proposed development to ensure that the proposed development does not degrade the natural area. The size of the buffer zone shall be determined in conjunction with the Colorado Division of Wildlife or a Town-approved wetland or wildlife ecologist. The Town may decrease this buffer when strict application of this Subsection will impose an exceptional and undue hardship upon the property owner or developer.

(3) *Exceptions.* The Board of Trustees may allow disturbance or construction activity within the natural area or natural area buffer zone for the following limited purposes: mitigation of development activities, restoration of previously degraded areas, emergency public safety activities and utility installations when such activities and installations cannot reasonably be contained within other nearby areas of development, construction of a trail that will provide public access for educational or recreational purposes, or the enhancement of the habitat value and/or other natural resource values of a natural area.

(4) *Ecological characterization.* If the Town determines that the site likely includes areas with wildlife, plant life and/or other natural characteristics in need of protection, the Town may require the developer to provide a report prepared by a professional qualified in the areas of ecology, wildlife biology or other relevant discipline. The ecological characterization report shall be referenced on the open space plan and describe the following:

- (a) The wildlife use of the natural area showing the species of the wildlife using the area, the times or seasons the areas is used by those species and the "value" (meaning feeding, watering, cover, nesting, roosting, perching) that the area provides for such wildlife species;
- (b) The boundary of wetlands in the area and a description of the ecological functions and characteristics provided by those wetlands;
- (c) Any prominent views from or across the site;
- (d) The pattern, species, and location of any significant native trees and other native site vegetation;
- (e) The bank, shoreline, and high water mark of any perennial stream or body of water on the site;
- (f) Wildlife travel corridors; and
- (g) The general ecological functions provided by the site and its features.

(5) *Wildlife conflicts.* If wildlife that may create conflicts for the future occupants of the development (including, but not limited to, prairie dogs, beaver, deer and rattlesnakes) are known to exist in areas adjacent to or on the development site, then the development plan must, to the extent reasonably feasible, include provisions such as barriers, protection mechanisms for landscaping and other site features to minimize conflicts that might otherwise exist between such wildlife and the developed portion of the site. Any impacts to wildlife must be referred to the Colorado Division of Wildlife and, in the case of threatened or endangered species, United States Fish and Wildlife Department.

b. *Environmental responsibility.* The Town of Frederick encourages the construction of environmentally responsible buildings. Two programs that support that philosophy are:

(1) *Built Green Colorado.* Built Green Colorado is one of the oldest and largest green home building programs in the nation and it encourages home builders to use technologies, products, and practices that result in homes that are better built and better for the environment. The purpose of the program is to encourage builders to use technologies, products, and practices that will:

- (a) Provide greater energy efficiency and reduce pollution;
- (b) Provide healthier indoor air;
- (c) Reduce water usage;
- (d) Preserve natural resources;
- (e) Improve durability and reduce maintenance.

(2) *US Green Building Council's Leadership in Energy and Environmental Design (LEED) certification.* LEED is a third-party certification program and the nationally accepted benchmark for the design, construction, and operation of high performance green buildings. LEED promotes a whole-building approach to sustainability by recognizing performance in five key areas of human and environmental health:

- (a) Sustainable site development;
- (b) Water savings;
- (c) Energy efficiency;
- (d) Materials selection;
- (e) Indoor environmental quality.

Sec. 2.21. Sanitary sewer.

All residential, commercial, and industrial uses which have human occupancy shall have sanitary sewer. The sanitary sewer system shall be connected to an existing public sanitary sewer system and shall consist of a closed system of sanitary sewer mains and lateral branch connections to each structure or lot upon which a structure is to be built. Sanitary sewer lines are to be of sufficient size and design to collect all sewage from all proposed or portable structures within the subdivision or development.

On a case-by-case basis, the Board of Trustees may approve individual sewage disposal systems that comply with Weld County Health Department standards. However, no new addition, upgrade, or major repair to an individual sewage disposal system will be permitted if the property is located within four hundred (400) feet of a municipal or

sanitation district collection line, measured through existing sewer easements or utility rights-of-way, except where such connection is not feasible or has been denied by the Town or district.

Sec. 2.22. Potable water.

All residential, commercial, and industrial uses which have human occupancy shall have potable water served by the Town or appropriate water district. The water system shall be of sufficient size and design to supply potable water to each structure or lot upon which a structure is to be built.

Sec. 2.23. Fire hydrants.

The subdivider shall install fire hydrants at street intersections and at other points as per the requirements of the Frederick Firestone Fire Protection District. Fire hydrants shall meet the standards and specifications of Frederick Firestone Fire Protection District.

The Frederick Land Use Code is current through Ordinance 1326, passed October 22, 2019.

Disclaimer: The Town Clerk's Office has the official version of the Frederick Land Use Code. Users should contact the Town Clerk's Office for ordinances passed subsequent to the ordinance cited above.

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[Town Website: www.frederickco.gov](http://www.frederickco.gov)

Town Telephone: (720) 382-5500

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Article 3. Zoning

Sec. 3.1 General Provisions

1. Uniformity of regulations
2. Conflict with other provisions of law
3. Conflict with private covenants or deeds
4. Zoning of annexed territory

Sec. 3.2 Zoning Districts and Boundaries

1. The following zoning districts are hereby established
2. Zoning District Map
3. Changes to Map/Amendments
4. Annexation
5. Boundary lines
6. Cost for Amending Zoning
7. Public Inspection

Sec. 3.3 Zoning Districts

1. List of Residential Zoning Districts/Specific Purposes
2. Commercial Zoning Districts

Sec. 3.4 Matrix of Permitted, Conditional, and Special Uses by Zoning District

1. General application of uses
2. Specific Use Standards

Sec. 3.5 Density and Dimensional Standards

3. Setback requirements

Sec. 3.6 Nonconforming Uses

1. Requirements for nonconforming uses

Sec. 3.1. General Provisions.

In their interpretation and application, the provisions of these zoning regulations shall be held to be minimum requirements adopted for the promotion of the public health, safety, morals, convenience, comfort, prosperity and general welfare.

1. *Uniformity of regulations.* The regulations established by this Article within each zone shall apply uniformly to each class or kind of structure or land. Unless exceptions are specified in this Code, the following interpretations shall apply:

The Frederick Land Use Code is current through Ordinance 1326, passed October 22, 2019.

- a. No buildings, structure or land shall be used or occupied, and no building, structure or part thereof shall be erected, changed, constructed, moved or structurally altered unless in conformity with all of the regulations herein specified for the zone in which it is located. Where a lot is divided by a zoning district boundary line by the current official zoning map or by subsequent amendments to the zoning map, the zoning requirements may be extended within the lot for a distance of not more than twenty-five (25) feet.
 - b. No building or other structure shall be erected or altered:
 - (1) To exceed the height limitations;
 - (2) To accommodate or house a greater number of families;
 - (3) To occupy a greater percentage of the area;
 - (4) To have narrower or smaller rear yards, front yards, side yards or other open spaces.
 - c. No part of a yard, other open space or off-street parking or loading space required or in connection with any building for the purpose of complying with this Code shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building unless specific exception therefore is stated in this Code.
 - d. No yard or lot existing or approved at the time of passage of this Code shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Code shall meet at least the minimum requirements established by this Code.
 - e. Any use not permitted in a zone either specifically or by interpretation by the Board of Trustees per Section 3.4.1 is hereby specifically prohibited from that zone.
2. *Conflict with other provisions of law.* Whenever the requirements of this Code are at a variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive or that imposing the higher standards shall govern.
 3. *Conflict with private covenants or deeds.* In case of a conflict between this Code and any private restrictions imposed by covenant or deed, the responsibility of the Town shall be limited to the enforcement of this Code.
 4. *Zoning of annexed territory.*
 - a. Zoning of land during annexation shall be done in accordance with the procedure and notice requirements of Article 13. The proposed zoning ordinance shall be considered at the same meeting the annexation ordinance is considered.

Sec. 3.2. Zoning Districts and Boundaries.

1. *The following zoning districts are hereby established.* They may be referred to throughout the Land Use Code by their name or district letter abbreviations.

a. *Residential Zoning Districts.*

- (1) R-E Estate District
- (2) R-1 Residential Low Density District
- (3) R-2 Residential Medium Density District
- (4) R-3 Residential High Density District
- (5) R-MH1 Manufactured Home District 1
- (6) R-MH2 Manufactured Housing Development District 2

b. *Commercial Zoning Districts.*

- (1) C-N Neighborhood Commercial District
- (2) C-C Community Commercial District
- (3) C-H52 Mixed Used Highway 52 District
- (4) C-E Employment District

c. *Industrial Zoning Districts.*

- (1) BLI Business Light Industrial District
- (2) I Industrial District

d. *Special and Overlay Zoning Districts.*

- (1) A Agricultural District
- (2) P Public District
- (3) H-O Hazard Overlay District
- (4) PUD-O Planned Unit Development Overlay District
- (5) D-A and D-B Downtown Districts (*See Article 15 – Downtown Code for more information on thesedistricts.*)

2. *Zoning District Map.* The boundaries and classifications of districts established are as depicted on a map entitled Zoning District Map, Town of Frederick, as may from time to time be revised, updated or redrafted. The Official Zoning Map shall be that map bearing the most recent date of publication and which has been signed by the Planning Director.

3. *Changes to Map/Amendments.* All amendments to the zoning map shall be made by ordinance. The Planning Director shall, within a reasonable time after adoption of any such amendment by the Board of Trustees, revise the prior existing Official Zoning Map to include the annexed area with the proper zoning classification or show

the amended classification, as the case may be. The Official Zoning Map shall be that map bearing a table containing the date, initials of the person who checked and approved the change, number of the ordinance amending it, and signed by the Planning Director.

4. *Annexation.* No annexation of property to the Town shall become final until designation of a zoning classification for the property to be annexed has been established.

5. *Boundary lines.*

a. *Zoning district boundaries.* In the event uncertainty is deemed to exist on the zoning district map, district boundaries shall be on section lines, lot lines, the centerlines of highways, streets, alleys, railroad rights-of-way or such lines extended; municipal corporation lines; natural boundary lines, such as streams; or other lines to be determined by the use of scales shown on the map. Where a lot is divided by a zoning district boundary line at the time of enactment of the ordinance codified in this Article or by subsequent amendments to that ordinance or this Article, either zone requirements may be extended within the lot for a distance of not more than twenty-five (25) feet.

b. *Hazard Overlay District boundaries.*

- (1) Data verified from the Colorado Geological Survey on geological hazards; and
- (2) Data verified from the Colorado Water Conservation Board, Federal Emergency Management Agency (FEMA) or the Board of Trustees on flood prone areas.

6. *Cost for Amending Zoning.* Any person who proposes zoning for property being annexed or proposes modifying existing zoning shall bear the entire cost of amending the official zoning map, including all notification costs. The Town shall provide the applicant with a copy of the current fee schedule and fee agreement form.

7. *Public Inspection.* Availability of the Official Zoning District Map shall be available and on display at the Town Hall during normal business hours.

Sec. 3.3. Zoning Districts.

1. *List of Residential Zoning Districts/Specific Purposes.*

a. *R-E Estate District, Large Lot With Common Open Space.*

(1) *Intent.* This is a very low-density residential district intended to encourage the preservation of open space, natural features and agricultural land in conjunction with the clustering of single-family detached dwellings.

b. *R-1 Residential Low Density District.*

(1) *Intent.* This is a low-density housing district intended primarily for single-family uses on individual lots. This zone is characterized by tree-lined local streets, interconnected pedestrian circulation system and proximity to schools and parks.

c. *R-2 Residential Medium Density District.*

(1) *Intent.* This medium-density residential zone is intended to preserve the traditional building pattern of mixed residential development, which historically has been integrated to form a vibrant, active and cohesive neighborhood unit. This District provides for attached residential dwelling units in addition to single-family detached dwelling units.

d. *R-3 Residential High Density District.*

(1) *Intent.* This is a high-density residential zone intended primarily for multi-family uses on individual lots. In order to facilitate appropriate higher densities near viable business centers, multi-family buildings are generally encouraged near a neighborhood commercial center (i.e., B-1 Business District, C-N Commercial Neighborhood District, C-C Community Commercial District or MU-R Mixed Use Residential District). Street and open space designs in these areas shall be used to create compatibility among frontages, which encourage pedestrian interaction and discourage high automobile speeds. Multi-family residential developments shall be designed around or adjacent to open space (refer to Article 2, Section 13 for details).

e. *R-MH1 Manufactured Home District 1.*

(1) *Intent.* This is a high-density residential district on a parcel of land under single ownership or control on which two (2) or more manufactured homes are occupied as residences.

f. *R-MH2 Manufactured Housing Development District 2.*

(1) *Intent.* This is a low density residential zoning district intended primarily for single-family uses on individual lots within a subdivision, consisting of dwellings partially or entirely manufactured in a factory.

2. *Commercial Zoning Districts.*

a. *C-N Commercial District, Neighborhood.*

(1) *Intent.* The Commercial District is intended to provide for the development of a mixed use commercial center to serve the convenience shopping and service needs of the neighborhood, as well as provide a location for community facilities. This District is intended to serve as a focal point for pedestrian activities within a neighborhood and should be scaled in size to the surrounding neighborhood. Individual buildings are encouraged to be mixed vertically with street-level commercial and upper-level office and/or residential.

b. *C-C Commercial District, Community.*

(1) *Intent.* This is a commercial district intended to provide for the location of auto-oriented and auto-dependent uses and/or uses which provide a wide range of general retail goods and services for residents of the entire community, as well as businesses and highway users, primarily inside of enclosed structures.

c. *C-H52 Mixed Use Commercial-Highway 52 District.*

(1) *Intent.* The C-H52 District is intended to be a setting for development of a wide range of community and regional retail uses, offices and personal and business services. Secondly, it can accommodate a wide range of other uses, including multi-family housing and mixed use dwelling units. The C-H52 District is intended to integrate various commercial and multi-family uses while transitioning from the highway to adjacent lower density neighborhoods.

(2) While some C-H52 District areas may continue to meet the need for auto-related and other auto-oriented uses, it is the Town's intent that the C-H52 District emphasizes safe and convenient personal mobility in many forms, with planning and design that accommodates pedestrians. Further, the C-H52 District is intended to function with, rather than compete with, the downtown area.

d. *C-E Employment District.*

(1) *Intent.* The Employment District is intended to provide locations for a variety of workplaces including light industrial uses, research and development activities, offices and institutions. The Employment District also is intended to accommodate secondary uses that complement or support the primary workplace uses, such as hotels, restaurants, convenience shopping, child care and housing. Additionally, the Employment District is intended to encourage the development of planned office and business parks; to promote excellence in the design and construction of buildings, outdoor spaces, transportation facilities and streetscapes; to direct the development of workplaces consistent with the availability of public facilities and services; and to continue the vitality and quality of life in adjacent residential neighborhoods.

3. Industrial Zoning Districts

a. *BLI Business/Light Industrial District.*

(1) *Intent.* This zoning district is intended to provide locations for a variety of workplaces, including light industrial uses, research and development offices and institutions. This District is also intended to accommodate secondary uses that complement and support the primary workplace uses, such as hotels, restaurants, convenience shopping, child care and housing.

(2) Additionally, this District is intended to encourage the development of planned office and business parks; and to promote excellence in the design and construction of buildings, outdoor spaces, transportation facilities and streetscapes.

b. *I Industrial District.*

(1) *Intent.* This zoning district is intended to provide a location for a variety of employment opportunities such as manufacturing, warehousing and distributing, indoor and outdoor storage and a wide range of commercial and industrial operations. The I District also accommodates complementary and supporting uses such as convenience shopping and child care centers. Locations for this District require good access to major arterial streets and adequate water, sewer and power.

4. Special and Overlay Zoning Districts

a. *A Agricultural District.*

(1) *Intent.* This is an ultra-low-density district intended for the pursuit of farm activities and limited animal raising and grazing activities or for transitional status. This zone is characterized by growing crops, raising animal livestock and related functions.

b. *P Public District.*

(1) *Intent.* This District is intended to identify and perpetuate the existence of public parks, playgrounds, recreation facilities and public and quasi-public buildings, whether publicly owned or leased.

c. *H-O Hazard Overlay District.*

(1) *Intent.* This District is to be used where known geologic and floodprone areas exist, as illustrated by the *Environmental Constraints Map* in the Comprehensive Plan. It shall be used as an overlay to any other zone.

(2) *Principal uses.* Principal permitted uses in the H district shall be as follows:

(a) Any use set forth in the existing zone, provided that the hazard has been mitigated to the satisfaction of the Planning Commission and the Board of Trustees, and only by conditional use review.

(b) Parks and open space.

(3) *Conditional uses.* Uses requiring conditional use review shall be as follows:

(a) Golf courses.

(b) Limited outdoor recreation facilities.

(c) Resource extraction, processes, and sales establishment.

(4) *Special uses.* Uses requiring special use review shall be as follows:

(a) Gas, oil, and other hydrocarbon well drilling and production (as permitted by state and local regulations).

d. *PUD-O Planned Unit Development Overlay District.*

(1) *Intent.* The Planned Unit Development (PUD) Overlay District is enacted pursuant to the Planned Unit Development Act of 1972, as amended (C.R.S. [§24-67-101-108](#)). The PUD is intended to be used as an overlay zone district that supplements the underlying standard zone district. The intent and purpose of this District is to permit and encourage innovative design and high quality, master-planned developments on large parcels of land. This District is created to allow and encourage compatible uses to be developed in accordance with a unified development plan in harmony with the environment and surrounding neighborhood. The District is intended to permit greater flexibility in the application of zoning and development standards and greater freedom in providing a mix of land uses in the development of a

balanced community. PUDs are expected to preserve critical environmental resources, provide above-average open space and recreational amenities, include exceptional design and provide greater efficiency in the layout and provision of roads, utilities and other infrastructure.

(2) *Permitted uses.* Uses permitted in the PUD Overlay District shall be those uses permitted in the underlying standard zone district for the property. An applicant for a PUD Overlay District may request modifications to the permitted uses of the underlying zone district to remove those uses that may be deemed incompatible or inappropriate for the overall PUD development. Conditional uses may be permitted if it can be demonstrated that such uses meet the conditional use review criteria for the underlying zone district.

(3) The area of land for the PUD may be controlled by one (1) or more landowners and must be developed under unified control or a unified plan of development.

(4) Areas designated as private streets and/or common open space, including land, an area of water or a combination of land and water within the site designated for a PUD, shall be designed and intended primarily for the use or enjoyment of residents, occupants and owners of the PUD; and provisions shall be made for the establishment of an organization for the ownership and maintenance of such private streets and/or common open space areas unless other adequate arrangements for the ownership and maintenance thereof are provided in a manner acceptable to the Town.

(5) All requirements set forth in this Code otherwise applicable to the area of land proposed for a PUD shall govern, except to the extent that the unified plan of development for residential, commercial, educational, recreational or industrial uses or any combination thereof may propose exceptions in lot size, bulk, type of use, density, lot coverage, open space, or other standards within the existing land use regulations, except those development standards that are not open to modification (see Section 4.7.5.d).

Sec. 3.4. Matrix of Permitted, Conditional, and Special Uses by Zoning District; Use-Specific Standards.

1. General application of uses.

- a. *P – Permitted Principal Use.* Uses designated as "permitted uses" are allowed in a zone district as a matter of right.
- b. *C – Permitted Conditional Use.* Uses classified as "conditional uses" may be permitted upon the Planning Commission's recommendation of approval of a conditional use permit. A public meeting and final consideration by the Board of Trustees is required.
- c. *S – Special Use.* Uses classified as a "special use" are permitted upon Administrative approval through a special review.
- d. *Blank Cell.* Unless a use is designated as a "permitted use" or "conditional use" or is classified as a legal "nonconforming" structure or use, it is not permitted. Land uses not otherwise identified in this Code may be

proposed for development. In order to provide for such uses, the classification of any new or unlisted land use shall be made by the Board of Trustees to determine if the use can be reasonably interpreted to fit into a similar use category described in this Code. Unless such determination is made, the use is not permitted.

e. The numbers of additional regulations shown in the right-hand column relate to regulations that can be found following the Table of Permitted Uses. These standards are in addition to the general criteria applicable to all uses and to the general development and subdivision standards stated in Articles 2 and 4, respectively.

Table 3-1. Table of Permitted Uses
Any use not permitted in a zone either specifically or by interpretation by the Board of Trustees per Section 3.4(a) is hereby specifically prohibited

PERMITTED USES	A	R-E	R-1	R-2	R-3	R-MH1	R-MH2	D-A	D-B	C-N	C-C	C-HS2	C-E	BLI	I	P	Additional Regulations (Apply in All Districts Unless Otherwise Stated)
RESIDENTIAL USES																	
Accessory buildings and accessory uses.	P	P	P	P	P	P	P			P	P	P	P	P	P	P	(17), (28)
Accessory dwelling when associated with a permitted use.	P	P	P	P										C	C		(1), (2), (28)
Group homes.	P	P	P	P	P					P		P	C				(3), C-E: (13), (28)
Multi-family.					P			P	P			C	C				(4), C-E: (13), (28)
Manufactured homes.						P	P										(28)
Mixed use dwelling units.								P	P	P	P	P	P	P			C-E: (13), (28)
Senior housing.		P	P	P	P	P	P						P				C-E: (13), (28)
Single-family detached dwellings.	P	P	P	P			P	P	P								(28)
Single-family attached dwellings.				P	P			P	P			C	C				C-E: (13), (28)
Two-family and multi-family dwellings.				P	P								C				(5), C-E: (13), (28)
INSTITUTIONAL/CIVIC/PUBLIC USES																	
Cemeteries.	C	C														P	(28)

Table 3-1. Table of Permitted Uses
Any use not permitted in a zone either specifically or by interpretation by the Board of Trustees per Section 3.4(a) is hereby specifically prohibited

PERMITTED USES	A	R-E	R-1	R-2	R-3	R-MH1	R-MH2	D-A	D-B	C-N	C-C	C-H52	C-E	BLI	I	P	Additional Regulations (Apply in All Districts Unless Otherwise Stated)
Church or place of worship and assembly.																	(28)
1. With seating capacity of less than 600 persons in the sanctuary or main activity area.	C		P	P	P		P	P	P	P	P	P	C	C	C		(19), (28)
2. With seating capacity of more than 600 persons in the sanctuary or main activity area.	C		C	C	C		C	P	P	P	P	P	C	C	C		(19), (28)
Community facilities.		C	C	C	C		C			P	P	C	P	P	P	P	C-E: (13), (28)
Golf courses.	P	C	C	C	C		C			C	C	C	C	C	C	P	(28)
Parks and open space.	P	P	P	P	P		P			P	P	P	P	P	P	P	(28)
Schools for kindergarten, elementary, intermediate and high school education.																	(28)
1. Public.	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	(28)
2. Private.	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	(8), (28)
Public and private schools including colleges, vocational										P	P	C	P	P	C	C	(28)

Table 3-1. Table of Permitted Uses

Any use not permitted in a zone either specifically or by interpretation by the Board of Trustees per Section 3.4(a) is hereby specifically prohibited

PERMITTED USES	A	R-E	R-1	R-2	R-3	R-MH1	R-MH2	D-A	D-B	C-N	C-C	C-H52	C-E	BLI	I	P	Additional Regulations (Apply in All Districts Unless Otherwise Stated)
training, and technical training.																	
Public facilities.	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	C-E: (13), (28)
Special schools.										P	P	P	P	P	C		(28)
Transit facilities with repair or storage.													C	C	P		(8), (28)
Transit facilities without repair or storage.										P	P	P	P	P	P	P	(8), (28)
BUSINESS/COMMERCIAL/RETAIL USES																	
Adult uses, including product sales and entertainment.															C		(8), (28)
Archery range.																	(28)
1. Indoor.	P											P	P	P	P		(28)
2. Outdoor.	C																(28)
Artisan and photography studios and galleries.										P	P	C	P	C	C		C-E: (13), (28)
Assisted living facility.					C					P		C	P				(28)
Auto, RV, boat and truck sales.											C	C	C	C	C		(15), (28)
Auto, RV, boat and truck storage.														C	P		(6), (28)
Automotive repair.																	(28)
1. Major.											C			P	P		(8), (28)

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PERMITTED USES	A	R-E	R-1	R-2	R-3	R-MH1	R-MH2	D-A	D-B	C-N	C-C	C-H52	C-E	BLI	I	P	Additional Regulations (Apply in All Districts Unless Otherwise Stated)
2. Minor.											P	P		P	P		(8), (28)
Bars and taverns.										C	P	C	P	P	C		(8), C-E: (13), (25), (28)
Bed and breakfasts.			P	C	C			P	P	C	P	P	C				C-E: (13), (28)
Brewery, winery, distillery.														P	P		(23), (25), (28)
Boarding and rooming houses.					C					P		C	P				(28)
Car washes.										C	P	P		P	P		(8), (28)
Child care centers.	C				C					P	P	P	P	C	C		C-E: (13), (28)
Child care, in-home.	P	P	P	P	P	P	P										(28)
Clubs and lodges.										C	P	C	P	P	P		C-E: (13), (28)
Crematorium.													P	P	P		(28)
Entertainment facilities and theaters.								P	C	C	P	C	P	C	C		(28)
Equipment rental establishments.										P	P	P		P			(6), (28)
Financial institutions.										P	P	P	P				(8), (9), (28)
1. Automatic teller machines (ATMs).																	Off-site, drive-up ATM facility not located on same lot as principal use requires site plan review and compliance with (8) and (9), (28).
Food catering.										P	P	P	P	P			C-E: (13), (28)
Food product production, small.										P	P	P	P	P			(28)

Table 3-1. Table of Permitted Uses
Any use not permitted in a zone either specifically or by interpretation by the Board of Trustees per Section 3.4(a) is hereby specifically prohibited

PERMITTED USES	A	R-E	R-1	R-2	R-3	R-MH1	R-MH2	D-A	D-B	C-N	C-C	C-H52	C-E	BLI	I	P	Additional Regulations (Apply in All Districts Unless Otherwise Stated)
Funeral homes.								P			P	P	C	C			C-E: (13), (28)
Gasoline stations.										C	P	P		P	P		(8), (28)
Grocery store (small).										P	P	P		C			(28)
Health and membership clubs.										P	P	P	P	P	P		C-E: (13), (28)
Home occupations.	P	P	P	P	C	P	P	P	P	P	P		P				(16), (28)
Hospitals.											C	C	P	P	C	C	(7), (28)
Hotel, motel, or lodging establishments.								P	C	C	P	P	P	C			(28)
Kennels – small animal boarding.	P	C								C	P	C	P	P	C		(8), (18), (28)
Limited indoor recreation facilities.								P	C	P	P	P	P	C		P	(8), (28)
Limited outdoor recreation facilities.	C	C	C	C	C					C	C	P	P	C	C	P	C-E: (13), (28)
Long-term care facilities.					C					C	P	P	C	C			(28)
Marijuana grow facility.																	(28)
Marijuana: recreational – up to 6 plants.	P	P	P	P	P	P	P	P	P								(28)
Marijuana retail operation.																	(28)
Medical and dental offices and clinics.								P	P	P	P	P	P	C			(7), (28)

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PERMITTED USES	A	R-E	R-1	R-2	R-3	R-MH1	R-MH2	D-A	D-B	C-N	C-C	C-H52	C-E	BLI	I	P	Additional Regulations (Apply in All Districts Unless Otherwise Stated)
Medical marijuana: patient.																	(28)
1. Up to 6 plants.	P	P	P	P	P	P	P	P	P								(28)
2. More than 6 plants but less than 99 plants.															C		(28)
Medical marijuana primary caregiver.																	(28)
1. Up to 6 plants.	P	P	P	P	P	P	P	P	P								(28)
2. More than 6 plants but less than 99 plants.															C		(28)
Meeting place.										P	P	P	P				(28)
Microbreweries, microdistilleries, and microwineries.								C	C	C	C	C	C	P	P		(22), (25), (28)
Nightclubs.											C	C	C	C			(8), (28)
Open air farmers' markets.	P							P		P	P	P		C	C		(8), (28)
Parking lots and parking garages as principal use.											C	C	P	P	P		(8), (28)
Personal and business service shops.								P	P	P	P	P	P	C			C-E: (13), (28)
Plant nurseries and greenhouses.	P										P	P	P	P	P		C-E: (13), (28)

Table 3-1. Table of Permitted Uses
Any use not permitted in a zone either specifically or by interpretation by the
Board of Trustees per Section 3.4(a) is hereby specifically prohibited

PERMITTED USES	A	R-E	R-1	R-2	R-3	R-MH1	R-MH2	D-A	D-B	C-N	C-C	C-H52	C-E	BLI	I	P	Additional Regulations (Apply in All Districts Unless Otherwise Stated)
Print shops.												P	P				C-E: (13), (28)
Professional offices, financial services.								P	P	P	P	P	P	P			(9), (28)
Restaurants.								P	P	P	P	P	P	P	C		(8), C-E: (13), (25), (28)
1. Restaurants with outside eating area.								P	P	P	P	P	P				(8), (28)
2. Restaurants with drive-in facilities.										C	C	C	C	C	C		(8), (9), (28)
3. Restaurants with drive-through facilities.											C	C	C	C	C		(8), (9), (28)
Retail/commercial establishments (small).								P	P	P	P	P	P				(28)
Retail/commercial establishments (large).											P	P	P				(28)
Retail and supply yard facilities.											C	C		C	P		(6), (28)
Seasonal sales.								P		P	P	P	P				(21), (28)
Shooting range.																	(28)
1. Indoor.	P											P	P	P	P		(8), (28)
2. Outdoor.	C																(26), (28)
Supermarkets.											P	P	P				(28)
Tourist facilities										P	P	P		P		P	(28)
Veterinary facilities, small animal clinics.	P									P	P	P	P	P	P		(8), (28)

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Any use not permitted in a zone either specifically or by interpretation by the Board of Trustees per Section 3.4(a) is hereby specifically prohibited

PERMITTED USES	A	R-E	R-1	R-2	R-3	R-MH1	R-MH2	D-A	D-B	C-N	C-C	C-H52	C-E	BLI	I	P	Additional Regulations (Apply in All Districts Unless Otherwise Stated)
Veterinary facilities, large animal clinics.	P													P	C		(8), (28)
Veterinary hospitals.												C		C	C		(8), C-E: (13), (28)
INDUSTRIAL USES																	
Base stations, alternative tower structures, and small cell wireless facilities within ROW.	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	C-E: (13), (14), (28)
Dry-cleaning plants.															C		(28)
Eligible facilities request.	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	C-E: (13), (14), (28)
Gas, oil and other hydrocarbon well drilling and production (as permitted by state and local regulations).	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	Article 9, (28)
Heavy industrial uses.															P		(6), (28)
Light industrial (production, assembly and packaging).												C	P	P	P		(6), C-E: (13), (28)
Machine shop.														P	P		(28)
Manufacturing and preparing food products.															P		(28)

Table 3-1. Table of Permitted Uses

Any use not permitted in a zone either specifically or by interpretation by the Board of Trustees per Section 3.4(a) is hereby specifically prohibited

PERMITTED USES	A	R-E	R-1	R-2	R-3	R-MH1	R-MH2	D-A	D-B	C-N	C-C	C-H52	C-E	BLI	I	P	Additional Regulations (Apply in All Districts Unless Otherwise Stated)
Manufacturing, assembly or packaging of products from previously prepared materials.													P	C	P		(6), C-E: (13), (28)
Manufacturing of electric or electronic instruments and devices.													P	C	P		C-E: (13), (28)
Mini-storage warehouse.											C	C		C	P		(6), (28)
Plumbing, electrical and carpenter shops.														P	P		(6), (28)
Recycling facilities.															C	C	(6), (28)
Research, experimental or testing laboratories.												C	P	C	P		C-E: (13), (28)
Resource extraction, processes and sales establishments.	C														C	C	(6), (28)
Sales and leasing of farm implements, heavy equipment, mobile/manufactured homes, and heavy excavation equipment.															C		(6), (28)

Table 3-1. Table of Permitted Uses

Any use not permitted in a zone either specifically or by interpretation by the Board of Trustees per Section 3.4(a) is hereby specifically prohibited

PERMITTED USES	A	R-E	R-1	R-2	R-3	R-MH1	R-MH2	D-A	D-B	C-N	C-C	C-H52	C-E	BLI	I	P	Additional Regulations (Apply in All Districts Unless Otherwise Stated)
Warehouse, distribution and wholesale uses.														P	P		(6), (28)
WCF tower.	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C-E: (13), (14), (28)
Workshops and custom small industry.											C	P	P	P	P		C-E: (13), (28)
AGRICULTURAL USES																	
Agritainment.	C																(28)
Animal boarding.	P																(28)
Agricultural activities.	P	P															(10), (28)
Backyard chickens.		P	P	P													(24), (28)
Common equestrian stabling and grazing.	P	P															(10), (11), (28)
Structures for storage of agricultural products produced on the premises.	P																(28)
Apiary/beekeeping	P	P	P	P				P	P								(27), (28)

2. *Specific Use-Specific Standards.*

a. *General.*

(1) *How to Use this Section.* The use standards stated in Section 3.4.b below apply to specific permitted principal uses and correspond to the numbers shown in the "Additional Regulations" column in Table 3-1, Table of Permitted Uses. For example, if the number "1" appears in the Additional Regulations column of the Table, then the specific use standards stated in Section 3.4.b below apply.

(2) *Standards are Supplemental.* As applicable, the specific use standards stated in Section 3.4.b below are in addition to the general criteria applicable to all uses and to the general development and subdivision standards stated in Articles 2 and 4, respectively. In the case of any conflict between a specific use standard in Section 3.4.2.b below and a general development standard as stated in other provisions of the Land Use Code, the specific use standard in Section 3.4.2.b below shall apply unless otherwise expressly provided.

b. ~~Specific Use~~ Specific Standards

- (1) Accessory dwelling units are limited to the following dimensions:
 - (a) In the Agriculture and Estate Residential Zoning Districts:
 - i) Minimum floor area of five hundred (500) square feet.
 - ii) Maximum floor area of one-half (1/2) the total floor area of the primary residence.
 - (b) In the R-1 and R-2 Zoning Districts:
 - i) Minimum floor area of five hundred (500) square feet.
 - ii) Maximum floor area of one thousand (1,000) square feet.
- (2) Only one accessory dwelling unit is allowed per lot.
- (3) Group homes are limited to a maximum of eight (8) developmentally disabled persons, handicapped individuals, children or senior citizens.
- (4) Number of multi-family units is limited to twenty-four (24) units per building.
- (5) No more than eight (8) units per building.
- (6) Outdoor storage, enclosed mini-storage facilities and/or auto, RV, boat and truck storage standards.
 - (a) All storage facilities should be located in areas with limited development opportunities, such as oil and well setbacks, areas of subsidence or areas with other physical land constraints that limit the development of structures.
 - (b) All storage, equipment and refuse areas shall be concealed from view from less intensive land uses, residential areas, abutting public rights-of-way and trails or trail corridors.
 - (c) All storage facilities shall be concealed through the use of a solid fence or wall that shall not have an uninterrupted length exceeding fifty feet (50'). The maximum height of the fence shall be eight feet (8'). Pilasters, brick, texture transitions and stepping of the fence planes are required. The use of additional ~~landscaping (including plant materials, trees and berming)~~ that provides year-round screening of a sufficient height to further conceal all stored materials is required to prevent visual impacts on neighboring businesses, residential uses and the streetscape.

- (d) Storage shall not be permitted within any applicable setback, public right-of-way or in landscaped areas.
 - (e) A minimum of twenty-five percent (25%) of the site must be maintained in live landscaped area.
 - (f) A fifty-foot (50') landscaped buffer is required along all perimeter streets if storage is adjacent to the right-of-way.
 - (g) A minimum five-eighths-inch (5/8") water tap must be purchased to serve the lot.
 - (h) A mechanism for long-term maintenance of all fencing is required (i.e., owners' association or covenants).
 - (i) Storage facilities shall not be located within a three-mile (3) radius of an existing facility within the Town of Frederick or in another jurisdiction.
 - (j) All buildings must utilize three (3) different types of building materials resulting in significant variation in the building facades. The building materials used for buildings, roofs, and other structures shall be compatible with the desired character of the zone.
 - (k) Outdoor loudspeaker systems are prohibited.
- (7) Heliports and helipads are a permitted accessory use to hospitals, medical clinics, and medical centers.
- (8) *Residential protection standards.*
- (a) *Purpose.* The purpose of these standards is to promote the public health, safety, and welfare by protecting existing residential uses and established residential neighborhoods from the potentially adverse visual, noise, light, traffic, and other impacts arising from the development of new commercial, retail, industrial, or institutional/civic uses in close proximity. Accordingly, these standards seek to create a "transition area" between the edges of nonresidential and residential zoning districts and uses.
 - (b) All required minimum distances set forth shall be measured from the nearest property line of one designated location to the nearest property line of the other designated location along a straight line extended between the two points without regard to intervening structures.
 - (c) *Limitations on Permitted Uses.* Notwithstanding the provisions of Article 3 Section 4 of this Chapter, including Table 3-1, Table of Permitted Uses, the following uses shall not be established or developed within the distance specified below of an existing residential use or of a residential zoning district. Residential zoning districts, for the purposes of this standard, shall include residential portions of a mixed-use development not located on the same lot as a non-residential use. Nothing in this subsection shall be interpreted to prohibit a lawfully operating use listed below from continuing its operation, if subsequent to the listed use's establishment, a residential use or zone district, or other protected use, is established or locates within the distances specified below.

- i) Automobile Service Stations--No closer than two hundred fifty (250) feet, excluding residential uses located in a non-residential zoning district;
- ii) Bars, taverns, and nightclubs--No closer than two hundred fifty (250) feet, excluding residential uses located in a non-residential zoning district;
- iii) Bus, Railroad, or Public Transit Terminal--No closer than two hundred fifty (250) feet, excluding residential uses located in a non-residential zoning district;
- iv) Indoor Shooting Range--No closer than two hundred fifty (250) feet.
- v) Kennels -- No closer than two hundred fifty (250) feet, excluding residential uses located in a non-residential zoning district;
- vi) Liquor Stores--No closer than two hundred fifty (250) feet, excluding residential uses located in a non-residential zoning district;
- vii) Motor Vehicle Sales and Rentals--No closer than two hundred fifty (250) feet, excluding residential uses located in a non-residential zoning district;
- viii) *Motor Vehicle Repair and Maintenance.*
 - 1. No closer than two hundred fifty (250) feet for completely enclosed operations, excluding residential uses in a nonresidential zoning district;
 - 2. No closer than five hundred (500) feet for any outdoor repair and maintenance activity;
- ix) Motor Vehicle Painting and Bodywork--No closer than two hundred fifty (250) feet for completely enclosed operations and no closer than five hundred (500) feet for any outdoor activity;
- x) Outdoor Sales, Repairs, and Activities--No closer than two hundred fifty (250) feet, excluding residential uses in a non-residential zoning district, except outdoor seating and food service areas for eating/drinking establishments as allowed in subsection 8(d) below;
- xi) Private Airports--No closer than one thousand (1,000) feet;
- xii) Restaurants with Drive-In Facilities--No closer than two hundred fifty (250) feet excluding residential uses in a non-residential zoning district; and
- xiii) Transportation Depots, Trucking Terminals, and Distribution Centers--No closer than five hundred (500) feet, excluding residential uses in a non-residential zoning district;
- xiv) Adult uses--No closer than one thousand (1,000) feet.
- xv) Cultivation of medical marijuana by a primary caregiver or a patient with legal authorization from the state to cultivate, produce, possess or process more than six (6) medical marijuana

plants, which is limited to the Industrial (I) Zoning District – No closer than five hundred (500) feet.

(d) *Development & Operational Standards.* All new development subject to this subsection shall comply with the following development standards.

These standards are in addition to applicable use and development standards stated in this Article and Article 2.

i) *Applicability.* Except for uses more specifically limited in subsection 8.b above, the following residential protection standards apply to the specified use only when the proposed use is located either in a residential zoning district, or within 250 feet of a residential zoning district.

ii) *Conflicting Provisions.* When the provisions of this subsection conflict with the provisions found in other sections of this Development Code, the more restrictive provision shall apply.

iii) *Operational Standards.*

1. Amplification of music, entertainment, or other noise emanating from the use that exceeds the noise standards in Chapter 10-198 of the Municipal Code shall not be allowed.
2. The operator or owner shall control all litter generated by the use.
3. Seating and food service may be provided on an outside patio or enclosure of a restaurant use, provided the patio or enclosure is no more than one-third the gross floor area of the principal use. Outdoor seating and food service must close by 10:00 p.m. Outside activity shall not be conducted between the hours of 10:00 p.m. and 7:00 a.m., and no delivery, loading, privately-contracted trash removal or compaction, or other such operations shall be permitted between the hours of 10:00 p.m. and 7:00 a.m. unless the Applicant submits evidence that such operations comply with the noise standards in Chapter 10-198 of the Municipal Code.

(e) *Parking, Access, and Circulation Standards.* The off-street parking area for the use shall be a minimum of 15 feet from the lot line of adjacent properties zoned for residential purposes. The parking area shall be landscaped according to Article 2 Section 14 and screened to prevent glare from vehicle headlights from intruding on adjacent residential properties.

(f) *Review of Uses Subject to this Subsection.*

i) *Uses Permitted By-Right ("P").*

1. *Subject to Special Review Procedure.* Uses subject to these residential area protection standards that are otherwise permitted by-right ("P") shall be reviewed according to the procedure stated in Article 4, "Site Plan," of this Land Use Code. At the Planning Director's discretion, based on consideration of the proposed use's potential impacts on nearby residential uses, full conditional use review may be required.

2. *Review Criteria.* All by-right uses subject to this provision shall be approved, approved with conditions, or denied based on their compliance with both the standards stated in this subsection for residential area protection, and the general review criteria and standards applicable to a Site Plan.

3. *Conditional Uses.* Uses subject to these residential area protection standards that are permitted as conditional uses ("C") shall be reviewed and approved according to Article 4 Section 9, "Conditional Uses." Approval or denial of the use shall be based on its compliance with both the standards stated in this subsection for residential area protection, and the general and applicable specific review criteria and standards stated in Article 4 Section 9.

(9) *Vehicle stacking standards.*

(a) The development and design standards of this subsection shall apply to all drive-in (drive-through) facilities and other auto-oriented uses unless otherwise expressly approved by the Planning Director:

i) *Minimum Number of Vehicle Stacking Spaces.* Off-street stacking spaces shall be provided as follows:

Table 3-2		
Activity Type	Minimum Stacking Spaces	Measured From: [1]
Bank teller lane	4	Teller or Window
Automated teller machine	3	Teller
Restaurant drive-through	6	Order Box
Restaurant drive-through	4	Order Box to Pick-Up Window
Car wash stall, automatic	4	Entrance
Car wash stall, self-service	3	Entrance
Funeral home/mortuary	4	Primary Passenger Loading Area for Processions
Other	4	Pick-Up Window
Note [1]: Measured so that the driver's side window is centered on the teller, order box, or window, as applicable.		

ii) *Design and Layout.* Required drive-through lanes and facilities and vehicle stacking spaces are subject to the following design and layout standards:

1. *Vehicle Stacking Spaces.*

a. *Size.* Vehicle stacking spaces must be a minimum of nine (9) feet by twenty (20) feet in size.

- b. *Location.* Stacking spaces may not impede on- or off-site traffic movements, nor impede movements into or out of off-street parking spaces.
- c. *Design.*
 - 1. Stacking spaces shall be separated from other internal driveways by raised medians if the Town Engineer deems the median necessary for traffic movement and safety.
 - 2. Vehicle stacking areas adjacent to public streets or sidewalks shall be separated from such streets or sidewalks by walls or landscaping with berms.
- 2. *Drive-In (Drive-Through) Facilities and Lanes.*
 - a. *Location and Screening.*
 - 1. Drive-in facilities (order stations, pick-up windows, bank teller windows, money machines, etc.) shall be located on the side or rear of principal structures to minimize their visibility from public streets.
 - 2. To the maximum extent practicable, drive-in lanes shall not be located between the primary structure and adjacent public streets or sidewalks. If this is not possible, drive-in lanes and facilities shall be set back a minimum of twenty (20) feet from any adjacent public street or sidewalk. The entire twenty foot (20') setback must be landscaped and bermed to screen the drive-in lane and facility from adjacent streets.
 - 3. Drive-in lanes adjacent to public streets or sidewalks shall be separated from such streets or sidewalks by walls or landscaping with berms.
 - 4. Car wash facilities and gas station auto service bays shall be located on the side or rear of principal structures to minimize their visibility from public streets.
 - 5. In addition to any buffering required by Article 2, drive-in lanes adjacent to residential uses shall be separated from such uses by an opaque wall at least six (6) feet high, located so that required buffer landscaping is between the wall and the adjacent residential use.
- (10) Animals within corrals must be at least one hundred feet (100') from any residence or retail sales building that exists. If a residence or retail sales building is constructed on the property, the corral must be relocated to a location at least one hundred feet (100') away from such structure.
- (11) Animal density is limited to two (2) per acre for horses, cattle, llamas, buffalo, and beefalo. At least one-half (1/2) acre of pasture is required for each animal. Sheep are limited to three (3) per acre.
- (12) Grazing must have existed during the two (2) preceding years immediately prior to annexation

(13) *Special Development Standards for the C-E District.*

(a) *Secondary Residential uses.* ~~Secondary Residential uses may only be proposed as a secondary use in the Employment Zone and shall be integrated both in function and appearance into a larger employment district development plan that emphasizes primary uses and are~~ limited to twenty-five percent 25% of the total gross area of the overall plan. All secondary uses shall be subject to site plan review.

(b) *Mix of housing types.* A mix of permitted housing types shall be included in any development plan proposing residential uses as a secondary use. The following standards are intended to promote a variety of housing within such a development plan:

i) A minimum of two (2) housing types shall be required on any residential portion of a development plan greater than ten (10) acres but less than thirty (30) acres in size, including parcels which are part of a phased development. A minimum of three (3) housing types shall be required on any residential portion of a development plan greater than thirty (30) acres in size, including parcels that are part of a phased development. The following list of housing types shall be used to satisfy this requirement:

1. Single-family detached dwellings located on lots containing no more than six thousand two hundred fifty (6,250) square feet.
2. Single-family attached dwellings.
3. Two-family dwellings.
4. Multi-family dwellings.
5. Group homes.
6. Mixed-use dwellings

ii) A maximum of fifty percent (50%) of a residential portion of the project may be single-family detached housing.

iii) Lot sizes and dimensions shall be varied for different housing types to avoid monotonous streetscapes.

iv) The lot size and layout pattern shall be designed to allow residences to face toward a street.

(c) *Access to a park, central feature, or gathering place.* Within any development proposal that contains a residential component, at least ninety percent (90%) of the dwellings of a residential development proposal shall be located within one thousand three hundred twenty (1,320) feet (one-quarter [1/4] mile) of either a neighborhood park, a privately owned park or a central feature or gathering place that is located either within the project or within an adjacent development, which distance shall be measured along street frontage without crossing an arterial street. Such parks, central features or gathering places shall contain one (1) or more of the following uses:

- i) Public parks, recreation areas or other open lands.
- ii) Privately owned parks meeting the following criteria:
 - 1. *Size.* In development projects greater than two (2) acres in gross area, such private parks must be a minimum of ten thousand (10,000) square feet. In development projects with a gross area of two (2) acres or less, such private parks must be a minimum of six percent (6%) of the gross site area.
 - 2. *Location.* Such parks must be highly visible, secure settings formed by the street layout and pattern of lots and easily observed from streets. Rear facades and rear yards of dwellings shall not abut more than two (2) sides or more than fifty percent (50%) of the perimeter frontage of the park.
 - 3. *Accessibility.* All parts of such parks shall be safely and easily accessible by pedestrians, and open to the public.
 - 4. *Facilities.* Such parks shall consist of multiple-use turf areas, walking paths, plazas, pavilions, picnic tables, benches or other features for various age groups to utilize.
 - 5. *Ownership and maintenance.* Such parks shall be privately owned and maintained by the developer or property owners' association.
 - 6. *Storm drainage.* When integrating storm drainage and detention functions to satisfy this requirement, the design of such facilities shall not result in slopes or gradients that conflict with other recreational and civic purposes of the park.
- iii) Community facilities or neighborhood support/recreation facilities (which are permitted as an accessory use to housing). If such facility is smaller than the required minimum size for privately owned parks as required in subparagraph 2 above, then the facility shall be physically integrated with such park space as needed to meet the required minimum size.
- (d) *Limit on use outside buildings.* Except for off-street parking and loading areas, all outdoor storage shall be screened above and beyond what is required in other zoning districts as determined in this Land Use Code.
- (e) *Building design.* To the extent reasonably feasible, industrial buildings shall provide a primary entrance that faces and opens directly onto the adjacent street sidewalk or a walkway, plaza or courtyard that has direct linkage to the street sidewalk without requiring pedestrians to cross any intervening driveways or parking lots. The following exceptions shall be permitted to this standard:
 - i) Buildings may orient away from the street if the development provides a campus or park-like development block with a unifying, formative internal framework of outdoor spaces and connecting walkways that function as an alternative to street sidewalks by connecting buildings within the site and directly connecting to common destinations in the district (such as transit

stops, restaurants, child care facilities and convenience shopping centers). Such an internal network shall provide direct pedestrian access to the street sidewalk.

ii) Acceptable building materials include brick, CMU block, wood, vinyl, stucco, stone and other materials similar in type. Prefabricated buildings and metal buildings are not permitted.

(14) *Wireless communications.*

(a) Wireless communications facility includes a ground-mounted base station which must be used as an accessory structure that is connected to an antenna mounted on or affixed to an existing building.

(b) *Height and setback requirements.*

i) Roof or building-mounted commercial mobile radio service facilities may protrude no more than five (5) feet above the parapet line of the building or structure, nor more than two and one-half (2 1/2) feet outside of the building wall unless sufficient screening methods are demonstrated and accepted as part of the approval.

ii) Roof- or building-mounted whip antennae of no more than three (3) inches in diameter, in groupings of five (5) or less, may extend up to twelve (12) feet above the parapet wall

iii) All freestanding facilities shall be set back at least three hundred (300) feet from all residentially zoned properties or residential structures on properties otherwise zoned.

(c) *Accessory buildings requirements.*

i) Accessory buildings located on the ground shall be no larger than four hundred (400) square feet and must be constructed of durable, low-maintenance materials, architecturally compatible and integrated with existing buildings and structures. Sites with greater than one hundred (100) cubic feet of cabinet area, visible from a public right-of-way or residentially zoned or used area, must enclose the equipment in accessory buildings.

ii) Accessory buildings and facilities are to be screened, to the extent possible, from public streets and sidewalks, either by screening, landscaping, location or other techniques deemed sufficient.

(d) *Building- or roof-mounted facilities requirements.*

i) Building- or roof-mounted facilities are to be screened from public view, either by screening, location or other techniques deemed sufficient.

(e) *Freestanding wireless communications facilities requirements.*

i) *Permission to use on ROW or public property.* For WCFs in the ROW, the applicant shall execute a nonexclusive license to use the public right-of-way. Attachment of WCFs on an existing traffic signal, streetlight pole, or similar structure shall require written evidence of a license, or other

legal right or approval, to use such structure by its owner. Prior to, or concurrently with, seeking land use approval for a WCF on public property that is not in the ROW, the applicant shall execute a lease agreement with the Town.

ii) *Operation and maintenance.* To ensure the structural integrity of WCFs, the owner of a WCF shall ensure that it is maintained in compliance with the standards contained in applicable local building and safety codes. If, upon inspection, the Town concludes that a WCF fails to comply with such codes and constitutes a danger to persons or property, then, upon written notice being provided to the owner of the WCF, the owner shall have thirty (30) days from the date of notice to bring such WCF into compliance. Upon good cause shown by the owner, the Town's Chief Building Official may extend such compliance period not to exceed ninety (90) days from the date of said notice. If the owner fails to bring such WCF into compliance within said time period, the Town may remove such WCF at the owner's expense.

iii) *Abandonment and removal.* If a WCF has not been in use for a period of three (3) months, the owner of the WCF shall notify the Town of the nonuse and shall indicate whether reuse is expected within the ensuing three (3) months. Any WCF that is not operated for a continuous period of six (6) months shall be considered abandoned. The Town, in its sole discretion, may require an abandoned WCF to be removed. The owner of such WCF shall remove the same within thirty (30) days of receipt of written notice from the Town. If such WCF is not removed within said thirty (30) days, the Town may remove it at the owner's expense and any approved permits for the WCF shall be deemed to have expired. Additionally, the Town, in its sole discretion, shall not approve any new WCF application until the applicant who is also the owner or operator of any such abandoned WCF has removed such WCF or payment for such removal has been made to the Town.

iv) *Camouflage/concealment.*

1. All WCFs and any transmission equipment shall, to the extent possible, use camouflage design techniques including, but not limited to, the use of materials, colors, textures, screening, undergrounding, or other design options that will blend the WCF to the surrounding natural setting and/or built environment. Design, materials and colors of WCFs shall be compatible with the surrounding environment. Designs shall be compatible with structures and vegetation located in the public right-of-way and on adjacent parcels.

2. Camouflage design may be of heightened importance where findings of particular sensitivity are made (e.g., proximity to historic or aesthetically significant structures, views, and/or community features). Should the Planning Director determine that WCFs are located in areas of high visibility, they shall (where possible) be designed (e.g., camouflaged, placed underground, depressed, or located behind earth berms) to minimize their profile at the request of the Planning Director.

3. The camouflage design may include the use of alternative tower structures should the Planning Director determine that such design meets the intent of this Code and the community is better served thereby.
 4. All WCFs shall be constructed out of or finished with nonreflective materials (visible exterior surfaces only).
- v) *Hazardous materials.* No hazardous materials shall be permitted in association with WCFs, except those necessary for the operations of the WCF and only in accordance with all applicable laws governing such materials.
- vi) *Collocation.* To the extent reasonably feasible based upon construction, engineering and design standards, WCF structures shall be designed and constructed to permit the facility to accommodate WCFs from at least two (2) wireless service providers on the same WCF unless the Town approves an alternative design. No WCF owner or operator shall unreasonably exclude a telecommunications competitor from using the same facility or location. Upon request by the Planning Director, the owner or operator shall provide evidence explaining why collocation is not possible at a particular facility or site.
- vii) *Lighting.* WCFs shall not be artificially lighted, unless required by the FAA or other applicable governmental authority, or the WCF is mounted on a light pole or other similar structure primarily used for lighting purposes. If lighting is required, the Town may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views. Lighting shall be shielded or directed to the greatest extent possible so as to minimize the amount of glare and light falling onto nearby properties, particularly residences.
- viii) *Noise.* Noise generated on the site must not exceed the levels permitted in this Code, except that a WCF owner or operator shall be permitted to exceed Code noise standards for a reasonable period of time during repairs, not to exceed two (2) hours without prior authorization from the Town.
- ix) *Landscaping and fencing requirements (excluding alternative tower structures and small cells in the ROW).*
1. WCFs shall be landscaped with a buffer of irrigated plant materials that effectively screen the view of the WCF from adjacent residential property. The standard buffer shall consist of the front, side, and rear landscaped setback on the perimeter of the site.
 2. Fencing for screening is required. The fencing or screening material shall meet the standard of the zone district in which the WCF will be located. In no case may fencing material be wire.
 3. No trees larger than four (4) inches in diameter measured at four and one-half (4-1/2) feet high on the tree may be removed, unless authorized by the Planning Director. To obtain such authorization, the applicant shall show that tree removal is necessary, the applicant's plan minimizes the number of trees to be removed, and any trees removed are replaced at a

ratio of two to one (2:1) to a total caliper of the removed trees. Additional landscaping required by the Town will be maintained at the expense of the owner of the WCF.

x) *Base stations.* If an antenna is installed on a structure other than a tower or alternative tower structure, such as a base station (including, but not limited to, the antennas and accessory equipment), it shall be of a neutral, nonreflective color that is identical to, or closely compatible with, the color of the supporting structure, or uses other camouflage/concealment design techniques so as to make the antenna and related facilities as visually unobtrusive as possible, including, for example, without limitation, painting the antennas and accessory equipment to match the structure. Additionally, any ground-mounted equipment shall be located in a manner necessary to address both public safety and aesthetic concerns in the reasonable discretion of the Planning Director, and may, where to the extent reasonably feasible based upon construction, engineering, and design standards, require a flush-to-grade underground equipment vault.

xi) *Alternative tower structures not in the public right-of-way.*

1. Alternative tower structures shall be designed and constructed to look like a building, facility, or structure typically found in the area;
2. Be camouflaged/concealed consistent with other existing natural or manmade features near the location where the alternative tower structure will be located;
3. Such structures shall be architecturally compatible with the surrounding area;
4. Height or size of the proposed alternative tower structure should be minimized as much as possible;
5. WCFs shall be sited in a manner that evaluates the proximity of the facility to residential structures and residential district boundaries;
6. WCFs should take into consideration the uses on adjacent and nearby properties and the compatibility of the facility to these uses;
7. Compatibility with the surrounding topography;
8. Compatibility with the surrounding tree coverage and foliage;
9. Compatibility of the design of the site, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness; and
10. Impact on the surrounding area of the proposed ingress and egress, if any.

xii) *Alternative tower structures in the public right-of-way.* Alternative tower structures and associated small cells or micro cells may be deployed in the public right-of-way through the utilization of streetlight poles, distribution lines, utility poles, traffic signals or similar structures.

Such facilities shall remain subject to the alternative tower structures standards of approval noted above, and subject to the following additional design criteria below:

1. To the extent that an alternative tower structure is a vertical structure located in the public right-of-way, with respect to its pole-mounted components, be located on or within an existing utility pole serving another utility;
2. With respect to its pole components, such components shall be located on or within a new utility pole where other utility distribution lines are aerial, if there are no reasonable alternatives, and the applicant is authorized to construct the new utility poles;
3. To the extent reasonably feasible, be consistent with the size and shape of the pole-mounted equipment installed by communications companies on utility poles near the alternative tower structure;
4. Be sized to minimize the negative aesthetic impacts to the public right-of-way;
5. Be designed such that antenna installations on traffic signal standards are placed in a manner so that the size, appearance, and function of the signal will not be considerably altered;
6. Require that any ground-mounted equipment shall be located in a manner necessary to address both public safety and aesthetic concerns in the reasonable discretion of the Planning Director, and may, where to the extent reasonably feasible based upon construction, engineering, and design standards, require a flush-to-grade underground equipment vault;
7. Not alter vehicular circulation or parking within the right-of-way or impede vehicular, bicycle, or pedestrian access or visibility along the right-of-way. The alternative tower structure must comply with the Americans with Disabilities Act and every other local, state, and federal law and regulations. No alternative tower structure may be located or maintained in a manner that causes unreasonable interference. "Unreasonable interference" means any use of the right-of-way that disrupts or interferes with its use by the Town, the general public, or other person authorized to use or be present upon the right-of-way, when there exists an alternative that would result in less disruption or interference. Unreasonable interference includes any use of the right-of-way that disrupts vehicular or pedestrian traffic, any interference with public utilities, and any other activity that will present a hazard to public health, safety, or welfare;
8. The pole or structure is not more than five (5) feet taller (as measured from the ground to the top of the pole) than any existing utility or traffic signal pole within a radius of five hundred (500) feet of the pole or structure;
9. Any such pole shall in no case be higher than thirty (30) feet;

10. Any such pole shall be separated from any other pole, accessory equipment or wireless communications facility in the right-of-way by a distance of at least five hundred (500) feet unless deployed on an existing structure or replacement pole in the public right-of-way. The Planning Director may exempt an applicant from these requirements if the Planning Director determines, when considering the surrounding topography, the nature of adjacent uses and nearby properties, and the height of existing structures in the vicinity, that placement of a WCF at a distance less than five hundred (500) feet from another WCF will meet the intent of reducing visibility and visual clutter of WCFs to the extent possible;

11. To the extent reasonably feasible, collocations are strongly encouraged to limit the number of poles within the right-of-way;

12. Equipment enclosures shall be located out of view as much as possible and shall comply with Town criteria (e.g., sight line criteria);

13. When placed near a residential property, the WCF shall be placed adjacent to the common side yard property line between adjoining residential properties, such that the WCF minimizes visual impacts equitably among adjacent properties. In the case of a corner lot, the WCF may be placed adjacent to the common side yard property line between adjoining residential properties, or on the corner formed by two (2) intersecting property lines. If these requirements are not reasonably feasible from a construction, engineering or design perspective, the applicant may submit a written statement to the Planning Director requesting the WCF be exempt from these requirements.

xiii) *Towers.*

1. Towers shall either maintain a galvanized steel finish, or, subject to any applicable FAA standards, be painted a neutral color so as to reduce visual obtrusiveness as determined by the Town;

2. Tower structures should use existing land forms, vegetation, and structures to aid in screening the facility from view or blending in with the surrounding built and natural environment;

3. Monopoles shall taper from the base to the tip;

4. All towers, excluding alternative tower structures in the right-of-way, shall be enclosed by security fencing or wall at least six (6) feet in height and shall also be equipped with an appropriate anti-climbing device consistent with Town Code.

xiv) *Related accessory equipment.* Accessory equipment for all WCFs shall meet the following requirements:

1. All buildings, shelters, cabinets, and other accessory components shall be grouped as closely as technically possible;

2. The total footprint coverage area of the WCF's accessory equipment shall not exceed three hundred fifty (350) square feet, unless otherwise approved by the Planning Director;
 - a. No related accessory equipment or accessory structure shall exceed fifteen (15) feet in height;
 - b. Accessory equipment, including but not limited to remote radio units, shall be located out of sight whenever possible by locating behind parapet walls or within equipment enclosures. Where such alternate locations are not available, the accessory equipment shall be camouflaged or concealed.

xv) *Abandonment and removal.* Prior to approval, affidavits shall be required from the owner of the property and from the applicant acknowledging that each is responsible for the removal of a WCF that is abandoned or is unused for a period of six (6) months.

xvi) *Decision.* Any decision to approve, approve with conditions, or deny an application for a WCF shall be in writing and supported by substantial evidence related to regulations and restrictions, as detailed herein, in a written record. The applicant shall receive a copy of the decision.

xvii) *Compliance with applicable law.* Upon approval, all work done pursuant to WCF applications must be completed in accordance with all applicable building, structural, electrical, and safety requirements as set forth in Town Code and any other applicable laws or regulations. In addition, all WCF applications shall:

1. Comply with any permit or license issued by a local, state, or federal agency with jurisdiction of the WCF;
2. Comply with easements, covenants, conditions and/or restrictions on or applicable to the underlying real property;
3. Be maintained in good working condition and to the standards established at the time of application approval; and
4. *Remain free from trash, debris, litter, graffiti, and other forms of vandalism.* Any damage shall be repaired as soon as practicable, and in no instance more than ten (10) calendar days from the time of notification by the Town or after discovery by the owner or operator of the site. Notwithstanding the foregoing, any graffiti on WCFs located in the rights-of-way or on other Town-owned property may be removed by the Town at its discretion, and the owner and/or operator of the WCF shall pay all costs of such removal within thirty (30) days after receipt of an invoice from the Town.
5. *Compliance report.* Upon request by the Town, the applicant shall provide a compliance report within forty-five (45) days after installation of a WCF demonstrating that, as installed and in operation, the WCF complies with all conditions of approval, applicable Code requirements and standard regulations.

- (f) Conditional mitigation measures co-location.
 - i) The Town encourages co-location of wireless telecommunications facilities to minimize the number of sites.
 - ii) No wireless telecommunications facility owner or operator shall unfairly exclude a competitor from using the same facility or location. Unfair exclusion of use by a competitor may result in the revocation of the use by conditional review or site development plan.
- (15) *Development standards for auto, RV, boat and truck sales.*
 - (a) Not more than one (1) vehicle display pad, which may be elevated up to three (3) feet in height as measured at the highest point, shall be permitted per one hundred (100) feet of road frontage.
 - (b) No other materials for sale shall be displayed between the principal structure and the right-of-way.
 - (c) Vehicles shall be stored on paved parking surfaces.
 - (d) No bay door shall orient directly towards residential, public open space or right-of-way unless there is an intervening building located between the use and the residential/public space.
 - (e) If washing areas are provided, these areas shall be covered and have drains connected to the sanitary sewer system. The drains shall be constructed with an oil/water separator. All treatment facilities shall be approved by the Town Engineer.
- (16) *Home Occupations.*
 - (a) Medical, dental and real estate offices are not permitted as home occupations.
 - (b) In addition to the family occupying the dwelling containing the home occupation, there shall not be more than one (1) outside employee in the home occupation.
 - (c) The employee and clients may park in on-street curbside parking spaces.
 - (d) The home occupation shall not exceed one thousand (1,000) square feet or thirty percent (30%) of the total square footage of the dwelling, whichever is less, or can be located in an accessory building not to exceed five hundred (500) square feet.
 - (e) All exterior aspects of the home occupation operation shall not disrupt the residential character of the area.
 - i) The maximum number of clients which may visit the home occupation per day is ten (10).
- (17) *Development standards for accessory buildings and uses.*
 - (a) All accessory buildings and uses:

- i) Shall be subject to the general, dimensional, operation, and use-specific regulations stated in this article. In the case of any conflict between the standards of this section and any other requirement of this Code, the standards in this section shall control.
 - ii) Must be reasonably and customarily incidental to the principal use and structure.
 - iii) Must be located on the same lot as the principal use and structure.
 - iv) Must be constructed concurrently or following construction of the principal use or structure, except for accessory dwelling units and caretaker units which must have a valid permit issued for the associated principal structure.
 - v) Shall not create a combination of uses, which is the combination of two principal uses. Combination uses will not meet the above standard in terms of being subordinate or providing service to the principal use.
 - vi) Must meet the restrictions on pervious surfaces as outlined in Article 2.
- (b) Accessory uses:
- i) Must be subordinate in the area of the footprint, size, and purpose to the principal use.
- (c) Accessory buildings.
- i) In the agricultural zoning districts:
 - 1. Accessory buildings are those buildings not related to the primary agricultural use such as barns or storage buildings for agricultural products. Garages for non-agricultural vehicles and other similar non-agricultural buildings are required to meet these standards.
 - 2. May have a maximum footprint of five thousand (5,000) square feet.
 - 3. The maximum height of the accessory building is the maximum height of the zoning district.
 - ii) In all other zoning districts, the maximum total footprint of all accessory buildings is ninety percent (90%) of the footprint of the principal building, and the maximum height of accessory buildings is the same as the maximum height for principal building in the underlying zoning district.:
 - 1. If the lot size is greater than two (2) acres:
 - a. The maximum footprint of the accessory building is ninety percent (90%) of the principal building total size as measured in square feet.
 - b. The maximum height of the accessory building is the maximum height of the zoning district.
 - 2. If the lot size is less than two (2) acres:
 - a. The maximum footprint of the accessory building is ninety percent (90%) of the

~~principal building footprint.~~

- a. The maximum height of the accessory building is the maximum height of the zoning district.

(18) *Kennels*.

- (a) All animals shall be housed indoors during the hours between 10:00 p.m. and 7:00 a.m.

(19) Development standards for churches and places of worship and assembly

- (a) Churches and places of worship and assembly in a Residential zoning district shall be located adjacent to and have vehicular access from an arterial or a collector street.

(20) Each residential dwelling unit within the Downtown A and Downtown B Zones is permitted to grow up to six (6) medical marijuana plants and six (6) recreational marijuana plants.

(21) *Seasonal Sales* refers to temporary commercial uses that typically conduct business on vacant land, parking areas, public rights-of-way or other appropriate spaces during particular times of the year. Such uses shall include but not be limited to fireworks stands, Christmas tree lots and produce stands. *Seasonal Sales* uses shall be allowed to operate for a maximum of 90 days from the time a permit is issued. The proposed business may be subject to other regulations (fire, building, use of public spaces/right-of-way, health, etc.), and other permits or permissions may be required by other Town departments, outside agencies or private property owners.

(22) *Microbreweries* shall produce no more than fifteen thousand (15,000) barrels per year of fermented malt beverages on site. *Microdistilleries* shall produce no more than fifteen thousand (15,000) gallons per year of spirituous beverages on site. *Microwineries* shall produce no more than two hundred fifty thousand (250,000) gallons per year of vinous beverages on site. All three (3) types of establishments may sell beverages produced on site to off-site entities including bars, restaurants and liquor stores. All three

(3) types of establishments must include a tap or tasting room in which guests/customers may sample and/or purchase the product as with bar, tavern and brewpub uses.

(23) The term "brewery" as used in this code includes both regional breweries, which produce between fifteen thousand (15,000) and six million (6,000,000) barrels per year; and large breweries, which produce more than six million (6,000,000) barrels per year. A winery produces more than one hundred thousand (100,000) gallons per year of vinous beverages on site. A distillery produces more than fifteen thousand (15,000) gallons per year of spirituous beverages on site. All three (3) of these uses may, but are not required to, include a tap or tasting room in which guests/customers may sample and/or purchase the product as with bar, tavern and restaurant uses.

(24) Backyard chickens may be kept in conjunction with an established single-family residence with the following conditions:

- (a) Up to six (6) hens may be kept.

(b) Roosters are not permitted.

The Frederick Land Use Code is current through Ordinance 1326, passed October 22, 2019.

- (c) Backyard chickens are required to be located within a designated chicken coop and chicken run that shall meet the following requirements:
- i) The chicken coop and chicken run shall be located in the rear or backyard of a residential property.
 - ii) Neither the coop nor run, nor any part thereof, shall be located between the rear of the principal structure and the front yard lot line.
 - iii) The coop shall have a minimum five (5) foot setback from any side or rear property line.
 - iv) Coops shall be predator resistant with a solid covered roof.
 - v) Water shall be provided on site and accessible to chickens at all times.
 - vi) During daylight hours, the chickens shall have access to a chicken run that is adequately fenced and protected from predators and shall also have access to a chicken coop.
 - vii) From dusk until dawn, chickens shall be protected from predators by being enclosed within a chicken coop.
 - viii) The maximum chicken coop size is one hundred (100) square feet.
 - ix) A minimum of four (4) square feet of space per chicken shall be provided in both the coop and the run.
 - x) The maximum height of a coop shall be no more than seven (7) feet at the highest point of the roof.
- (d) Chicken coops and chicken runs shall be maintained and shall be regularly cleaned to control dust, odor, and waste, and not constitute a nuisance, safety hazard, or health problem to surrounding properties.
- (e) No on-site slaughtering is allowed.
- (f) Chicken feed shall be stored in a resealable, airtight, predator-proof container.
- (g) Chicken waste shall be only be stored in a resealable, airtight, predator-proof container.
- (h) A license is required to legally have backyard chickens on your property. The license will only be issued once and is not required to be renewed.
- (i) Many homeowner association bylaws do not allow poultry of any kind. The Town of Frederick encourages residents to research their individual homeowner association regulations.
- (25) Development standards for establishments serving or making alcoholic beverages:

Table 3.3: Summary of Beer, Wine and Liquor Uses

Use Name	Basic Description	Primary Use	Accessory Use	Off-Site Sales	Production Limit	Where Allowed
Bar/Tavern	Establishment providing beer, wine or hard liquor	On-site consumption of alcoholic beverages	Sale of food (sandwiches, light snacks) allowed but not required	No	N/A – Manufacturing not allowed	Conditional: DN-B, C-N, C-H52, I
		Manufacturing not allowed	Manufacturing not allowed			Use by right: DN-A, C-C, C-E, BLI
Restaurant, Standard (no outside seating)	Restaurant in which beer, wine or hard liquor may be produced on site. Includes Brewpub uses.	Restaurant required as primary use	Manufacturing allowed	Yes	See Below	Conditional: I, DN-B
						Use by right: commercial zones except DN-B
Brewpub	Primarily a restaurant where beer, wine or hard liquor are manufactured on site, primarily for sale and	Restaurant required as primary use	Manufacturing required as accessory use	Yes	See Below	See restaurants above

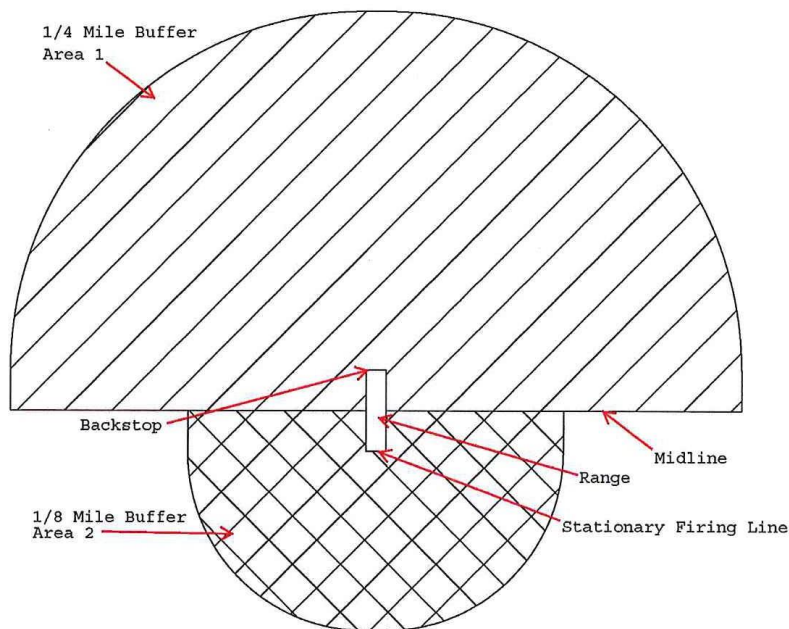
Table 3.3: Summary of Beer, Wine and Liquor Uses						
Use Name	Basic Description	Primary Use	Accessory Use	Off-Site Sales	Production Limit	Where Allowed
	consumption on site. Same as restaurant.					
Microbrewery	Establishment that produces beer on site, but also includes a taproom which may function as a bar/tavern.	Manufacturing or Tap room (both uses required)	Manufacturing or Tap room (both uses required)	Yes	15,000 barrels per year	Conditional: Commercial zones
						Use by right: Industrial zones only (BLI and I)
Microwinery	Establishment that produces wine on site, but also includes a tasting room which may function as a bar/tavern.	Manufacturing or Tasting room (both uses required)	Manufacturing or Tasting room (both uses required)	Yes	250,000 gallons per year	Conditional: Commercial zones
						Use by right: Industrial zones only (BLI and I)
Microdistillery	Establishment that produces spirituous beverages on site, but also includes a	Manufacturing or Tasting room (both uses required)	Manufacturing or Tasting room (both uses required)	Yes	15,000 gallons per year	Conditional: Commercial zones
						Use by right: Industrial

Table 3.3: Summary of Beer, Wine and Liquor Uses

Use Name	Basic Description	Primary Use	Accessory Use	Off-Site Sales	Production Limit	Where Allowed
	tasting room which may function as a bar/tavern.					zones only (BLI and I)
Brewery	Primarily a manufacturing facility that produces beer on site.	Manufacturing required as primary use	Tap room allowed as accessory use but not required	Yes	Regional: 15,000-6,000,000 barrels/year Large: over 6,000,000 barrels/ year – no limit	Use by right: Industrial zones only (BLI and I)
Winery	Primarily a manufacturing facility that produces wine on site.	Manufacturing required as primary use	Tasting room allowed as accessory use but not required	Yes	Over 250,000 gallons per year – no limit	Use by right: Industrial zones only (BLI and I)
Distillery	Primarily a manufacturing facility that produces hard liquor on site.	Manufacturing required as primary use	Tasting room allowed but not required	Yes	Over 15,000 gallons per year – no limit	Use by right: Industrial zones only (BLI and I)

(26) Development standards for outdoor shooting ranges are as follows:

- (a) All shooting ranges will be reviewed by the Town of Frederick Police Department through the Development Review process.
- (b) Hours of operation. Shooting ranges shall be allowed to operate between sunrise and sunset, except that the hours may be extended until 10:00 p.m. one (1) night per week with the approval of the Planning Director for purposes of subdued lighting certification of law enforcement officers or civilians as part of a formal course of instruction.
- (c) All shooting stations shall be located a minimum of two hundred (200) feet from any property line.
- (d) When an outdoor range is proposed, all existing, habitable dwellings in the area shall be mapped. Please refer to the following diagram to understand the terms used here. No existing habitable dwelling is permitted within Area 1 or Area 2. Area 1 represents a one-fourth (1/4) mile (one thousand three hundred twenty (1,320) feet) buffer measured from the exterior berm and backstop. Area 2 represents a one-eighth (1/8) mile (six hundred sixty (660) feet) buffer from the exterior berm and stationary firing line. The midline is the dividing line between Area 1 and Area 2 and is half the distance between the backstop and the stationary firing line.



- (e) Stationary firing lines shall be covered by a baffle system beginning at least three (3) feet behind the firing line, unless used for skeet or trap shooting.
 - (f) A baffle system covering all firing lines shall eliminate "blue-sky" above the shooter's vision of the bullet backstop. Blue sky elimination is used for the purpose of eliminating the likelihood that any bullet will travel over the backstop area, leaving the shooting range. This requirement may be waived if a Range Technical Team Advisor provides evidence that the baffles are not necessary to ensure the safety of neighboring properties and this evidence is verified by a Town expert as established by the Planning Director and Chief of Police.
 - (g) The perimeter of the outdoor range shall be surrounded by a fence, wall, or other impediment to pedestrians with a minimum height of six (6) feet and meeting all other applicable regulations identified in Article 2.
 - (h) Warning signs shall be posted at one hundred fifty (150) foot intervals along the entire perimeter of the outdoor range. The signs shall state in both English and Spanish, "CAUTION Firearms in Use Keep Out" and be made of a weather proof material. Signs shall be yellow and black and must be able to be read from a distance of five (5) feet.
 - (i) In addition to the standard requirements for a conditional use application, the application for an outdoor shooting range shall also include the following:
 - i) A complete layout of each range, including firing lines, blue sky elimination technique, target areas, backstops, and berms.
 - ii) Sound study or projected noise contours.
 - iii) Existing and proposed structures; occupied dwellings within one-fourth (1/4) mile (one thousand three hundred twenty (1,320) feet); roads, streets, or other access areas; buffer areas, and parking areas for the facility.
- (27) Apiaries/beekeeping is permitted as an accessory use to a single-family residence with the following conditions:
- (a) *Maximum hives permitted.*
 - i) In agriculturally zoned property:
 - 1. Property less than five (5) acres in size, twelve (12) hives maximum.
 - 2. Property greater than five (5) acres in size, no maximum.
 - ii) In R-E zoned property, four (4) hives maximum.
 - iii) In R-1 zoned property, two (2) hives maximum.
 - iv) In R-2, D-A, and D-B zoned property, if lot is at least five thousand (5,000) square feet and the primary use is single-family residential, two (2) hives maximum are permitted.

- (b) Bee colonies shall be kept in hives with movable frames, which shall be kept in sound and usable condition.
 - (c) Hives must be located in the rear yard.
 - (d) Hives must be located at least five (5) feet from a property line.
 - (e) A fresh supply of water shall be provided for all hives.
 - (f) Africanized bees and hybrids of Africanized bees are prohibited.
 - (g) A license is required to legally keep bees on your property. The license will only be issued once and is not required to be renewed.
- (28) The use of storage containers shall be limited as follows:

Table 3.4.

Zoning District	Number of Permanent or Transitory Containers Permitted on Site	Additional Regulations
R-E Estate District	0	(c)
R-1 Residential Low Density District	0	(c)
R-2 Residential Medium Density District	0	(c)
R-3 Residential High Density District	0	(c)
R-MH1 Manufactured Home District 1	0	(c)
R-MH2 Manufactured Home District 2	0	(c)
C-N Neighborhood Commercial District	0	(c)
C-C Community Commercial District	0	(c)
C-H52 Mixed Use Highway 52 District	0	(c)
C-E Employment District	0	(c)
DN-A Downtown A	0	(c)
DN-B Downtown B	0	(c)
BLI Business Light Industrial District	1/acre	(a), (b)
I Industrial District	4/acre	(a), (b)
A Agriculture District	1/acre	(a), (b)
P Public District	0	(c)

- (a) Permanent containers are containers which remain on site at all times. They will be considered an accessory structure and:

- i) Must apply for a building permit.
 - ii) Must be identified on site plan application, which may occur in conjunction with a building permit.
 - iii) Must be permanently anchored in accordance with the International Building Code.
 - iv) Must be painted to complement the primary structure.
 - v) Must be placed in an outdoor storage area meeting the regulations defined in [\(2\)\(b\)\(6\)](#) of this section.
 - vi) Must meet all setbacks.
 - vii) Must be outside all easements.
 - viii) May only be accessed by the landowner or employees of the business on site.
 - ix) Shall not be stacked.
 - x) Contiguous lots under single ownership may be considered as a single lot for this provision.
- (b) Transitory containers are containers which are not consistently kept on site. These containers are not considered an accessory structure as they come and go from the site and:
- i) May not be on site more than one hundred eighty (180) consecutive days.
 - ii) Must be identified on site plan application, which may occur in conjunction with a building permit.
 - iii) Must be placed in an outdoor storage area meeting the regulations defined in [\(2\)\(b\)\(6\)](#) of this section.
 - iv) Must meet all setbacks.
 - v) Must be outside all easements.
 - vi) May only be accessed by the landowner or employees of the business on site.
 - vii) Shall not be stacked.
- (c) On properties not able to have permanent or transitory containers:
- i) Containers used for temporary on-site storage may be on an individual's private property for up to thirty (30) days per year.
 - ii) Containers may be used for temporary storage in conjunction with a valid building permit.
 - iii) Containers may be allowed in conjunction with an approved temporary use permit for seasonal sales. (Ord. 1145 §§ 17, 18 (Exh. A), 2013; Ord. 1169 §§ 1 – 9 (Exh. A), 2014; Ord. 1204

§§ 1 – 8 (Exh. A), 2015; Ord. 1234 §§ 5, 6, 2016; Ord. 1244 § 1, 2017; Ord. 1268 § 1, 2018; Ord. 1295 §§ 3, 4, 2018; Ord. 1326 §§ 2, 3, 2019)

Sec. 3.5. Density and Dimensional Standards.

The following specifications shall be required in the zones identified:

1. Residential density and dimensional standards:

Table 3-4						
RESIDENTIAL DENSITY AND DIMENSIONAL STANDARDS						
Zones	R-E	R-1	R-2	R-3	R-MH1	R-MH2
Standards						
Minimum lot area per dwelling	10,000*	6,250	1,800	1,800 for townhomes 6,250 for apartments and condos	4,000	6,250
Maximum net density (units per acre)	.2**	5	10	25	8	5
Minimum lot width (feet per dwelling)	140	50	20	20 for townhomes 60 for apartments and condos	50	50
Minimum lot frontage (feet)	70	40	18 for townhomes 35 for apartments and condos	35	40	40
Minimum front yard setback (feet)						
Principal building	25	15	15	15	15	15
Front-loaded garage	29	19	19	19	19	22

Table 3-4						
RESIDENTIAL DENSITY AND DIMENSIONAL STANDARDS						
Zones	R-E	R-1	R-2	R-3	R-MH1	R-MH2
Standards						
Accessory building	60	55	45	45	40	55
Minimum side yard setback						
Note: For corner lots, all sides of the lot with street frontage shall meet the applicable front yard setback.						
Principal building	25	5	8	8	10	5
Accessory building	20	10	15	15	15	15
Minimum rear yard setback						
Principal building	20	20	20	20	20	20
Garage with its entrance facing an alley	10	5	5	5	5	5
Accessory buildings	5	5	5	5	5	5
Other						
Minimum floor area per principal dwelling unit (square feet)	1500	850	600	400	800	800
Maximum building height	35	35	35	35	35	35

Table 3-4									
RESIDENTIAL DENSITY AND DIMENSIONAL STANDARDS									
Standards	Zones								
	R-E	R-1	R-2	R-3	R-MH1	R-MH2	D-A	D-B	C-E ³
Lot Standards									
Minimum lot area per dwelling	10,000 or 15,000 ¹	6,250	1,800	1,800 for townhomes 6,250 for	4,000	6,250	N/A	N/A	N/A

The Frederick Land Use Code is current through Ordinance 1326, passed October 22, 2019.

<u>Table 3-4</u>									
<u>RESIDENTIAL DENSITY AND DIMENSIONAL STANDARDS</u>									
<u>Standards</u>	<u>Zones</u>								
	<u>R-E</u>	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>R-MH1</u>	<u>R-MH2</u>	<u>D-A</u>	<u>D-B</u>	<u>C-E³</u>
				<u>multifamily</u>					
<u>Maximum net density (units per acre)</u>	<u>0.2²</u>	<u>5</u>	<u>10</u>	<u>25</u>	<u>8</u>	<u>5</u>	<u>25</u>	<u>25</u>	<u>N/A</u>
<u>Minimum lot width (feet per dwelling)</u>	<u>140</u>	<u>50</u>	<u>20</u>	<u>20 for townhomes</u> <u>60 for multifamily</u>	<u>50</u>	<u>50</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
<u>Minimum lot frontage (feet)</u>	<u>70</u>	<u>40</u>	<u>18 for townhomes</u> <u>35 for multifamily</u>	<u>35</u>	<u>40</u>	<u>40</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
<u>Minimum front yard setback (feet)³</u>									
<u>Principal building</u>	<u>25</u>	<u>15</u>	<u>15</u>	<u>15</u>	<u>15</u>	<u>15</u>	<u>10</u>	<u>10</u>	<u>N/A</u>
<u>Front-loaded garage</u>	<u>29</u>	<u>19</u>	<u>19</u>	<u>19</u>	<u>19</u>	<u>22</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
<u>Accessory building</u>	<u>60</u>	<u>55</u>	<u>45</u>	<u>45</u>	<u>40</u>	<u>55</u>	<u>Behind principal building</u>	<u>Behind principal building</u>	<u>N/A</u>
<u>Minimum side yard setback^{3,4}</u>									
<u>Principal building</u>	<u>25</u>	<u>5</u>	<u>8</u>	<u>8³</u>	<u>10</u>	<u>5</u>	<u>0</u>	<u>0</u>	<u>N/A</u>
<u>Accessory building</u>	<u>20</u>	<u>10</u>	<u>15</u>	<u>15</u>	<u>15</u>	<u>15</u>	<u>0</u>	<u>0</u>	<u>N/A</u>
<u>Minimum rear yard setback</u>									
<u>Principal building</u>	<u>20</u>	<u>20</u>	<u>20</u>	<u>20</u>	<u>20</u>	<u>20</u>	<u>0</u>	<u>0</u>	<u>N/A</u>
<u>Garage with its entrance facing an alley</u>	<u>10</u>	<u>5</u>	<u>5</u>	<u>5</u>	<u>5</u>	<u>5</u>	<u>5</u>	<u>5</u>	<u>N/A</u>
<u>Accessory buildings</u>	<u>5</u>	<u>5</u>	<u>5</u>	<u>5</u>	<u>5</u>	<u>5</u>	<u>0</u>	<u>0</u>	<u>N/A</u>
<u>Other</u>									
<u>Minimum floor area per principal dwelling unit (square feet)</u>	<u>1500</u>	<u>850</u>	<u>600</u>	<u>400</u>	<u>800</u>	<u>800</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
<u>Maximum building height</u>	<u>35</u>	<u>35</u>	<u>35</u>	<u>35</u>	<u>35</u>	<u>35</u>	<u>35</u>	<u>35</u>	<u>N/A</u>
<u>Table Notes:</u>									
1. The minimum lot size is ten thousand (10,000) square feet if adjacent to open space and fifteen thousand (15,000) square feet if not directly adjacent to open space.									

The Frederick Land Use Code is current through Ordinance 1326, passed October 22, 2019.

Table 3-4

RESIDENTIAL DENSITY AND DIMENSIONAL STANDARDS

<u>Standards</u>	<u>Zones</u>								
	<u>R-E</u>	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>R-MH1</u>	<u>R-MH2</u>	<u>D-A</u>	<u>D-B</u>	<u>C-E³</u>
<u>2. The maximum density is no more than one (1) single-family dwelling per five (5) acres, except that if the Town approves a conservation density bonus, the maximum density allowed shall be no more than one (1) single-family dwellings per two (2) acres. This must have at least fifty percent (50%) of the land preserved as agricultural lands or open space.</u> <u>3. See setback to arterial standards subsection 2.b.5.c of Section 2.6.</u> <u>4. For corner lots, all sides of the lot with street frontage shall meet the applicable front yard setback.</u>									

~~* The minimum lot size is ten thousand (10,000) square feet if adjacent to open space and fifteen thousand (15,000) square feet if not directly adjacent to open space.~~

~~** The maximum density is no more than one (1) single-family dwelling per five (5) acres, except that if the Town approves a conservation density bonus, the maximum density allowed shall be no more than one (1)~~

single-family dwellings per two (2) acres. This must have at least fifty percent (50%) of the land preserved as agricultural lands or open space.

2. Commercial, Industrial, Agricultural, Public and Hazard Overlay density and dimensional standards:

The following codes are used in the table below:

Ag = Agricultural structure

SFR = Single-family residence

Table 3-5									
COMMERCIAL, INDUSTRIAL, AGRICULTURAL, PUBLIC AND HAZARD DENSITY AND DIMENSIONAL STANDARDS									
Zones	C-D	C-N	CC	C-H52	C-E	I	BLI	A	P
Standards									
Minimum front-yard setback (feet)	0	10	15	0	0	25	25	30	15
Maximum front-yard setback (feet)	10	0	0	15	25	0	0	0	0
Minimum rear-yard setback (feet)	0	10	15	15	20	20	20	20	10
Minimum lot size	0	0	0	0	0	0	0	.5-acre	0
Maximum floor-area-ratio (ratio of total floor-area to total lot area)	2:1	1:1	2:1	1:1	2:1	1:1	1:1	n/a	1:1
Maximum building	40	40	40	40	40 – non-residential	50	50	50-Ag	40

Table 3-5									
COMMERCIAL, INDUSTRIAL, AGRICULTURAL, PUBLIC AND HAZARD DENSITY AND DIMENSIONAL STANDARDS									
Zones	C-D	C-N	CC	C-H52	C-E	I	BLI	A	P
Standards									
height (feet) ¹					35 – residential			35 SFR	
Maximum ground-level footprint (square feet)	5000	0	0	0	0	0	0	0	0

Notes to Table 3-5

~~1. The building height limitations shall not apply to church spires, belfries, cupolas, or domes not used for human occupancy, nor to chimneys, water tanks, silos, nor to public building or structures located more than one (1) foot horizontally from the property line for each foot of building height.~~

3. *Setback requirements.*

- a. On "double frontage" lots (see Figure 2-5 in Article 2 Section 6), both streets shall be considered street frontages for purposes of calculating front yard setbacks.
- b. On corner lots, all sides of the lot with street frontage shall meet the applicable front yard setback.
- c. For purposes of setback calculations, a two-family dwelling shall be construed as one (1) building occupying one (1) lot.
- d. When residential lots are adjacent to, and the houses do not face an arterial street, the lots shall be a minimum of one hundred fifty (150) feet deep and direct access to the street shall be limited. The setback to the house shall be a minimum of seventy-five (75) feet. Additional buffering techniques must also be applied such as those outlined in Section [2.15](#).
- e. Permanent features allowed within setbacks shall include:
 - (1) Cornices, canopies, eaves or other similar architectural features if they extend no more than two (2) feet into a required setback and if they do not encroach into or overhang an easement.
 - (2) Steps or ramps to the principal entrance and necessary landings, provided that they do not extend more than six (6) feet into the required setback.

- (3) Landscaping.

- (4) Fences and walls, subject to height and other restrictions per Article 2 Section 16.
- (5) Utility service lines to a structure and utility lines, wires and associated structures within a utility easement.
- (6) Fire escapes, provided that they do not extend more than six (6) feet into the required setback.
- (7) Patios, porches and decks, provided that they do not extend more than five (5) feet into a required front or rear setback or five (5) feet into a required side yard setback adjacent to a street, provided that they do not encroach into or overhang an easement or property line and do not obstruct any sight distance triangle.

Sec. 3.6. Nonconforming Uses.

1. *Requirements for nonconforming uses.* Except as provided in this Section, the lawful use of any building or land existing at the time of enactment of this Article, or of any amendments to this Chapter, may be continued even though such use does not conform to the requirements of this Code.

a. *Abandonment.* ~~means whenever~~ When a nonconforming use has been discontinued for a period in excess of one hundred eighty(180) days, such use shall be considered abandoned, and shall not thereafter be reestablished. ~~and a~~ Any future use shall be in conformance with the provisions of this Article.

b. *Completion.* ~~means that a~~ Any building or structure for which a building permit has been issued prior to the date of enactment of this Article may be completed and used in accordance with the plans, specifications and permits on which said building permit was granted, if construction is commenced within sixty (60) days after the issuance of said permit and diligently prosecuted to completion.

c. *Displacement.* ~~means a~~ No nonconforming use shall be altered, extended or restored so as to displace any conforming use. A ~~trailer-manufactured home or mobile home house~~ in any district may be improved or replaced with a newer model trailer house.

d. *Extensions.* ~~means a~~ A nonconforming use shall not be extended, but the extension of a conforming building or structure shall not be deemed the extension of such nonconforming use; however, businesses in R-1 and R-2 zones shall not be extended under any circumstances.

e. *Repairs and maintenance.* ~~means that a~~ Ordinary repairs and maintenance of a nonconforming building or structure shall not be deemed an extension of such nonconforming building or structure and shall be permitted.

f. *Restoration.* ~~means a~~ A nonconforming building or structure which has been damaged by fire or other causes ~~and which~~ may be restored to its original condition, provided that such work is commenced within one hundred eighty (180) days ~~after of~~ such ~~calamity-casualty~~ and less than fifty percent (50%) of the building or structure is destroyed.

g. *Unsafe buildings.* ~~means a~~ Any nonconforming building or structure or portion thereof ~~that is~~ declared unsafe by the Building Inspector, ~~which~~ may be replaced, strengthened or restored to a safe condition.

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2. Termination of nonconforming uses within five (5) years. The following nonconforming uses shall be terminated within five (5) years from the date of passage of the ordinance codified in this Article, in any district except that in which they are specifically allowed:

- a. Auto salvage wrecking or similar salvage operations.
- b. Mobile homes and house trailers.
- c. Extractive land use.
- d. Landfills.
- e. Hazardous waste disposal site.

The five-year period is designated as an amortization period during which the market value of the property and use can reasonably be amortized. The owner of property or user shall have four (4) years from the date of the passage of the ordinance codified in this Code to submit to the Board of Trustees an appeal setting forth his or her grounds asserting that the five-year period is an inadequate amount of time to amortize the nonconforming use.

The Frederick Land Use Code is current through Ordinance 1326, passed October 22, 2019.

Disclaimer: The Town Clerk's Office has the official version of the Frederick Land Use Code. Users should contact the Town Clerk's Office for ordinances passed subsequent to the ordinance cited above.

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Article 15.

Downtown Code

Sec. 15.1 Purpose, Intent, and Applicability

1. Purpose and Intent
2. Applicability

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2. Administration of the Downtown Code
3. How to Use the Downtown Code

Sec. 15.3 Definitions

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- 4. **Landscaping**
- 5. **Lighting**
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 - 1. **Purpose and Intent**
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 - 3. **Public Art**
 - 4. **Storefront Vacancy**

Sec. 15.1. Purpose, Intent, and Applicability.

1. *Purpose and Intent.* The purpose of this Chapter is to establish unique allowed use and development standards for subject property within the downtown area of Frederick. It is the intent of these standards to help preserve and protect the existing, historic, and unique character of the downtown by requiring new construction, remodels, and existing construction to complement the existing built environment. Additionally, through the application of these standards, the downtown will continue to be the pedestrian-oriented shopping, dining, entertainment, and living center of the Frederick community.
2. *Applicability.*
 - a. *Standards and Entitlement Review.* The standards of this Article apply to all property zoned either Downtown-A (D-A) or Downtown-B (D-B) as shown on the Regulating Plan (Section [15.4](#)). All qualifying projects within the D-A or D-B zones shall be subject to Development Review prior to issuance of building permit. Additionally, those uses that require a Business License as listed in Section [15.5](#) (Allowed Uses) shall obtain a Business License prior to establishment of the use. In addition to the application of the D-A and D-B Zoning District, the downtown is also governed by the Regulating Plan. The Regulating Plan addresses how development interacts with the street and how the street is developed. The application of both the Zoning District and the Regulating Plan are described in more detail in Sections [15.2.1](#) (Defining the Downtown Code) and [15.4](#) (Regulating Plan and Street Typologies and Standards). Generally, the Zoning District designation (D-A or D-B) defines the character and allowed use provisions for the subject site while the Regulating Plan defines the development standards (setbacks, building typology, street standards).
 - b. *Applicability of Regulating Plan Standards.* Generally, the development standards applicable to a property shall be those for the respective zone (either D-A or D-B) as well as the street frontage as reflected in the Regulating Plan.

Sec. 15.2. Introduction to the Downtown Code.

1. *Defining the Downtown Code.*

- a. The Downtown Code is the regulating document for development in downtown Frederick. The basis for this Code is in two unique Zoning Districts – the D-A and D-B Zones. The Downtown Code recognizes the historic character of the downtown and identifies a special set of development standards, allowed use regulations, and other special use regulations that, when applied to new construction and qualifying remodels/expansions, will ensure that the historic character is positively complemented.
- b. The standards in this Chapter are presented in a format that is unique to the downtown – through a Form Based Code. Form based zoning provides a method of regulating development to achieve a desired urban form. Form based provisions address the relationship between building facades and the public realm, the form and mass of buildings, and the size, character and type of streets and blocks. The central focus of form based provisions is the regulating plan that designates the appropriate form (and character) of development rather than only distinctions in land-use types, which is the basis of conventional zoning.
- c. *This Downtown Code also includes regulations for the street – the space between buildings.* Part of the historical context of the downtown includes how individual developments relate and interact with the street. This is because the street acts as a unifying thread across all development.
- d. *Relationship to Other Zoning Provisions.* Generally, the regulations of this Article shall govern development within the downtown – specifically within the D-A and D-B Zoning Districts. In cases where there is a conflict between the provisions of this Chapter and the regulations elsewhere in the Zoning Code, this Chapter shall prevail. However, with regard to topics that this Chapter is silent on, provisions elsewhere in the Zoning Code shall prevail.

2. *Administration of the Downtown Code.*

- a. *Review of Development Applications.* The Planning Commission has authority to approve ComprehensivePlan amendments. The Board of Trustees approves Variances and Waivers. The Board also approves Conditional Use Permits. Site plans are approved administratively at the staff level. The designated approval authority for each planning permit is listed under the regulations for each application in the Zoning Code:
 - (1) Site Plan – Section [4.11.1](#)
 - (2) Conditional Use – Section [4.9.4](#)
 - (3) Variances – Section [4.7.7.a](#)
 - (4) Waivers – Section [4.7.8.a](#)
- b. *Amendments to the Downtown Code.* Amendments to the Downtown Code shall be processed like any otherLand Use Code amendment as described under Section [4.7.9](#) (Land Use Code amendments).
- c. *Review Criteria.* When approving an application for a development application and/or amendment to the Downtown Code, the designated approving authority shall, in addition to any other findings required by this Land Use Code, make the following findings:
 - (1) Development Application – That the proposed development complies with the regulations of the Downtown Code, promotes the spirit of the downtown by integrating into the fabric of its public and

private built environment (the downtown's DNA – what makes its unique character) and complementing the architectural quality of the downtown.

(2) Amendment to the Downtown Code – The proposed amendments to the Downtown Code are consistent with the intent of the Downtown Code by helping to preserve and protect the existing, historic, and unique character of the downtown.

3. *How to Use the Downtown Code.* The Downtown Code regulates many aspects of development, but is structured to be as user-friendly as possible. The following outline is intended as an orientation that walks a user through the primary aspects of the Code.

- a. Determine the District and Street Typology governing the parcel with Section [15.4](#). First, refer to the Regulating Plan in this chapter (see Section [15.4.A](#)) to determine which district the parcel is located in. The district is necessary for understanding the majority of the document; it determines applicable development standards and allowed uses. Next, use the Regulating Plan to determine which street typology applies to the parcel. Street typology standards dictate factors such as street widths, lane widths, and right of way dimensions. Most private development projects will not affect or need to consider street typology standards. These are primarily for the Town to use when it makes larger-scale infrastructure improvements such as the expansion of the downtown to vacant lands west of Colorado Boulevard.
- b. Determine the Allowed Uses with Section [15.5](#). The Downtown Code specifies which land uses are allowed, conditionally allowed, and prohibited for the two districts established for downtown. Refer to Section [15.5](#) (Allowed Uses) to see which uses are allowed for the parcel and to find definitions of land uses.
- c. Determine Basic Development Standards with Section [15.6](#). For any development to take place on a parcel, it must be done in conformance with the regulations provided in the Downtown Code. The primary development standards for all development are provided in Section [15.6.2](#) (Area-Wide Standards) and Section [15.6.2.e](#). (Development Standards). Section [15.6.2](#) (Area-Wide Standards) applies to all development, regardless of Zoning District. Section [15.6.2.e](#). (Development Standards) provides standards by Zoning District, including building height and placement. These regulations essentially create a "building envelope" for each parcel based on its district, determining the space on the parcel in which development can take place. Section [15.6.4](#) (Storefront Regulations) also provides storefront standards that provide further regulation on the dimensions of building frontage features; unlike the general development standards, these standards are only applicable to first floor commercial uses with storefront frontage, gallery, and arcade types.
- d. Determine Form Based Requirements with Section [15.7](#). The Downtown Code goes beyond the traditional zoning code; whereas traditional zoning codes simply regulate uses and dimensions, the Downtown Code actually regulates building form and style to work towards an enhanced character and appearance in downtown. It does so by establishing allowed building styles and frontage types for each district. In addition to complying with the standards established elsewhere in Articles 2 and 3, new development must also comply with the form based requirements in Section [15.7](#) (Building and Frontage Types). Refer to Section [15.7](#) for descriptions of allowed building and frontage types for each district.
- e. Determine Sign and Parking Standards with Sections [15.8](#) and [15.9](#). The Downtown Code provides regulations that govern allowed sign types and parking standards in the downtown. Section [15.8](#) (Signs)

establishes allowed sign types for each district in downtown, design standards, and limitations for sign size and number based on the size of the building and type of sign. Section [15.9](#) (Parking) establishes allowed parking types and ratios by district and land use. Parking ratios are expressed as a ratio of parking spaces to total square footage of the land use.

f. Determine Additional Design Guidelines with Section [15.10](#). To ensure that downtown Frederick develops a high-quality aesthetic environment, the Downtown Code provides additional design considerations. Whereas Section [15.7](#) (Building and Frontage Types) provides form based guidelines for specific structures that are allowed by district, Section [15.10](#) (Architectural and Design Guidelines) provides broader design considerations for all projects in downtown, regardless of the district they fall in. Unlike other standards provided in the Downtown Code, most of the design guidelines provided in Section [15.10](#) are *guidelines* (and not *requirements*) that provide ways to achieve attractive design. While these are only guidelines, the designated Approving Authority may still require them as conditions of project approval, so they should still be considered in all design and development. Section [15.10](#) provides general design guidelines for multiple aspects of design, including architectural styles, building massing, lighting, landscaping, colors and materials.

g. Determine Special Regulations. There are additional uses that may occur in downtown, that, due to their unique nature, are not adequately addressed elsewhere in the document. Regulations governing these unique uses are provided in Section [15.11](#) (Special Regulations). These unique uses include live/work spaces, public art, and storefront vacancy. Regulations are specific to these uses, and not determined by district.

Sec. 15.3. Definitions.

Please refer to Article 1 of the Land Use Code for Frederick General Definitions.

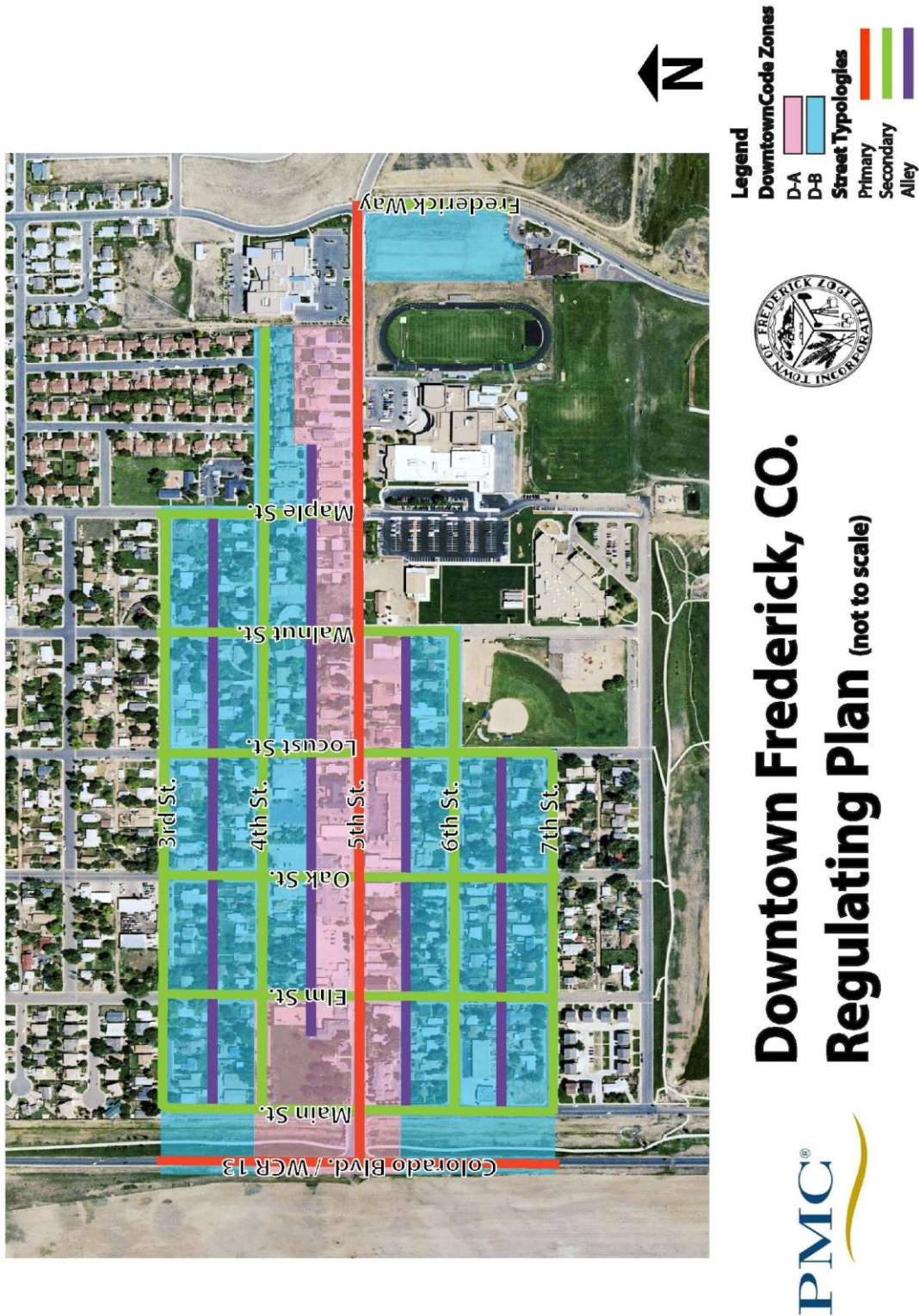
Sec. 15.4. Regulating Plan and Street Typologies and Standards.

1. *Establishment of the Regulating Plan and Street Hierarchy and Character.* In addition to the application of the downtown (D-A or D-B) Zoning Districts, development within the downtown is also governed by the Regulating Plan. The Regulating Plan "codes" development based upon the street it is located along. This plan is based on the following street hierarchy and character, and as illustrated on the Regulating Plan (see Figure 15.4-1 (The Regulating Plan)):

a. *Primary Streets.* 5th Street is the historic commercial heart of downtown Frederick. It serves as a central east/west spine of the community, containing the majority of the downtown's major uses and acting as the primary downtown street. This area benefits from the presence of retail businesses, restaurants, and other community-serving businesses. Additionally, although it is not yet built-out, Colorado Boulevard/WCR 13 is also considered a Primary Street because it is the north/south spine of the community and the primary access road into Frederick coming from Highways 66, 119, 52 and ultimately Interstate-25.

- b. *Secondary Streets.* The secondary streets of downtown Frederick display a mix of local retail uses, offices, and single-family homes. They have a more intimate nature, as is reflected in the narrower sidewalks and streets, as well as street trees and landscaping.
- c. *Alleys.* Alleys bisect downtown Frederick and provide supplementary forms of access and lively forms of public space, with a confluence of residential, commercial, and office uses. They provide alternative routes between uses, but also provide supplemental service space.
- d. *Paseos.* Paseos are local and private pathways serving as alternative pedestrian and bicycle routes that do not accommodate vehicles. These paths are oriented towards the pedestrian, and provide spaces that engage users with their surroundings. Landscaping, street furniture, and pedestrian-scaled features make these engaging routes of travel while offering safe routes separated from vehicular uses.

Figure 15.4-1. The Regulating Plan



2. *Street Typologies and Standards.* The purpose of this section is to provide roadway standards that will facilitate the creation of streets that are inviting, multimodal public places for vehicular traffic, bicyclists, and pedestrians. These streetscape typologies and standards are unique to Chapter [15](#) and are intended to implement the vision by acting as building blocks for the distinct components and unique street types that compose downtown.

a. *Street Typologies.* The Streetscape Typologies allowed in zones D-A and D-B are listed below:

(1) *Primary Streets.* The primary street of downtown Frederick is 5th Street. It runs in an east-west direction through the Town and serves as the primary arterial and commercial corridor of the community. In addition, Colorado Boulevard/WCR 13 serves as the primary north-south arterial for the Town, and also functions as a main Weld County Road. As such, special design considerations and approvals will be necessary for development along the Boulevard. Characteristics of the Primary Streets include:

- (a) Street trees should frequently interrupt the parking lanes to soften visual impact of the parked vehicles and to help cool the air heated by the pavement.
- (b) Parallel parking and wide sidewalks should create a safe, inviting environment for both pedestrians and motorists.
- (c) Primary intersections should provide pedestrians with safe passage. Features may include signalized crosswalks, mid-crossing pedestrian islands, and differentiated accent paving within the intersection.
- (d) Turning movements typically occur from within the main travel lanes; however, short (one to two car-lengths) turn pockets may be provided at some intersections in lieu of parking on one side of the street.
- (e) Because 5th Street is the primary downtown thoroughfare and Colorado Boulevard/WCR 13 is an arterial roadway leading into the downtown, both streets provide unique opportunities for gateway monumentation, as expressed in the Vision Plan, at the entrances to the downtown area.

(2) *Secondary Streets.* Secondary streets in downtown Frederick are all other neighborhood streets in downtown other than 5th Street and Colorado Boulevard/WCR 13. These secondary streets are home to community-serving retail stores and historic residences. These streets have a more intimate nature than other areas. Characteristics of Secondary Streets include the following:

- (a) Landscaping and larger street trees should frequently interrupt the parking lanes to soften the visual impact of the parked vehicles and to help cool the air heated by the pavement.
- (b) Parallel or diagonal parking should be used for convenient store access and to slow traffic. Wide storefront sidewalks should create a walkable, pedestrian-oriented atmosphere.

(3) *Alleys*. Alleys are narrow public drives serving commercial and residential development. In commercial developments, alleys provide the primary service access and loading areas for businesses. Additional characteristics of Alleys include the following:

- (a) Customer entrances may also be located off of alleys. In addition, if it does not obstruct the flow of vehicular and pedestrian traffic, portions of the alley may be used for outdoor retail space, patios, art gardens, and related uses.
- (b) In residential development, parking should be accessed via alleys.
- (c) Alley street lighting and landscaping should be designed at a pedestrian scale with an emphasis on creating a safe and secure environment. Additionally, landscaping shall not impede automobile or pedestrian visibility within or immediately adjacent to an alley.

(4) *Paseos*. Paseos are local and private pathways serving pedestrians and bicyclists only, and may also provide limited service access during specified periods of the day. Characteristics of Paseos include the following:

- (a) If it does not obstruct the flow of pedestrian traffic, portions of the paseo may be used for outdoor dining, retail space, patios, art gardens, and related uses.
- (b) Paseo street lighting and landscaping should be designed at a pedestrian scale. Larger canopy trees should be used where possible for shade.

b. *Street Typology Standards*. Table 15.4-1 (Street Typology Standards) displays standards for each Street Typology.

Table 15.4-1. Street Typology Standards

	Primary Streets	Secondary Streets	Alleys	Paseos
Throughfare Type	Avenue	Local	Alley	Pathway
Right-of-Way Width:	120 ¹	60'-64'	15'-20'	10'-20'
Through Traffic Lanes	2 Lanes, Plus Turning Lanes	2 Lanes	1 Lane	Emergency Only
Parking Lanes	11' Wide., Parallel, Two Sides ²	9'-11' Wide, Parallel, Two Sides or 17'-19' Wide, Diagonal, One Side	N/A	N/A

Table 15.4-1. Street Typology Standards

	Primary Streets	Secondary Streets	Alleys	Paseos
Pedestrian and Landscape Area	10'-15'	6'-10'	N/A	N/A
Curb Radius	25'	25'	25'	25'
Bike Facilities	N/A	Class II, On street, Stripped (Where Adequate Width Exists)	N/A	Designated Bicycle Lane(s), (Where Adequate Width Exists)

Notes:

- 1** 5th Street varies in width. Refer to the street cross sections for the appropriate road width and through traffic lane standards.
 - 2** There is no on-street parking on Colorado Boulevard/WCR 13
- c. *Street Typology Cross Sections.* Figures 15.4-2 through 15.4-5 depict the street standards for each Street Typology.

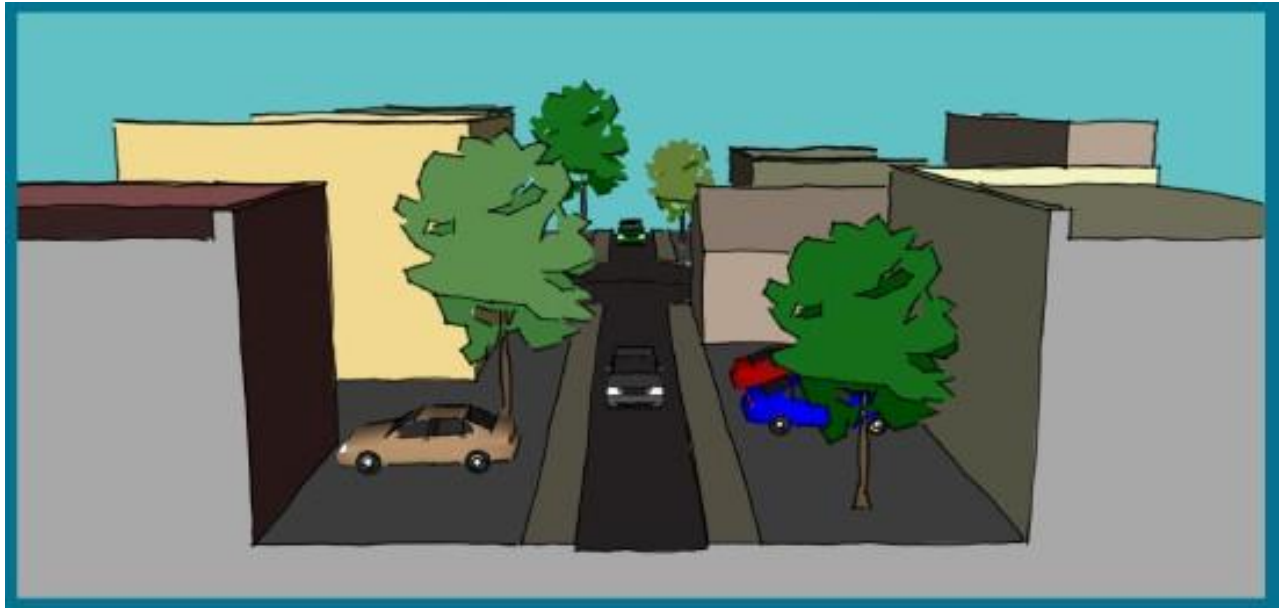
Figure 15.4-2. Primary Street**Figure 15.4-3. Secondary Street**



Figure 15.4-4. Secondary Street with diagonal parking (where width allows)



Figure 15.4-5. Alley



Sec. 15.5. Allowed Uses.

1. *District Descriptions.* The Downtown Code establishes two districts that will regulate development and driven design standards for downtown Frederick, the D-A and D-B district. These districts are described below.

a. *D-A District.* This district is the core downtown district. It offers a variety of commercial, retail, and mixed use – residential uses. This central spine offers more potential for unique, boutique storefronts, restaurants and destination shopping.

b. *D-B District.* This district applies to areas of the downtown not within the D-A district. While also offering a limited variety of mixed commercial, retail, and residential uses, it offers more opportunity for revitalization and infill residential development. It also offers the opportunity for adaptive reuse of existing residential structures to offices and boutique retail users. The area is characterized by a predominance of professional offices, small restaurants and very small scale retail/service commercial uses, with complimentary mixed-use and freestanding residential units.

2. *Allowed Uses.* Table 15.5-1 (Allowed Uses) identifies the allowed uses within the downtown. These allowed use regulations are listed by Zoning District (D-A or D-B). The uses listed are defined in Article 1. The symbols in the table are defined as:

P – Permitted Use (Permitted by Right)

C – Conditionally Permitted Use (Conditional Use Permit Required)

N – Not Permitted

Table 15.5-1. Allowed Uses

Uses	D-A Zone	D-B Zone
Adult Uses, including product sales and entertainment.	N	N
Attached Single-Family Residential	P	P
Automobile Oriented Uses, including gasoline stations, car washes, repair shops, auto retailers, and auto storage.	N	N
Commercial Recreation and Entertainment	P ¹	C ¹
Church	P	P
Detached Single-Family Residential	P	P
Funeral Homes	P	N
Government/Institutional	P	P
Home Occupation	P	P
Hotel/Motel	P	C
Live/Work Space	P	P
Medical Marijuana Operation	N	N
Mixed-Use	P	P
Multi-Family Residential	P	P
Professional Offices, Financial Services, and Clinics	P	P
Personal Services, including barber shops, beauty salons, garment repair, and appliance repair	P	P

Table 15.5-1. Allowed Uses

Uses	D-A Zone	D-B Zone
Retail Commercial	P ¹	P ¹
Sit-Down Restaurants	P ¹	P ¹
Warehousing, Manufacturing, Wholesaling and Distribution	N	N

Notes:

1 Alcohol sales permitted on premises subject to Liquor License/Permit Process.

(Ord. 1244 § 2, 2017)

Sec. 15.6. Development Standards.

1. *Mandatory Conformance.* Standards listed in this Section are mandatory requirements that must be satisfied for all new projects and modifications to existing development. Projects shall be reviewed for conformance with these provisions as part of Design Review. For "qualifying modifications" to existing development that only require issuance of a Building Permit and do not require Design Review approval, conformance with these standards shall be reviewed as part of Plan Check during Building Permit review. "Qualifying modifications" are all modifications to a structure such as repair, restoration, or reconstruction of a structure where such work, as determined by the Planning Director, maintains the outer dimensions and surface relationships of the existing structure (e.g., repainting, replacement of windows or doors with matching size and style, repair of exterior materials such as stucco and wood).

2. *Area-Wide Standards.*

a. *Area-Wide Height Requirements and Exceptions.* Refer to Section [15.6.2.e.](#) (Development Standards) below for district height requirements. The building height limitations shall not apply to building spires, belfries, cupolas, domes or other features not used for human occupancy, nor to chimneys, water tanks, silos, nor for public buildings or structures located more than one (1) foot horizontally from the property line for each foot of building height. Telecommunications antennas and service structures located on rooftops may also exceed the maximum building height but shall be hidden to the maximum extent possible using appropriate screening and "stealth" technologies. The Board of Trustees may approve buildings that exceed the maximum height adopted in the D-A or D-B zones through a waiver process.

b. *Area-Wide Maximum Allowable Residential Development.* The maximum allowable residential development in downtown Frederick is 25 dwelling units per acre.

- c. *Area-Wide Maximum Allowable Commercial Development.* The maximum allowable commercial development in downtown Frederick is a floor area ratio of 2.5:1.
- d. *Area-Wide Parking Standards.* In an effort to attract retail development to downtown Frederick, parking requirements have been greatly reduced. Please see Code Section [15.9](#) for district parking requirements.
- e. *Development Standards.* The development standards are intended to preserve the compact, walkable, historic downtown core. They also serve to enhance social interactions while providing appropriate levels of privacy in adjacent residential areas. Used properly, they will rejuvenate the Town by creating more visual interest and architectural consistency, facilitating development that relates to the pedestrian and site user, and enhancing the character of downtown. In addition, special consideration was given to the fact that the majority of streets in downtown Frederick are currently too narrow to support sidewalks of an appropriate downtown width (approximately 8 ~~ft.~~¹-10 ~~ft.~~¹). Therefore, "build-to" maximum setbacks have been set at 10 ~~ft.~~¹ in order to allow for future expansion of the existing narrow sidewalks. The development standards for the D-A and D-B district are provided ~~below~~ in Table ~~3-4 and Table 3-5~~^{15.6-1} (~~Development Standards~~) and displayed in Figure 15.6-1 (Building Placement).

Table 15.6-1. Development Standards

Development Standard		D-A Zone	D-B Zone
Maximum Building Height		35' [*]	35'
Building Placement (setbacks)	"Build-To" Front Line Maximum ¹	10'	10' ^{2,3}
	Minimum Side Yard	0'	0'
	Minimum Rear Yard	0'	10'

Notes:

* The maximum building height may be increased to 45 feet if the project demonstrates an exceptional level of improvement to the "public good and welfare" by providing for pedestrian comforts such as plaza's, weather protection, seating, water features and the like.

1 "Build-To" lines are defined as the edge where the front building facade is placed on the property relative to the edge of the right-of-way (sidewalk in most cases)

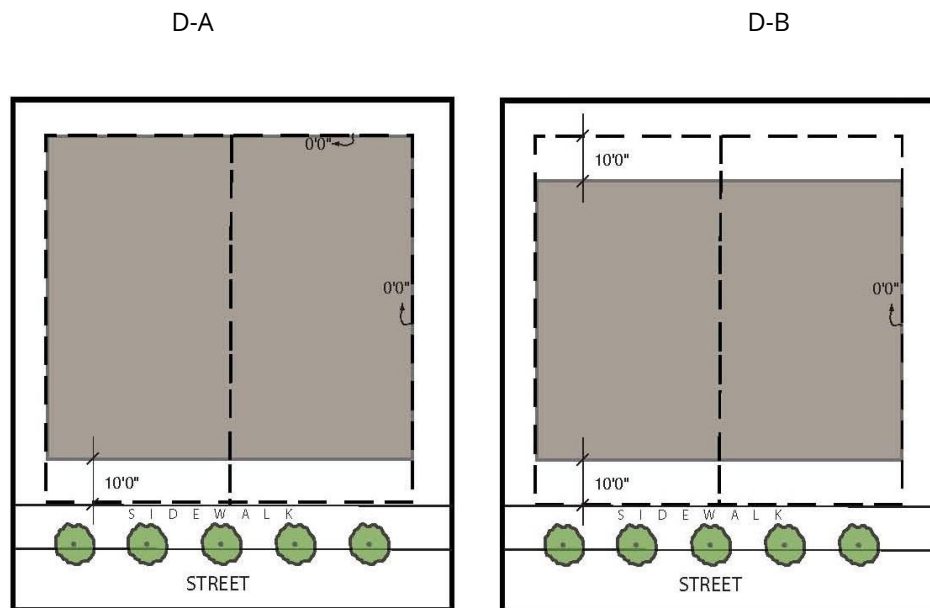
2 Through Design Review, larger sites may provide additional buildings with larger setbacks from the public right-of-way than otherwise permitted by the "Build-To" Line standard, provided that a minimum of 30 percent of the total site frontage is developed with one or more buildings that are developed consistent with this provision.

3 Residential buildings may be constructed with a "Build-To" Line between 10' and 20' provided all residential buildings are sited in a manner consistent with the setbacks of adjacent properties. The appropriate setback shall

The Frederick Land Use Code is current through Ordinance 1326, passed October 22, 2019.

be determined through Design Review to achieve a balance between the existing character of neighborhoods and the desired level of change. Residential uses include Attached Single-Family, Detached Single-Family, and Multi-Family Residential uses. For all other uses, the 10' "Build-To" Front Line maximum applies. For single family homes, which are exempt from Design Review, the "Build-To" Line determination shall be made as part of Plan Review.

Table Figure 15.6-1. Building Placement



3. *Storefront Regulations.* The following storefront standards are intended to provide continuity of building form at street level in downtown Frederick. Additionally, standards are meant to enhance the relationship between buildings and the sidewalk, subsequently encouraging more pedestrian activity.

- a. *Applicability.* Storefront design standards are only applicable to commercial uses with the gallery, arcade, and storefront frontage types. Descriptions of these frontage types can be found in Section 15.7.5 (Frontage Type Descriptions).
- b. *Standards.* Table 15.6-2 (Storefront Design Standards) lists the storefront design standards. "Tags" refer to those elements labeled in Figure 15.6-2 (Storefront Design Standards) and defined in Article 1.

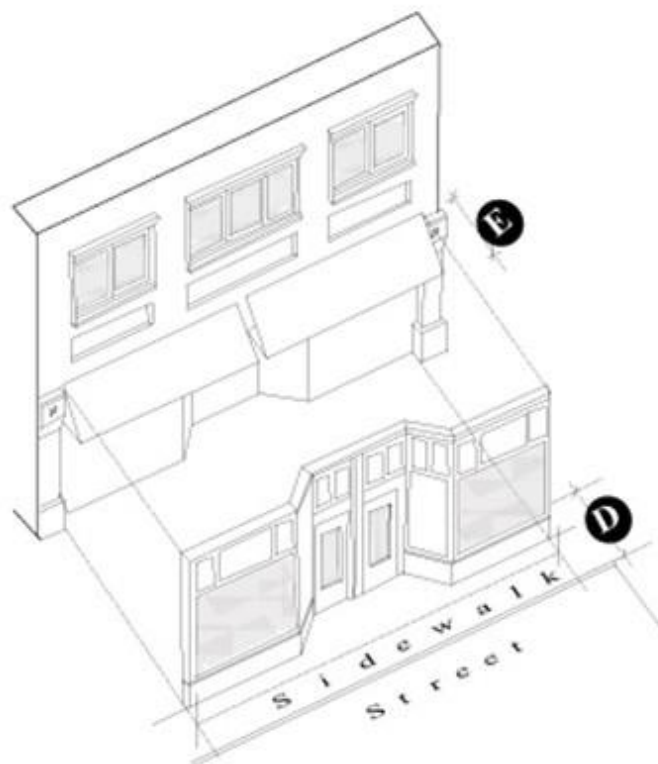
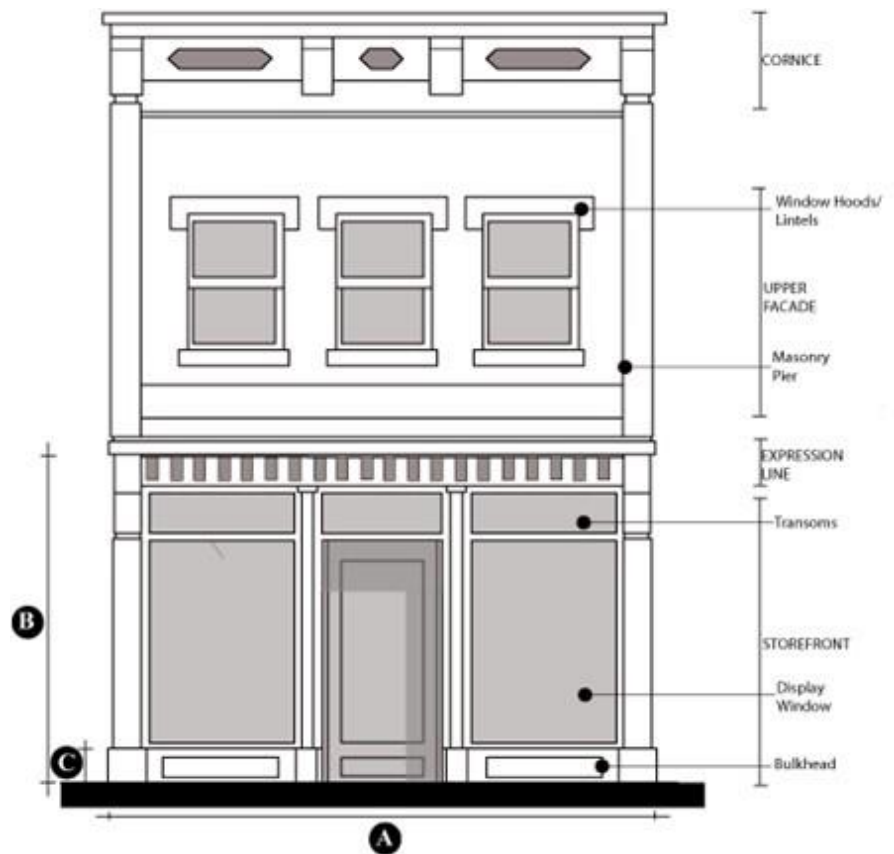
Table 15.6-2. Storefront Design Standards

Storefront Standards	D-A	D-B
Storefront Width	15'-45'	15'-60'
See tag "a" in Figure 15.6-2		

Table 15.6-2. Storefront Design Standards

Storefront Standards	D-A	D-B
Ground Floor Height	10'-20'	10'-20'
<i>See tag "b" in Figure 15.6-2</i>		
Bulkhead Height	1'-3'	0'-4'
<i>See tag "c" in Figure 15.6-2</i>		
Inset of Front Door (Alcove) from "Build-To" Line	2'-4'	3'-4'
<i>See tag "d" in Figure 15.6-2</i>		
Maximum Awning Extension from Building	6'	6'
<i>See tag "e" in Figure 15.6-2</i>		

Figure 15.6-2. Storefront Design Standards



Sec. 15.7. Building and Frontage Types.

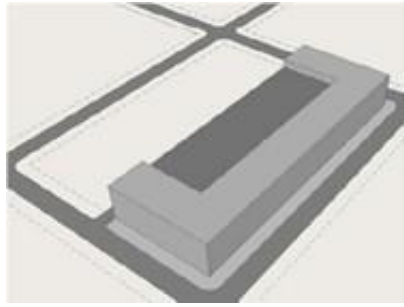
1. *Overview.* This Section provides general development standards for maintaining and enhancing the character of downtown Frederick, including building height, setbacks, and storefront standards. This section further guides development in downtown Frederick through a form based approach by providing building and frontage typologies for all development in downtown Frederick. All new development must comply with these form based types. Section [15.6](#) (Development Standards) provides the detailed schematics and dimensions for development standards of downtown Frederick, while Section [15.7](#) establishes "building block" typologies that best display the desired building character for downtown Frederick. Building types refer to the building massing, layout, and use. Frontage types refer to the architectural style of the front facade of a building (the part of the building that faces the street). Together, these two typologies shape building character and the building's relation to semi-public spaces, areas accessible to the general public but designed for use by residents.
2. *Allowed Building Types.* The following building types are intended to provide a variety of flexible building styles appropriate for the small town character of Frederick that can be used to guide future development. These provisions work in coordination with the underlying district and other development standards. Allowed building types in the different districts are listed in Table 15.7-1 (Allowed Building Types) and defined below. Building types are organized by intensity from most (Half-Block Liner) to least (Front Yard Housing) intense. An "X" means that the building type is allowed; a blank cell means that the building type is not allowed.

Table 15.7-1. Allowed Building Types

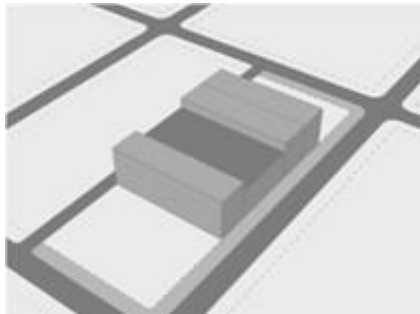
	D-A Zone	D-B Zone
Half-Block Liner	X	X
Infill	X	X
Terraced	X	X
Multi-Family Faux House		X
Duplex, Triplex, and Fourplex		X
Side Yard Housing		X
Side Yard House		X
Courtyard Housing		X
Front Yard Housing		X

3. *Building Type Descriptions.*

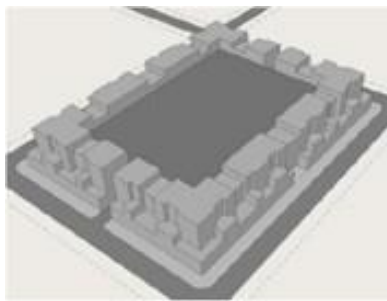
Half-Block Liner. An attached building with a frontage of approximately one-third to one-half the length of a downtown block, and zero side yard setbacks. It is used for mixed-use, residential, and commercial development land uses.



Infill. An attached building with a frontage that is less than one-third the length of a downtown block, and zero side yard setbacks. It is used for mixed-use, residential, and commercial development.



Terraced. A mixed-use, residential, or commercial building characterized by individual units that are accessed via multi-leveled outdoor terraces. The terraces are intended to be semi-public spaces that are extensions of the public realm.



Multi-Family Faux House. A multi-family faux house building type is a detached building that has a street appearance of a large house which contains more than four dwellings. Each dwelling is individually accessed from a central lobby, which in turn is accessed directly from the street.



Du/Tri/Fourplex. A du/tri/fourplex is a building type that contains two, three, or four dwelling units. Each unit is individually accessed directly from the street.



Side Yard Housing. A building or group of buildings containing dwelling units arranged on a lot in a row with the first unit facing the street. The primary entrance to each unit is from the side yard or, in the case of units facing the street, the front yard.



Side Yard House. A detached building designed as a single dwelling unit. A Side Yard House is flanked by a side yard accessed via a walkway to the yard area.



Courtyard Housing. A group of dwelling units arranged to share one or more common courtyards upon a qualifying lot in any zone. Dwellings take access from the street or the courtyard(s). Dwelling configuration occurs as townhouses, apartments, or apartments located over or under townhouses. The Courtyard is intended to be a semi-public space that is an extension of the public realm.



Front Yard Housing. A detached building designed as a single-family residence, duplex, triplex, or fourplex. Front Yard Housing is accessed from the sidewalk adjacent to the street build-to line.



4. ***Allowed Frontage Types.*** Frontage type refers to the architectural composition of the front facade of a building; particularly, the frontage type concerns how the building relates to surrounding semi-public spaces, areas accessible to the general public but designed for use by residents. The downtown Frederick frontage types are intended to enhance social interactions in the historic downtown retail core while simultaneously providing appropriate levels of privacy in residential areas. Allowed frontage types in the different districts are listed in Table 15.7-2 (Allowed Frontage Types) and defined below. Frontage types are organized by intensity, from most (Arcade) to least (Neighborhood Yard) intense. An "X" means that the frontage type is allowed; a blank cell means that the frontage type is not allowed.

Table 15.7-2. Allowed Frontage Types

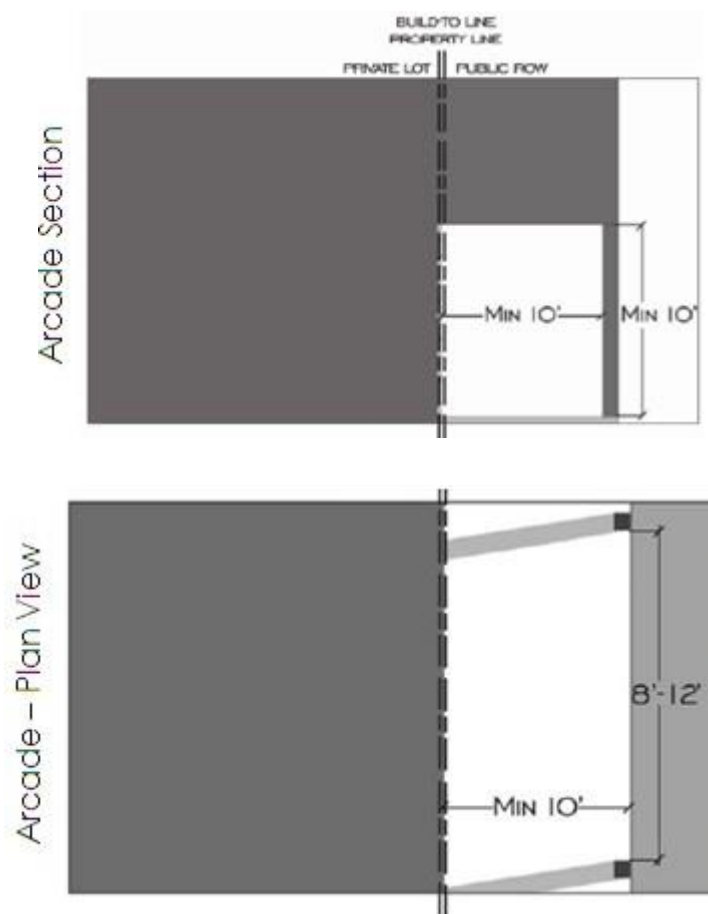
Allowed Frontage Types	D-A Zone	D-B Zone
Arcade	X ¹	X
Gallery	X	X
Storefront	X	X
Neighborhood Yard		X

Notes:

1 Arcade Frontage type only allowed on 5th Street if the sidewalk is a minimum of 10' wide.

5. *Frontage Type Descriptions.*

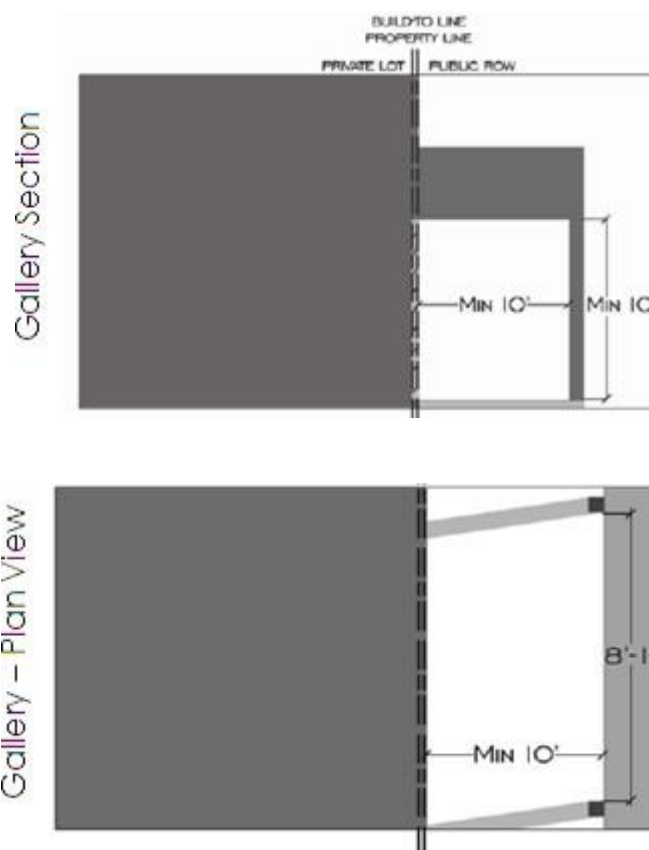
Arcade. An Arcade frontage is characterized by a facade which is aligned close to or directly on the right-of-way line with the building entrance at the sidewalk grade, and with an attached colonnade that projects over the public sidewalk and encroaches into the public right-of-way. The upper stories of the building may also project over the public sidewalk and encroach into the public right-of-way. The sidewalk must be fully absorbed within the colonnade so that a pedestrian may not bypass it. This frontage is typically appropriate for retail use. In the case of 5th Street the current sidewalk width is insufficient to accommodate this type of development encroaching upon the sidewalk, therefore this frontage would need to be accommodated on private property.



Arcade Frontage Dimensions	
Characteristic	Feet
Depth (minimum, from build-to line to inside column face)	10

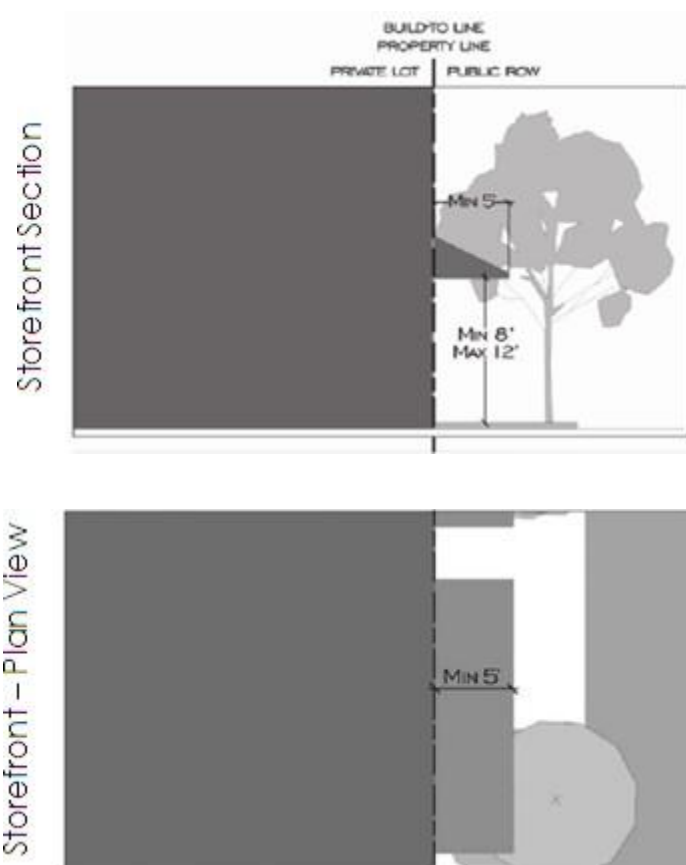
Arcade Frontage Dimensions	
Characteristic	Feet
Height (minimum clear)	10
Percentage of Building Front	75 – 100%

Gallery. A Gallery frontage is characterized by a facade which is aligned close to or directly on the right-of-way line with the building entrance at the sidewalk grade, and with an attached colonnade that projects over the public sidewalk and encroaches into the public right-of-way. The sidewalk must be fully absorbed within the colonnade so that a pedestrian may not bypass it. The colonnade may project over the public sidewalk, provided that the upper stories of the building do not also project over the public sidewalk. This frontage is typically appropriate for retail use. In the case of 5th Street the current sidewalk width is insufficient to accommodate this type of development encroaching upon the sidewalk; therefore this frontage would need to be accommodated on private property.



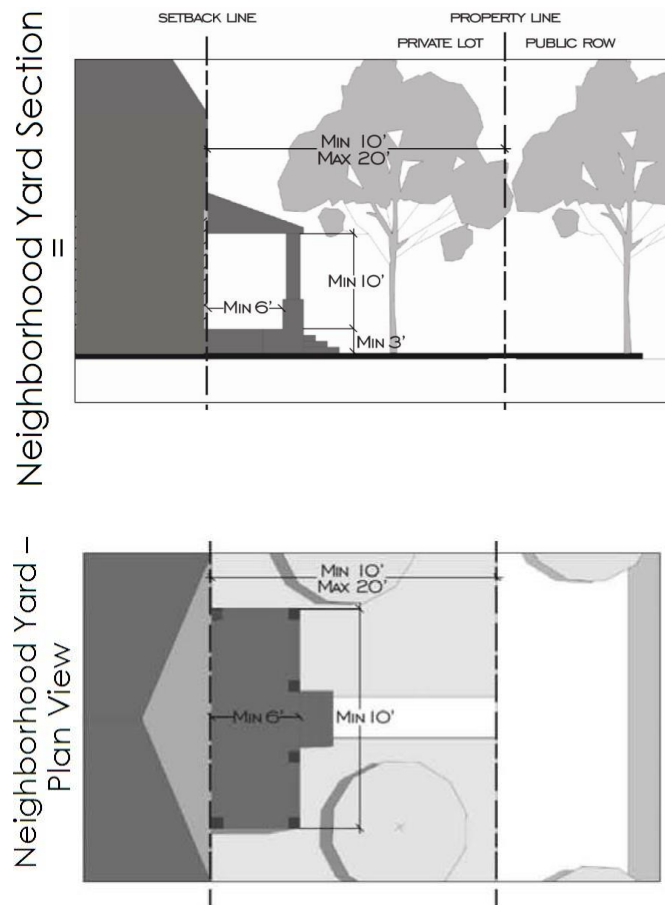
Gallery Frontage Dimensions	
Characteristic	Feet
Depth (minimum, from build-to line to inside column face)	10
Height (minimum clear)	10
Percentage of Building Front	75 – 100%

Storefront. A Storefront frontage is characterized by a facade which is aligned very close to the public right-of-way line with the building entrance at sidewalk grade. Storefront frontages have substantial glazing on the ground floor, and provide awnings or canopies cantilevered over the sidewalk. Building entrances may either provide a canopy or awning, or alternatively, may be recessed behind the front building facade.



Storefront Frontage Dimensions	
Characteristic	Measurement
Awning Depth (minimum projection, over the sidewalk)	5 feet
Height (from ground level to the bottom of the awning)	8 foot minimum, 12 foot maximum clear
Percentage of Building Front	50% minimum

Neighborhood Yard. A Neighborhood Yard frontage is characterized by deep front yard setbacks. The building facade is set back substantially from the front property line. The resulting front yard can be either fenced or unfenced. This frontage type is appropriate for residential uses.



Neighborhood Yard Frontage Dimensions	
Setback	Feet (from setback to property line)
Minimum	10
Maximum	20

Sec. 15.8. Reserved.

Sec. 15.9. Parking.

Parking requirements have been designed to encourage pedestrian activity and economic growth in downtown Frederick. In the design of parking facilities, consideration should be given to locating parking in the back or sides of buildings in order to maintain a continuous retail facade for pedestrians along downtown streets.

1. *Allowable Parking Types.* Allowable parking types are listed in Table 15.9-1 (Parking Types and Ratios) and defined below. An "A" means that the parking type is allowed; a "P" means that the parking type is preferred and highly encouraged. A "N" means that the parking type is not allowed. Parking types are also depicted in Figure 15.9-1 (Parking Types).

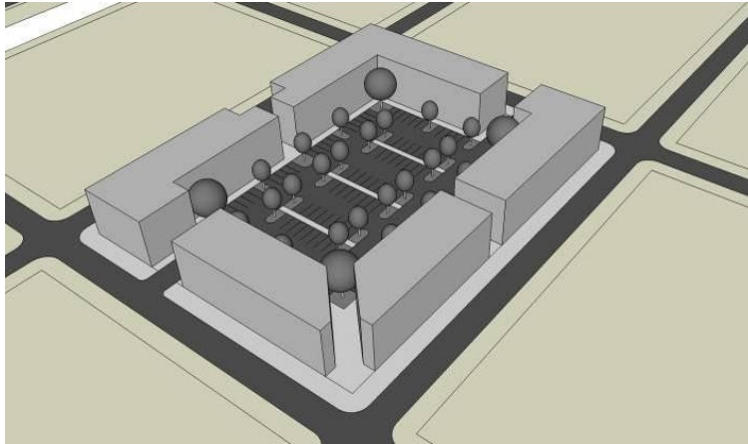
Table 15.9-1. Parking Types and Ratios

Allowed Parking Types	D-A Zone	D-B Zone
Surface Parking – Behind Building	P	P
Surface Parking – Next to Building	A	P
Parking Structure	N	A
Alley Access	A	A
Vehicle Parking Ratios	D-A Zone	D-B Zone
Commercial Uses	1 sp/400 sf ¹	1 sp/400 sf ¹
Office Uses	1 sp/500 sf ¹	1 sp/500 sf ¹
Residential Uses	1.5 sp/unit	1.75 sp/unit
Bicycle Parking Ratios	D-A Zone	D-B Zone
Commercial/Office Uses	0.3 sp/1,000 sf	0.3 sp/1,000 sf
Residential Uses	1 sp/unit	1 sp/unit

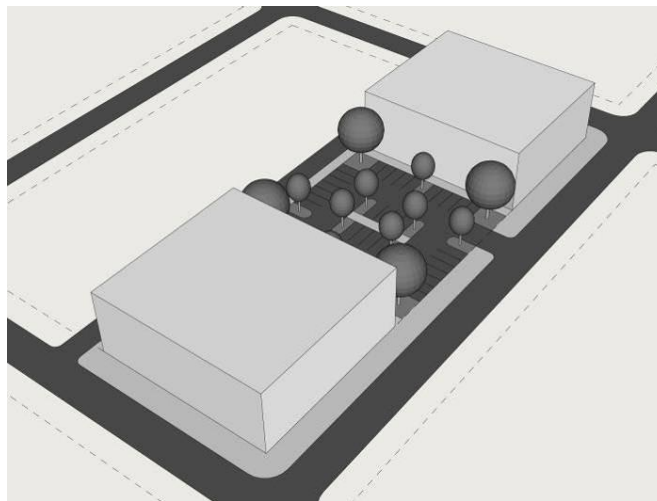
Notes:

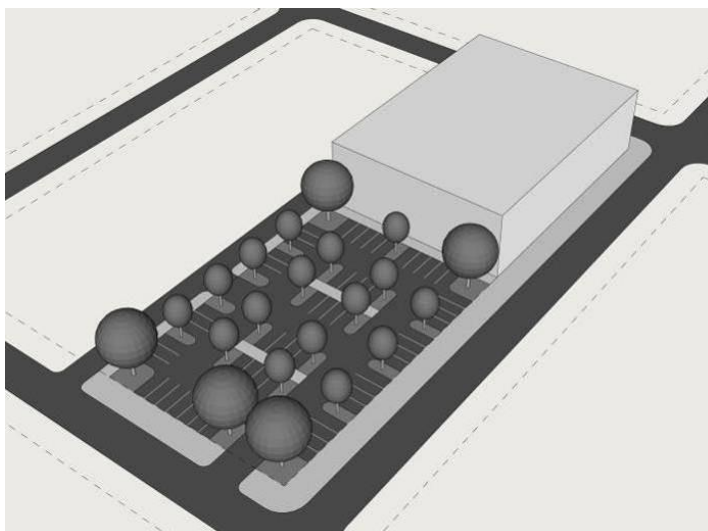
1 Exceptions to parking requirements are provided by land use in the Design Review Process. Refer to section C (Parking Exemptions) below.

Figure 15.9-1. Parking Types
Surface Parking – Behind Building

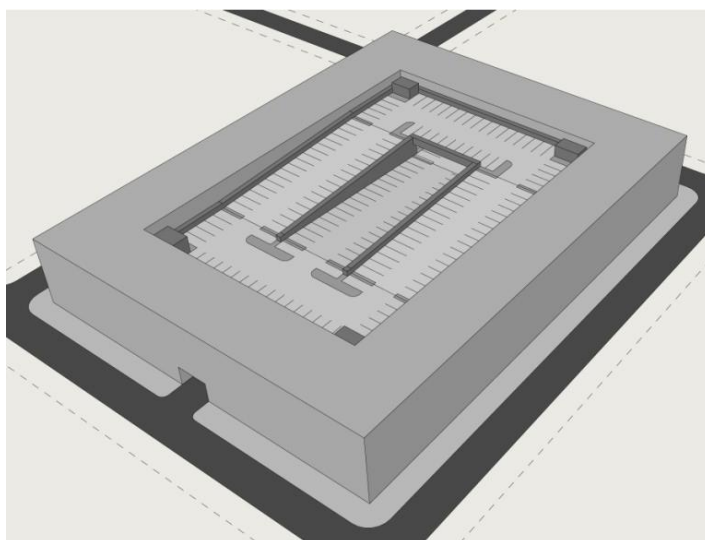


Surface Parking – Next to Building

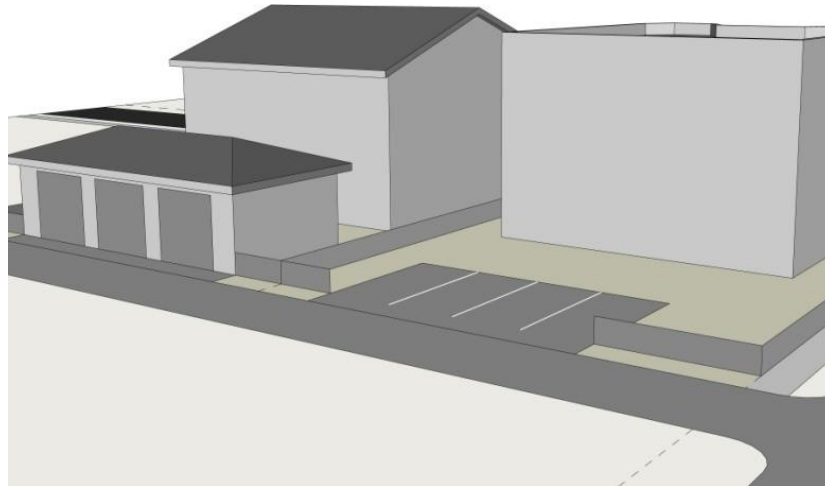




Structure Parking



Alley Parking



2. *Parking Standards.*

- a. Downtown Frederick should encourage "one-stop" parking where shoppers park once and visit multiple stores on foot. In addition, reduced parking requirements and shared parking lots will help create a pedestrian-oriented downtown environment.
- b. Locating parking lots between the front property line and the building store front is expressly prohibited. Instead, parking should be located to the rear of buildings.
- c. When off-street parking in the rear is not possible, the visual impact of headlight spill and visual impact of the asphalt parking surface shall be minimized by landscaping. Fences and/or walls may be used in conjunction with landscaping and are limited to a maximum height of three feet.
- d. Rear parking lots should be designed and located contiguously, or adjacent to alleys, so that vehicles can travel from one private parking lot to the other either directly or via an alley without having to enter a street. This may be achieved with reciprocal shared access agreements.
- e. Locate rear parking lots or structure entries on side streets or alleys in order to minimize pedestrian/vehicular conflicts.
- f. Create wide, well-lit, landscaped pedestrian walkways connecting onsite pedestrian circulation systems in parking lots to offsite public sidewalks and building entries.
- g. In order to minimize conflicting vehicle turning movement along major roadways, the Town encourages shared access drives within and between integrated non-residential developments. This reduces the number of driveway curb cuts. The Town also encourages reciprocal access between non-residential developments to provide for convenience, safety, and efficient circulation. If incorporated, a reciprocal access agreement shall be recorded with the land by the owners of abutting properties to ensure that there will be continued availability of the shared access.
- h. The layout of parking areas should be designed so that pedestrians walk parallel to moving cars.

- i. Parking areas that accommodate a significant number of vehicles should be divided into a series of connected smaller lots. Landscaping and offsetting portions of the lot are effective in reducing the visual impact of larger parking areas.

- j. Demarcation of parking spaces should be legible, and the spaces should be adequately sized.

3. *Parking Exemptions.* In an effort to encourage desired commercial activity in downtown Frederick, the Board of Trustees has the discretion to eliminate, in all or in part, parking requirements for the following uses in either the D-A or D-B district. This is based on the assumptions that 1) many businesses are discouraged from opening in downtown because of the burden of providing parking on small, built-out lots, and 2) the Town is working to supplement existing parking supplies with Town-owned parking lots. The following land uses are eligible for parking exemptions, subject to approval of the Board of Trustees and the findings that 1) the parking exemption would not negatively impact the parking supply in downtown and that 2) the exemption would facilitate commercial activity:

- a. Commercial Recreation and Entertainment
- b. Mixed-Use
- c. Retail Commercial
- d. Sit-Down Restaurants

Sec. 15.10. Architectural and Design Standards.

1. *Purpose and Intent.* The purpose of these Architectural and Design Standards is to guide preservation, improvements, renovations, and future development in downtown Frederick. These provisions describe and illustrate architectural and design standards that are appropriate for downtown Frederick. They establish the criteria used by the Town in reviewing proposed development, and are intended to encourage high quality design and development, creativity, and innovation in downtown Frederick.

Please note that the mandatory development standards contain the words "shall", "must", or "will". Standards that contain the word "should" mean that an action is required unless a determination is made that the intent of the standard is satisfied by other means.

2. *Site Design.* Siting involves a project's relationship to the property, the street, and adjacent buildings. In the downtown area, buildings should be sited in ways that provide a comfortable and safe environment for pedestrians while accommodating vehicles.

- a. *Building Siting.*

- (1) Most of the building "streetwall" should meet the front setback lines, except for special entry features, architectural articulation, and supplemental sidewalk areas or other public spaces.

(2) Residential buildings should be oriented towards the street for safety considerations as well as to encourage social interaction among neighbors.

b. *Compatibility with Adjacent Uses.*

(1) Commercial uses shall reduce potential nuisances to adjoining residential property by locating trash enclosures, loading areas, and restaurant vents away from residential uses and by proper screening of utilities and equipment.

(2) Commercial uses developed as part of a mixed-use project (with residential units) should not be noise intensive.



c. *Refuse, Storage, and Equipment Areas.*

(1) Trash storage must be fully enclosed and incorporated within the main structures or separate freestanding enclosures. Trash storage cannot be placed under stairways.

(2) All trash and garbage bins should be stored in an approved enclosure. Refuse containers and service facilities should be screened from view by solid masonry walls with wood or metal doors. Chain link fencing with slating is not permitted. Use landscaping (shrubs and vines) to screen walls and help deter graffiti.

(3) Trash enclosures should allow convenient access for commercial tenants. Siting service areas in a consolidated and controlled environment is encouraged.

(4) Trash enclosures shall be located away from residential uses to minimize nuisance for the adjacent property owners. The enclosure doors should not interfere with landscaping, pedestrian, or vehicle path of travel.

(5) Trash enclosures shall be architecturally compatible with the project.

(6) Refuse storage areas that are visible from an upper story of adjacent structures should provide an opaque or semi-opaque horizontal cover/screen to reduce unsightly views. The screening should be compatible with the design of adjacent development and shall be approved by the Frederick-Firestone Fire Protection District.

(7) Every public, quasi-public, commercial, or mixed-use development containing two or more units/businesses shall provide at least one publicly accessible on-site trash receptacle.

3. *Architectural Standards.* The purpose of the Architectural Standards section is to guide improvements, renovations, and future development in downtown Frederick to be consistent with the vision and goals for the

area as detailed in this Zoning Code and the Town's Comprehensive Plan, in addition to the vision established in the Downtown Vision Plan. These guidelines describe and illustrate building and landscape designs that are appropriate for downtown Frederick. They establish the criteria used by the Town in reviewing proposed development and are intended to encourage high quality design and development, creativity, and innovation.

a. *General Design Standards.*

- (1) Awnings and overhangs should be used in conjunction with landscaping to provide weather protection for pedestrians.
- (2) Any structural upgrading should be conducted in the interior of the building, if possible, unless the structural elements blend into the architecture of the exposed facade. Structural upgrades should not block or alter the original design of storefront windows.

b. *Building Height, Form, and Mass.*

- (1) *Create a comfortable and human scale of structures.* Incorporate elements into the design of large structures which provide a transition to the human scale, particularly at the ground. Such elements may be provided through, but not limited to, covered walkways, building arcades, and trellises.
- (2) Corner buildings should have a strong tie to the front setback lines of each street. Angled building corners or open plazas are encouraged at corner locations.



- (3) On sites with multiple structures, buildings should be linked visually and physically. These links can be accomplished through architecture and site planning, such as trellises, colonnades or other open structures combined with landscape and walkway systems.
- (4) As a general rule, the scale of building(s) on a site edge should be compatible with the scale of adjoining development. Where surrounding development is of a small scale, large-scale buildings should be located internal to the site and transition down in scale as the outer edge of the site approaches.
- (5) Backs of buildings shall not be placed along a street frontage. Include entrances or public views into the site or building. If the rear of the building must be located along a street because of site constraints, then architectural detailing shall be included that provides the illusion of being a front to the building.

(6) Building mass should be parallel or on axis with adjacent street(s) (e.g., building walls should be aligned with adjacent streets, and not angled differently than adjacent streets).

c. *Architectural Style.* New development should enhance the existing character of downtown Frederick by complimenting the historic architectural themes in the community. Examples of appropriate styles for commercial architecture include Italianate, Richardsonian Romanesque, Colonial Revival, and Classical Revival. Additionally, typical residential styles include Tudor, Victorian, Craftsman, and Four Square. However, the general theme of the appropriate architecture of Frederick includes, but is not limited to, the following general architectural features:

(1) Elements that overhang the pedestrian walkway, including arcades, galleries, porticos, balconies, awnings, and canopies;



(2) Exterior cladding materials such as brick, wood siding, or stone;

(3) Recessed entry alcoves and windows;

(4) Trim around doors and windows, especially the use of window ledges; and

(5) Flat roofs with parapet walls.

The subsequent sections describe individual design criteria that implement the architectural style for the downtown.

d. *Facades, Windows, and Doors.* Entries and facades define a building; they should create a statement and serve to unify its design. The entry and front facade function as the primary focal point of the structure, and they should create visual interest, enhancing the public realm and the pedestrian experience. Recessed entries are typical of commercial structures for the architectural styles established for the downtown. The following identify desirable entryway, facade, and window features.

(1) Facades that front on public streets should have a variety of architectural features, including arcades, canopies, display windows, entries, or awnings, unless the structural integrity of the building is at stake.



- (2) Design building entrances as prominent and easily identifiable and create a transition between the exterior and interior. Main building entries should be accented with strong architectural definition to pedestrians. Secondary entrances should have minor detailing that adds architectural distinction to that portion of the facade. Any building with more than 50 feet of street frontage should have at least one primary entry. Entryways should be accentuated from the overall building facade through the use of features such as crowning and sashes around doors, recessed entries, and awnings.
- (3) Building entrances should be designed to protect patrons and employees from the elements. The use of awnings and covered walkways is highly encouraged.
- (4) Elements of architecture including window and door placement shall be designed in such a way as to add variety and interest to the project.
- (5) The physical design of buildings facades should vary at least every 50 linear feet (quarter block). This can be achieved through such techniques as listed below. In no case shall any facade consist of a blank wall.
 - (a) Architectural division into multiple buildings,
 - (b) Break or articulation of the facade,
 - (c) Significant change in facade design,
 - (d) Placement of window and door openings, or
 - (e) Position of awnings and canopies.
- (6) Each building facade should include a repeated pattern of design and at least three of the following features.
 - (a) Roof-top or mid-belt cornice moldings;
 - (b) Dentil;
 - (c) Parapet;
 - (d) Window or door crowning;
 - (e) Decorative brackets; and/or

(f) Trim.

(7) Architectural features, including crownings, sashes, recesses, or other forms of ornamentation shall be included over doors or windows. These architectural features can be varied in form but shall be consistent with the architectural style of the structure. Generally, windows and doors should be recessed between six and 12 inches from the building face. In lieu of this, trim around windows and doors and window ledges should be provided.

(8) The design of the project shall be expressed on all exterior elevations of the building visible from a public right-of-way, alley, paseo, or parking area.

(9) If maintaining a horizontal rhythm or alignment as a result of infill construction is not feasible, the use of canopies, awnings, or other horizontal devices should be included to maintain a (shared) horizontal rhythm.

(10) Mullions, "true divided light" windows or sectional windows are recommended on residential buildings where a divided window design is desired; "snap-in" grilles or mullions shall not be used. Mullions are vertical bars that separate window panes, set in a series.

(11) Windows shall not be blocked from inside a building due to retail display racks, plywood sheets, posters, or any other goods or storage.

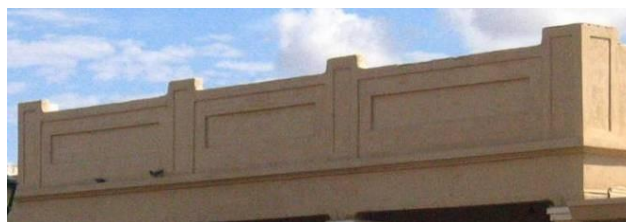
(12) The use of security grills at windows and doors is highly discouraged. If security grilles are necessary, they shall be placed inside the building, behind the window display area, or otherwise hidden from public view.

e. *Roofs and Upper Story Details.*

(1) Roofs should be given design considerations and treatment equal to that of the rest of the building exteriors.

(2) Roofline elements should be developed along all public-facing elevations.

(3) Articulate side and rear parapet walls by using height variations, relief elements, and thoughtfully designed scuppers (openings for draining water), downspouts, and expansion joints.



(4) Cornice lines of new buildings (a horizontal rhythm element) should transition with buildings on adjacent properties to avoid clashes in building height.

(5) The visible portion of sloped roofs should be sheathed with a roofing material complementary to the architectural style of the building and other surrounding buildings.

- (6) Avoid exaggerated roof slopes.
- (7) Access to roofs should be restricted to interior access only, unless the International Fire Code requires otherwise.
- (8) Generally, flat roofs are the appropriate roof treatment in the downtown; however other roof materials, such as shake, shingle, slate, metal seamed, or green roofing may be considered as part of Design Review.
- (9) Rooftop patios are encouraged.

f. *Walls and Fences.*



- (1) The use of chain link, fabric, or concrete block fencing is prohibited, except that concrete block walls may be used to enclose trash containers.
- (2) Fencing shall not obscure the front elevation of the primary structure on the property. Therefore, front yard privacy fences, particularly on residential property, should not be allowed. Structural members of a fence should be turned in to face the property.
- (3) The finished side of the fence should be presented to the street. On corner lots, the guidelines apply to the front yard and street side yard of the property.

g. *Building Materials and Colors.*

- (1) Projects should be designed using a limited assortment of materials, textures, and colors. Too many materials or textures lead to fragmented design.
- (2) Design projects with durable, low-maintenance, and timeless building materials of the same or higher quality as surrounding developments.
- (3) Architectural details should be integrated into the building structure and design.
 - (a) The use of brick or local stone in building facades is strongly encouraged.
 - (b) The use of tile on building walls is discouraged, unless it is used as an accent material. For instance, tile may be used as an accent material at the base of or as a thin trim around windows.

(4) Metal seam, slate, wood shake, or a similar grade of roofing material shall be used on all visible pitched roofs.

(5) Factory-built, prefabricated, pre-manufactured buildings, portable, and similar structures, while generally discouraged, may be allowed by the Board of Trustees for non-residential uses and shall be designed in accordance with these standards along with any additional reasonable conditions set by the Board of Trustees.



(6) All building materials shall be properly installed.

(7) Horizontal material changes should not occur at external corners, but may occur at interior corners, or at other logical terminations.

(8) Reflective materials should not be used to clad a building; however, if reflective materials must be used to protect the integrity of the architectural design, then the material shall not be a nuisance to the occupants of the existing surrounding structures, or a safety hazard to any type of traffic.

(9) All abandoned materials including pipes, conduits, wires, and signs shall be removed and sign anchors shall be patched to match adjacent surfaces. Operational pipes, conduits, etc, must be hidden.

(10) Mixed-use commercial developments that contain residential units on the upper levels shall utilize materials with known vibration and sound-reduction qualities in order to minimize noise impacts.

(11) Facade cladding colors should be consistent with a small, historic, turn-of-the-century Colorado town including, but not limited to, natural prairie colors and earth tones: shades of yellow, brown, dark red, and deep green. Additionally, shades of white are acceptable.

h. *Hardscape Materials.*

(1) Hardscape materials used in pedestrian-oriented spaces such as plazas, paths and sidewalks shall be attractive, durable, slip-resistant, of high quality, and compatible in color and pattern with a project's design. Surfaces in pedestrian circulation areas shall be constructed from materials that provide a hard, stable surface and that permit maneuverability for people of all abilities.



(2) Pedestrian pathways crossing an on-site vehicle drive aisle, loading area, or parking area, shall be made identifiable by the use of an alternative hardscape material such as pavers, patterned, stamped, or colored concrete.

i. *Franchise/Corporate.*

(1) The scale, design, and materials of franchise/corporate architecture should be consistent with adjacent buildings.

(2) The Town recognizes the unique development constraints for corporate retailers to accommodate the sales volume and demand of its users. The Town encourages creative design solutions for franchise retail development to minimize the "one size fits all" look of corporate architecture.

j. *Security.*

(1) Create a secure development for both the site and its occupants by minimizing opportunities for crime and undesirable activities through natural surveillance, access control, and activities.

(2) Locate buildings and windows to maximize visibility of entryways, pathways, and parking lots.

(3) Adequate security and safety lighting for pedestrians from parking spaces to all building entries and exits shall be provided.

(4) Street addresses for commercial, public, or multi-use residential buildings shall be easily visible on the front of the building both during the daytime, and at night.

4. *Landscaping.* Landscaping in downtown Frederick should be pedestrian-oriented and reflect and enhance the area's small town charm. These provisions emphasize the use of potted plants, trees, landscaping along urban streetscapes, and within urban parking lots. Landscaping shall be provided on-site consistent with the standards set forth below.

a. *Landscaping Standards.*

(1) *Street Trees and Other Landscaping.* Street trees shall be provided every 30 to 50 feet on center within the required landscape area and along public streets. Additional landscaping, such as accent plants, shall also be provided within dedicated landscape areas. Plant selection shall be from the suggested landscaping list in Table 15.10-1 (Suggested Planting List) and as approved through Design Review.

Table 15.10-1. Suggested Planting List

Plant Type	Species
Trees	
Street Trees	Wasatch Maple
	Chokecherry
	Hoptree, Wafer Ash
	Cherry
	Tatarian Maple
Shade Trees	Bur Oak
	Western Hackberry
	Western Catapal
	Kentucky Coffeetree
	American Elm
	American Linden
	Red Maple
	Sugar Maple
Trees for Walkways and Courtyards	Japanese Lilac
	Norway Maple
	Pear
	Prunus
Trees for Parking Areas	Hedge Maple
	Amur Maple
	Hornbeam
	Thornless Honeylocust
	Littleleaf Linden
Accent Trees	One-Seed Juniper
	Bristlecone Pine
	Crabapple
	Redbud
	Serviceberry

Table 15.10-1. Suggested Planting List

Plant Type	Species
Shrubs	
Small Shrubs (3')	Silver Sagebrush
	Apache Plume
	Silvery Leadplant
	Dwarf Leadplant
	Fernbush
	Cliff Fendlerbush
	Wax Currant
	Waxflower, Jamesia
	Twinberry Honeysuckle
	Shrubby Cinquefoil
	Littleleaf Mockorange
Medium Shrubs (6')	Skunkbrush, Three-leaf Sumac
	Saskatoon Serviceberry
	Utah Serviceberry
	New Mexico Privet
	Rock-spirea
	Squaw Apple
	Sand Cherry
	Dwarf Sand Cherry
	Antelope Bitterbrush
	Smith Buckthorn
	Dwarf Fragrant Sumac
	Rocky Mountain Sumac
	Golden Currant
	Common Chokecherry
	Wood's Rose
	Boulder Raspberry

Table 15.10-1. Suggested Planting List

Plant Type	Species
	Red-Berried Elder
Large Shrubs (12')	Hoptree, Wafer Ash
	Silver Buffaloberry
	Wasatch Maple
	Gambel's Oak, Scrub Oak
	Wavyleaf Oak, Scrub Oak
Ground Covers, Grasses, Wildflowers	
Ground Covers	Creeping Holly-Grape
	Pussytoes
	Sedum
	Thyme
Ornamental Grasses	Switchgrass
	Little Bluestem
	Blue Wildrye
	Blue Fescue
	Blue Avena Grass

(2) *Standard Design Concepts.*

- (a) Use landscaping to complement the architecture, to minimize the impact of incompatible land uses, and to establish a transition between adjacent developments. Plant materials can absorb sound, filter air, curtail erosion, provide shade, and maintain privacy.
- (b) Provide landscaping to break up blank walls, shade pedestrians, accent entries, and soften the connection of paving for vehicles to buildings.
- (c) Landscaped areas should generally utilize a three-tiered hierarchy of plants: grasses and groundcovers, shrubs, and trees. All areas in downtown that are not covered by structures, walkways, driveways, and parking spaces should be landscaped in this manner.
- (d) New development should look established as quickly as possible. Utilizing mature trees and plants in landscaping is encouraged to achieve this.

- (e) Preservation and incorporation of existing mature trees and other forms of vegetation is encouraged for new development. When removal is necessary, all natural vegetation should be salvaged and replaced where possible.
- (f) The use of drought-tolerant low-maintenance landscaping is strongly encouraged. Standard grass strips are strongly discouraged.
- (g) Water conservation should be an important factor in plant selection. Plants that require low amounts of water are encouraged.
- (h) Landscaped areas should be protected from vehicular and pedestrian encroachment by raised planting surfaces, depressed planters, or the use of curbs.
- (i) Parking facilities shall attain a minimum of 40 percent tree canopy coverage within 15 years of completion of construction to provide shade and minimize visual and environmental impacts. As an alternative to landscaping, shade structures may be used, provided there is landscaping at their base.



- (j) When streets and other public areas are being redesigned and improved (or otherwise completed as part of a development project), include at-grade landscape areas.
 - (k) In surface parking lots, trees should be installed at a ratio of one tree per four parking stalls for the perimeter of the parking lot, and one tree per six spaces for the interior of the parking lot.
 - (l) Consider placement of trees and shrubs to avoid conflict with vehicular overhangs, traffic and visibility patterns, and onsite structures.
 - (m) Owners of unoccupied lots that contain structures shall maintain the existing landscaping on a regular basis so that the lot(s) should not give an overgrown appearance.
 - (n) Landscape should be oriented in accordance with the demands of the species for sunlight and its susceptibility to the prevailing wind.
- (3) *Tree Grates/Guards.*
- (a) Tree grates should be utilized along all pedestrian pathways, including sidewalks to provide a continuous walking surface while providing adequate space for the tree to grow.

(b) Install structural soil systems to direct new root growth downward below hardscape areas. This helps to postpone root damage caused to the surrounding hardscape and structures. By providing deep watering and air to root systems as appropriate when trees are planted within five feet of any permanent structure/paving/curb, additional service life may be achieved. Structural soil systems are preferred over root barriers as they are often more effective.

(c) A minimum of six feet of structural soil shall be provided for trees. The area of enhanced root zone environment shall be enlarged beyond this minimum according to the species size planted. The structural soil can be provided under tree grates and pavement.

(d) Trees and landscaping installed in parking lots should be protected from vehicle damage by a minimum six-inch tall concrete curb surrounding the planter area. Planter barriers to protect landscaping should also be designed with intermittent curb cuts to allow parking lot runoff to drain into landscape areas.

(4) *Pots and Planters.*



(a) Due to the built-out nature of much of downtown, the use of alternative, creative landscaping measures is highly encouraged. This can be achieved through boxed planters and pots.

(b) Boxed and container plants in decorative planters of ceramic, cast stone, terra cotta, or other durable materials that compliment architectural styles and materials should be used to enhance public areas.

(c) Pots and planters should have color tones that compliment the adjacent structures and the historic character of downtown.

(d) Large planters may also be incorporated into seating areas. Such planters should be open to the earth below and be provided with a permanent irrigation system.

(5) *Water Quality and Urban Runoff.* The use of bioswales and landscaped water quality basins represent the preferred approach to urban runoff and stormwater quality control in the downtown. Bioswales are

landscaping elements that are used to collect and purify water before it saturates the ground, and are filled with vegetation or other materials conducive to draining. Such features add aesthetic character, utilize natural materials, and serve as a functional element that allows for stormwater management.

- (a) On lots that permit it, bioswales and similar natural landscaped runoff control facilities should be used to enhance appearance of stormwater management methods and allow for groundwater recharge.
- (b) On large enough lots that are not paved or developed over, bioswales should be used to collect surface runoff before it crosses pavement areas and to reduce ponding and damage to walkways. Bioswales should be graded to direct water away from paved areas into detention basins.
- (c) Bioswales should utilize a slope that is steep enough to prevent ponding and shallow enough to slow water down. Soils must not readily drain water; the goal is to get cleaner water to flow downstream. Recommended slopes of one to four percent should be used. Flow should be sufficiently low enough to provide adequate residence time within the channel. Flow depth should not be taller than the vegetation (a maximum depth of four inches is recommended). Final design of any bioswales shall be subject to approval of the Town Engineer.

5. *Lighting.* In downtown Frederick lighting fixtures within developments should be attractively designed to complement the architecture of the project and surrounding development, and should improve the visual identification and safety of residences and businesses. Additionally, consideration should be given to the effects of light pollution on the environment, as well as energy conservation technologies.

a. *General Design Standards.*



- (1) Lighting shall provide security and visual interest.

- (2) All exterior doors, aisles, passageways and recesses shall be equipped with a lighting device providing a minimum maintained one foot-candle of light at ground level during hours of darkness. Vandal resistant covers should protect lighting devices.
- (3) Decorative accent lighting and fixtures above the minimum one foot-candle illumination levels of surrounding parking lots should be provided at vehicle driveways, entry throats, pedestrian paths, plaza areas, and other high activity areas.
- (4) Exterior lighting shall be sited and installed in a manner to minimize glare and light spillage beyond property lines. Outdoor light fixtures shall be the lowest wattage necessary to accomplish adequate lighting. Lighting shall be downlit, shielded, and directed away from areas not intended to be lit and from the night sky. All light fixtures shall be installed and shielded in such a manner that no visible light is emitted from the fixture at angles above the horizontal plane.
- (5) Lighting fixtures should be attractively designed to complement the architecture of the project.
- (6) Lighting should improve visual identification of residences and businesses and create an inviting atmosphere for passersby.
- (7) Wall mounted lights should be used to the greatest extent possible to minimize the total number of freestanding light standards.
- (8) Parking lot lighting fixtures should not exceed 25 feet in height. When within 50 feet of residentially zoned properties, fixtures should not exceed 20 feet.
- (9) Light standards within parking lots should be designed with concrete raised bases to protect them from damage by vehicles.
- (10) Provide street lighting that is scaled for the pedestrian while still meeting vehicular needs. On local streets and within project sites, fixtures should be primarily oriented towards pedestrian's needs. On major streets, light fixtures serve to both illuminate pedestrian areas and roadways. Consider the location and intended audience when choosing a light fixture for a project.
- (11) Lighting for parking lots should be evenly distributed and provide pedestrians and drivers with adequate visibility and safety level at night.
- (12) The light source used in outdoor lighting should provide a white light for better color representation and to create a more pedestrian friendly-environment.
- (13) Low pressure sodium (yellow light) lamps are prohibited.
- (14) Lighting should be consistent with the historic small town character of Frederick.

6. *Sustainability.* The purpose of this section is to enhance the public welfare, and to encourage commercial, residential, and civic development to incorporate green building measures into the design, construction, and maintenance of buildings. Sustainable design elements should respect and compliment the downtown's historic character, and advance the creation of an environmentally and economically sustainable community.

a. *General Considerations.*

- (1) Building windows above the second floor, and facing southern and westerly directions, should be treated or otherwise designed to increase energy efficiency for the building while still maintaining the architectural integrity of the building and quality design of the site.
- (2) The Town encourages the use of solar arrays or other types of solar-based energy generation into all new roofing structures. Consider the pitch of roofs and orientation of the building when designing the project so as to maximize solar energy generation.



- (3) Consider the use of green roofs or other innovative methods of reducing impervious areas and heat islands on project sites.
- (4) Consider the use of on-site cisterns for rain water collection, and the use of grey-water recycling systems.
- (5) Consider using LEED, LEEP, or similar standards and thresholds to improve overall site and building quality in terms of energy efficiency and renewable resources.

Sec. 15.11. Special Use Regulations.

1. *Purpose and Intent.* The purpose of the following Special Use Regulations is to address concerns and provide standards for the following types of development and issues specific to downtown Frederick. These standards should ensure consistency with the vision and goals defined in this zoning code, by providing guidance to planners, developers, and residents on these unique topics.
2. *Live/Work.* Live/work units are built spaces that function predominantly as work spaces and secondarily as residences. Live/work units are permitted in buildings through the site plan process when they demonstrate compliance with the following standards:
 - a. The unit must contain a cooking space and bathroom in conformance with applicable building standards.

- b. Adequate and clearly defined working space must constitute no less than fifty percent of the gross floor area of the live/work unit. Said working space shall be reserved for and regularly used by one or more persons residing there.
 - c. At least one residence in each live/work unit shall maintain at all times a valid Town business license for a business on the premises.
 - d. Persons who do not reside in the live/work unit may be employed in a live/work unit when the required parking is provided.
 - e. Customer and client visits are allowed when the required parking is provided.
 - f. No portion of a live/work unit may be separately rented or sold as a commercial space for a person or persons not living on the premises, or as a residential space for a person or persons not working on the premises.
3. *Public Art.* For the purpose of this section, "public art" in downtown Frederick is defined as permanent or temporary works of art in the public realm, whether part of a building or free-standing.
- a. Public art shall be incorporated into public plazas, parks, and municipal buildings. Additionally, the incorporation of public art into private development projects is strongly encouraged.
 - b. Possible types of public art include but are not limited to the following options:
 - (1) Building features and enhancements such as bike racks, gates, benches, water features, or shade screens, which are unique and/or produced in limited editions by a professional artist.
 - (2) Landscape art enhancements such as walkways, bridges, or art features within a garden.
 - (3) *Murals or mosaics covering walls, floors, and walkways.* Murals may be painted or constructed with a variety of materials, including the use of imbedded and nontraditional materials.



- (4) Sculptures, which can be freestanding, wall-supported or suspended, kinetic, electronic, and made of durable materials suitable for the site.

(5) Fiberwork, neon, or glass artworks, photographs, prints, and any combination of media including sound, film, and video systems, or other interdisciplinary artwork applicable to the site.

(6) Community arts projects resulting in tangible artwork, such as community murals, sculptures, or kiosks.

4. *Storefront Vacancy.* For the purpose of this section, a "storefront vacancy" in downtown Frederick is defined as a vacant commercial ground floor (street level) space in any otherwise occupied or unoccupied building.

- a. Vacant storefronts shall be properly locked and secured to prevent unauthorized trespassing during the period of vacancy.
- b. The exterior facade of vacant storefronts shall be maintained by the property owner at the same level of quality as surrounding occupied storefronts and buildings.
- c. Property owners of vacant storefronts shall use creative temporary alternative uses of storefront window areas such as using them as a display area for community info, public art by local artists, and merchandise from other stores.
- d. Property owners of vacant storefronts should consult with the Town and Chamber of Commerce regarding possible available tenants.
- e. Vacant storefronts shall not be boarded up, or otherwise appear derelict or abandoned.
- f. An adequate level of exterior security lighting shall be regularly maintained regardless of storefront occupancy status.

The Frederick Land Use Code is current through Ordinance 1326, passed October 22, 2019.

Disclaimer: The Town Clerk's Office has the official version of the Frederick Land Use Code. Users should contact the Town Clerk's Office for ordinances passed subsequent to the ordinance cited above.

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MINUTES
TOWN OF FREDERICK
PLANNING COMMISSION
MEETING CONDUCTED IN PERSON AND VIA ZOOM
DECEMBER 16, 2021
6:00 PM

CALL TO ORDER: At 6:04 p.m. Chairperson Moe called the meeting to order and requested roll call.

ROLL CALL:

- Present: Chairperson Moe, Vice Chair TeVelde, and Commissioner Conroy.
 - Commissioners Scott and Stark were not present.
- Staff: Planning Director Jennifer Simmons, Planner Maureen Welsh, Land Use Attorney Todd Messenger, and Deputy Town Clerk Taylor Kittilson.

APPROVAL OF AGENDA: There were no changes to the agenda as presented.

APPROVAL OF NOVEMBER 18, 2021 MINUTES: Motion by Vice Chair TeVelde and seconded by Commissioner Conroy to approve the November 18, 2021 Minutes. Upon roll call vote, motion passed unanimously.

LAND USE CODE AMENDMENT TO ARTICLES 2, 3, & 15:

Planning Director Jennifer Simmons presented the proposed land use code amendments.

Motioned by Vice Chair TeVelde and seconded by Commissioner Conroy to approve PCR-2021-19A. Upon roll call vote, motion passed unanimously.

CONSIDERATION OF EAGLE BUSINESS PARK FILING 5:

Planner Maureen Welsh presented the proposed filing.

The applicants, Joel Paas & Curtis McDonald (420 21st Avenue, Suite 101, Longmont, CO 80501) was present and did not address the commission.

At 6:17 Chairperson Moe opened the public hearing.

At 6:18 Chairperson Moe closed the public hearing.

Motioned by Commissioner Conroy and seconded by Vice Chair TeVelde to approve PCR-2021-18A. Upon roll call vote, motion passed unanimously.

OTHER BUSINESS:

Built on What Matters.

There being no further business of the Planning Commission, Chairperson Moe adjourned the meeting at 6:19 PM.

Approved by the Planning Commission:

Tracy Moe, Chairperson

ATTEST:

Taylor Kittilson, Deputy Town Clerk

PCR-2021-19A

A Resolution of the Planning Commission Recommending Approval of Amendments to the Town of Frederick Land Use Code Articles 2, 3 and 15

Be it resolved by the Planning Commission of the Town of Frederick, Colorado:

Section 1. The Frederick Planning Commission finds that:

1.1 Amendments to Land Use Code Sections 2, 3, and 15 to clarify standards, remove obsolete standards, and correct errors have been considered.

1.2 Said amendments generally conform with the applicable requirements of Section 4.7.9.b. of the Frederick Land Use Code.

Section 2. This resolution constitutes the written report, findings and decision of the Town of Frederick Planning Commission.

Section 3. On the basis of the above, the Town of Frederick Planning Commission recommends approval of the application.

This resolution approved this 16th day of December, 2021, by a vote of 3 to 0.

me

Tracy Moe, Chairman, Planning Commission

TOWN OF FREDERICK, COLORADO

ORDINANCE NO. 1369

AN ORDINANCE OF THE TOWN OF FREDERICK, COLORADO, AMENDING ARTICLE 2 OF THE FREDERICK LAND USE CODE, SPECIFICALLY SECTIONS 2.6, 2.7, 2.16, AND 2.18, TO CLARIFY DRIVEWAY ACCESS STANDARDS, CORRECT ERRORS WITH REGARD TO SPELLING, GRAMMAR, AND CROSS-REFERENCES, AND TO REMOVE OBSOLETE STANDARDS.

WHEREAS, the Board of Trustees of the Town of Frederick (“Board”) finds that certain provisions of the Land Use Code tend to create unnecessary confusion due to minor errors and inconsistencies in their text; and

WHEREAS, the Board finds that clarification of the standards for providing access to certain types of dwelling units is appropriate in order to facilitate the development of a variety of housing types in the Town, an objective of the Town’s 2016 Comprehensive Plan; and

WHEREAS, by Planning Commission Resolution 2021-19A, dated December 16, 2021, the Planning Commission of the Town of Frederick approves the amendments set out in this Ordinance to the extent they constitute subdivision regulations, and recommends that the Board enact the amendments that are set out in this Ordinance.

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF FREDERICK, WELD COUNTY, COLORADO, AS FOLLOWS:

Section 1. Section 2.6., Town of Frederick Land Use Code, is amended as follows (double strikethrough is deleted text, double underline is added text, * * * represents large blocks of text that are not changed by this Ordinance):

Sec. 2.6. Lots and blocks.

* * *

2. *General provisions.* * * *

b. *Lot dimension and configuration.* * * *

(7) *Single-family, duplex, and townhome* ~~*Residential lot*~~ access to adjacent street.

(a) Driveway access to a local street from a single-family detached *or over-under duplex* residential lot, *or residential dwelling unit in a side-by-side duplex, or residential dwelling unit in a townhome building in which all dwelling units are 30 feet or greater in width,* shall be limited to:

i) one (1) driveway curb-cut or driveway access of no greater than thirty (30) feet in width; ~~*or*~~

i) ~~At~~ with regard to single-family detached lots with frontages that are 85 feet or more in width, a circular drive in which each access to the local street is less than ten (10) feet in width, separated by at least thirty (30) feet and which is constructed as an integral part of the overall architectural design of the single-family residence ~~may be considered as a single driveway access.~~

(b) All dwelling units in a townhome building shall take access from an alley if any of the dwelling units in the townhome building is less than 30 feet wide.

(c) Driveway access pursuant to this Section 2.6.2.b.(7) to a local street from a single-family detached residential lot shall be greater than fifty (50) feet from the intersection of the local street and a collector street or one hundred twenty-five (125) feet from the intersection of the local street and an arterial street as measured from the intersecting centerlines to the centerline of the driveway ~~right-of-way lines.~~

(d) All measurements of driveway width in this Section 2.6.2.b.(7) shall be taken pursuant to the applicable provisions of the Town of Frederick Design Standards and Construction Specifications, as amended from time to time.

(e) Nothing in this Section 2.6.2.b.(7) shall be construed to prohibit alley access. Where alley access is available, it shall be used unless the Town Engineer determines that alley access is functionally unworkable or creates a safety hazard.

(f) No single-family, duplex, or townhome lot that is subject to this Section 2.6.2.b.(7) shall take access from an arterial or collector street.

(8) *Multi-family residential, commercial, business and industrial lot access to adjacent street.*

(a) Driveway access to a local or collector street from a multi-family residential, commercial, business, or industrial lot shall be greater than one hundred twenty-five (125) feet from any street intersection as measured from the intersecting centerlines to the centerline of the driveway ~~right-of-way lines;~~

(b) Driveway access to an arterial street from a multi-family, commercial, business, or industrial lot shall be not less than two hundred fifty (250) feet from any intersection on the arterial street, or from another commercial, business, or industrial lot's access as measured from the intersecting centerlines to the centerline of the driveway ~~right-of-way lines, or driveways;~~ or

(c) ~~At the sole option of the~~ The Town Engineer shall have the authority to approve changes to this Section 2.6.2.b.(8) as to a proposed

~~development, if the Town Engineer finds that the changes are justified by a traffic study approved by the Town and that they do not compromise traffic safety or mobility, driveway access to a local street, collector street or arterial street from a multi-family residential, commercial, business, or industrial lot shall be as determined by a traffic study approved by the Town.~~

Section 2. Section 2.7., Town of Frederick Land Use Code, is amended as follows (double strikethrough is deleted text, double underline is added text, * * * represents large blocks of text that are not changed by this Ordinance):

Sec. 2.7. Streets.

* * *

2. *General provisions.* * * *

i. *Access.*

(1) Access to all subdivisions shall be from a public street system.

(2) Each new subdivision shall have at least two (2) means of access to the subdivision from the public street system. The two (2) means of access shall separately connect to the public street system.

~~(3) Private/individual driveways shall not be permitted to have direct access to collector streets, arterial streets, or state highways.~~

* * *

Section 3. Section 2.16., Town of Frederick Land Use Code, is amended as follows (double strikethrough is deleted text, double underline is added text, * * * represents large blocks of text that are not changed by this Ordinance):

2.16. Fences and walls.

* * *

2. *General provisions.* * * *

f. *Height limitations.* * * *

(5) No more than thirty (30) inches high when located within the sitesight distance triangle, and fences or walls within this sitesight distance triangle shall not be solid. * * *

g. *Maintenance.* ~~(1)~~ Dilapidated, unsightly, or dangerous fences, walls, or retaining walls shall be removed or repaired when so ordered by the Building Inspector or Community Service Officer ~~according to Municipal Code Chapter 7, Article II or Chapter 11, Article III.~~

* * *

Section 4. Section 2.18., Town of Frederick Land Use Code, is amended as follows (double strikethrough is deleted text, double underline is added text, * * * represents large blocks of text that are not changed by this Ordinance):

2.18. Commercial and industrial architecture.

* * *

5. *Commercial (non-industrial) architectural standards.* * * *

a. *Application.*

(1) The following standards apply to all commercially zoned projects, including Downtown Commercial, Neighborhood Commercial, Community Commercial, Mixed Use Highway 52, and Employment. In the case of commercially zoned projects with a Planned UrbanUnit Development (PUD) overlay, standards may be different or more stringent than those set forth in this Section. These standards shall not apply to buildings located in industrially zoned areas, except as provided herein.

(2) These standards shall apply to buildings ~~in industrially zoned projects~~ that are located on sites adjacent to an arterial roadway, provided that when fifty (50) percent or more of the building gross floor area or use is devoted to a non-industrial use. Non-industrial uses include uses such as office, retail goods or services, restaurants, or institutional use. In calculating the use devoted to such non-industrial use, any commercial outdoor area devoted to the display of goods for sale shall be included in the calculation of area devoted to non-industrial use. For ~~such~~ buildings that are subject to these standards ~~in industrially zoned projects~~, exterior portions of the building enclosing such non-industrial space shall comply with the commercial architectural standards in this Section. ~~Exterior portions of such buildings enclosing space devoted primarily to industrial uses, such as manufacturing or warehouse space, are exempt from application of commercial architectural standards in this Section.~~

* * *

e. *Articulation of walls.*

(1) *Type 2 Standard.* Building fronts and any wall of the building facing any road or public or private service drive, greater than one hundred (100) feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least four (4) percent of the length of the facade, extending at least twenty (20) percent of the length of the facade.

* * *

6. *Industrial architectural standards.*

* * *

b. *Application.* Standards in this section apply to all industrially zoned projects, including Business Light Industrial and Industrial. In the case of industrially zoned projects with a planned ~~urbanunit~~ development (PUD) overlay, standards may be different or more stringent than those set forth in this Section. *

* *

c. *Metal siding.* Metal shall not comprise more than twenty-five (25) percent of the exterior building finish material on walls (roof excluded) of industrial buildings. * * *

d. *Additional standards.* Industrial buildings shall also comply with the standards set forth in Section 2.18.5.2, Commercial Architectural Standards paragraphs: c. Design Compatibility, e. Articulation of Walls, f. Delivery/Loading Doors and Docks, g. Rooftop Mechanical Units, k. Building Colors, and m. Illumination.

~~7. Downtown architectural standards.~~

~~a. Setbacks. Buildings shall abut the front property line. Building facades may be recessed if an arcade or similar structure abuts the front setback. Architectural projections, including cornices, balconies, canopies and entry features, may encroach into public rights of way, subject to permits as required by the Town's Code.~~

~~b. Multi-story, mixed-use structures. Commercial uses contained in multi-story (two- and three-story) mixed-use structures with commercial/retail uses on the ground level and above and/or apartment dwellings or offices on the upper levels are encouraged. Such buildings shall vary in terms of footprint and architectural elevations. The maximum ground level footprint of a commercial building shall be five thousand (5,000) square feet.~~

~~c. Facade treatments. Large buildings shall be articulated or designed to resemble the character and scale of the original downtown buildings, with each facade twenty-five (25) feet or less.~~

~~d. Entries. Transparent entries and large store front windows are strongly encouraged. Recessed and other styles of window openings are desired.~~

~~e. Windows. Street-level storefront windows are strongly encouraged. Office and residential windows organized in a generally regular pattern are encouraged.~~

~~f. Awnings/canopies. Awnings or canopies which provide a generally consistent cover along the pedestrian walk are strongly encouraged. Arcades are desired to maintain a more continuous weather-protected walk.~~

Section 5. Effective Date. This Ordinance shall become effective immediately.

Section 6. Validity. If any part, section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining sections of the Ordinance. The Board of Trustees hereby declares that it would have passed the ordinance including each part, section, subsection, sentence, clause or phrase thereof, irrespective of the fact that one or more parts, sections, subsections, sentence, clauses or phrases be declared invalid.

Section 7. Necessity. The Board of Trustees of the Town of Frederick finds that this ordinance is necessary for the immediate preservation and protection of the health, safety, welfare and property of the inhabitants and owners of property in the Town of Frederick.

Section 8. Certification. The Town Clerk shall certify to the passage of this ordinance to the Weld County Clerk and Recorder's office, and make not less than one copy of the adopted Code available for inspection by the public during regular business hours.

INTRODUCED, READ, PASSED, ADOPTED AND ORDERED PUBLISHED THIS 11th DAY OF JANUARY, 2022.

ATTEST:

TOWN OF FREDERICK

By _____
Meghan Martinez, MMC, Town Clerk

By _____
Tracie Crites, Mayor

TOWN OF FREDERICK, COLORADO

ORDINANCE NO. 1370

AN ORDINANCE OF THE TOWN OF FREDERICK, COLORADO, AMENDING ARTICLES 3 AND 15 OF THE FREDERICK LAND USE CODE, SPECIFICALLY SECTIONS 3.4, 3.5, 3.6, AND 15.6, TO SIMPLIFY CODE ORGANIZATION, CLARIFY STANDARDS, CORRECT ERRORS WITH REGARD TO SPELLING, GRAMMAR, AND CROSS-REFERENCES, AND TO REMOVE OBSOLETE STANDARDS.

WHEREAS, the Board of Trustees of the Town of Frederick (“Board”) finds that certain provisions of the Land Use Code tend to create unnecessary confusion due to minor errors and inconsistencies in their text; and

WHEREAS, the Board finds that clarification of the standards for providing access to certain types of dwelling units is appropriate in order to facilitate the development of a variety of housing types in the Town, an objective of the Town’s 2016 Comprehensive Plan; and

WHEREAS, by Planning Commission Resolution 2021-19A, dated December 16th, 2021, the Planning Commission of the Town of Frederick approves the amendments set out in this Ordinance to the extent they constitute subdivision regulations, and recommends that the Board enact the amendments that are set out in this Ordinance.

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF FREDERICK, WELD COUNTY, COLORADO, AS FOLLOWS:

Section 1. Section 3.4, Town of Frederick Land Use Code, is amended as follows (double strikethrough is deleted text, double underline is added text, * * * represents large blocks of text that are not changed by this Ordinance):

Sec. 3.4. Matrix of Permitted, Conditional, and Special Uses by Zoning District: ~~Use-Specific Standards.~~

* * *

2. ~~Specific~~~~Use-Specific~~ Standards.

a. General.

* * *

(2) *Standards are Supplemental.* As applicable, the specific use standards stated in Section 3.4.2.b below are in addition to the general criteria applicable to all uses and to the general development and subdivision standards stated in Articles 2 and 4, respectively. In the case of any conflict between a specific use standard in Section 3.4.2.b below and a general development standard as stated in other provisions of the Land Use Code, the specific use standard in Section 3.4.2.b below shall apply unless otherwise expressly provided.

b. ~~Specific~~ Use-Specific Standards.

* * *

(6) Outdoor storage, enclosed mini-storage facilities and/or auto, RV, boat and truck storage standards.

* * *

(c) All storage facilities shall be concealed through the use of a solid fence or wall that shall not have an uninterrupted length exceeding fifty feet (50'). The maximum height of the fence shall be eight feet (8'). Pilasters, brick, texture transitions and stepping of the fence planes are required. The use of additional ~~trees and berming~~ landscaping (including plant materials and berming) that provides year-round screening of a sufficient height to further conceal all stored materials is required to prevent visual impacts on neighboring businesses, residential uses and the streetscape.

* * *

(13) *Special Development Standards for the C-E District.*

(a) ~~Secondary Residential~~ Secondary Residential uses may only be proposed as a secondary use in the Employment Zone and shall be integrated both in function and appearance into a larger employment district development plan that emphasizes primary uses and are limited to twenty-five percent 25% of the total gross area of the overall plan. All secondary uses shall be subject to site plan review.

* * *

(17) *Development standards for accessory buildings and uses.*

* * *

(c) *Accessory buildings.*

* * *

ii) In all other zoning districts, the maximum total footprint of all accessory buildings is ninety percent (90%) of the footprint of the principal building, and the maximum height of accessory buildings is the same as the maximum height for principal buildings in the underlying zoning district.

~~1. If the lot size is greater than two (2) acres:~~

~~a. The maximum footprint of the accessory building is ninety percent (90%) of the~~

~~principal building total size as measured in square feet.~~

~~b. The maximum height of the accessory building is the maximum height of the zoning district.~~

~~2. If the lot size is less than two (2) acres:~~

~~a. The maximum footprint of the accessory building is ninety percent (90%) of the principal building footprint.~~

~~b. The maximum height of the accessory building is the maximum height of the zoning district.~~

* * *

Section 2. Table 3-4, Town of Frederick Land Use Code, and its related notes are deleted and replaced with the following:

Table 3-4									
RESIDENTIAL DENSITY AND DIMENSIONAL STANDARDS									
Standards	Zones								
	R-E	R-1	R-2	R-3	R-MH1	R-MH2	D-A	D-B	C-E ³
Lot Standards									
Minimum lot area per dwelling	10,000 or 15,000 ¹	6,250	1,800	1,800 for townhomes 6,250 for multifamily	4,000	6,250	N/A	N/A	N/A
Maximum net density (units per acre)	0.2 ²	5	10	25	8	5	25	25	N/A
Minimum lot width (feet per dwelling)	140	50	20	20 for townhomes 60 for multifamily	50	50	N/A	N/A	N/A
Minimum lot frontage (feet)	70	40	18 for townhomes 35 for multifamily	35	40	40	N/A	N/A	N/A
Minimum front yard setback (feet) ³									
Principal building	25	15	15	15	15	15	10	10	N/A
Front-loaded garage	29	19	19	19	19	22	N/A	N/A	N/A

Table 3-4									
RESIDENTIAL DENSITY AND DIMENSIONAL STANDARDS									
Standards	Zones								
	R-E	R-1	R-2	R-3	R-MH1	R-MH2	D-A	D-B	C-E ³
Accessory building	60	55	45	45	40	55	Behind principal building	Behind principal building	N/A
Minimum side yard setback ^{3,4}									
Principal building	25	5	8	8 ³	10	5	0	0	N/A
Accessory building	20	10	15	15	15	15	0	0	N/A
Minimum rear yard setback									
Principal building	20	20	20	20	20	20	0	0	N/A
Garage with its entrance facing an alley	10	5	5	5	5	5	5	5	N/A
Accessory buildings	5	5	5	5	5	5	0	0	N/A
Other									
Minimum floor area per principal dwelling unit (square feet)	1500	850	600	400	800	800	N/A	N/A	N/A
Maximum building height	35	35	35	35	35	35	35	35	N/A
Table Notes: 1. The minimum lot size is ten thousand (10,000) square feet if adjacent to open space and fifteen thousand (15,000) square feet if not directly adjacent to open space. 2. The maximum density is no more than one (1) single-family dwelling per five (5) acres, except that if the Town approves a conservation density bonus, the maximum density allowed shall be no more than one (1) single-family dwellings per two (2) acres. This must have at least fifty percent (50%) of the land preserved as agricultural lands or open space. 3. See setback to arterial standards subsection 2.b.5.c of Section 2.6. 4. For corner lots, all sides of the lot with street frontage shall meet the applicable front yard setback.									

Section 3. Table 3-5, Town of Frederick Land Use Code, and its related notes are deleted and replaced with the following:

Table 3-5

COMMERCIAL, INDUSTRIAL, AGRICULTURAL, PUBLIC AND HAZARD DENSITY AND DIMENSIONAL STANDARDS

Standards	Zones										
	C-D	C-N	CC	C-H52	C-E	I	BLI	A	P	D-A	D-B
Minimum front yard setback (ft.)	0	10	15	0	0	25	25	30	15	0	0
Maximum front yard setback (ft.)	10	N/A	N/A	15	25	N/A	N/A	N/A	N/A	10 ¹	10 ^{1,2,3}
Minimum rear yard setback, generally (ft.)	0	10	15	15	20	20	20	20	10	0	10
Minimum rear yard setback to garage with entrance facing alley (ft.)	0	10	15	15	20	20	20	20	10	5	5
Minimum lot size	N/A	N/A	N/A	N/A	N/A	N/A	N/A	0.5 ac.	N/A	N/A	N/A
Maximum floor area ratio (ratio of total floor area to total lot area)	2:1	1:1	2:1	1:1	2:1	1:1	1:1	N/A	1:1	2.5:1	2.5:1
Maximum building height (ft.) ⁴	40	40	40	40	40 – non-residential	50	50	50 Ag	40	35 ⁵	35
					35 – residential			35 SFR			
Maximum ground level footprint (sq. ft.)	5000	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Table Notes:

1. This is a "build-to line," defined as the edge where the front building facade is placed on the property relative to the edge of the right-of-way (sidewalk in most cases).
2. Through Design Review, larger sites may provide additional buildings with larger setbacks from the public right-of-way than otherwise permitted by the "Build-To" Line standard, provided that a minimum of 30 percent of the total site frontage is developed with one or more buildings that are developed consistent with this provision.
3. Residential buildings may be constructed with a "Build-To" Line between 10 ft. and 20 ft. provided all residential buildings are sited in a manner consistent with the setbacks of adjacent properties. The appropriate setback shall be determined through Design Review to achieve a balance between the existing character of neighborhoods and the desired level of change. Residential uses include Attached Single-Family, Detached Single-Family, and Multi-Family Residential uses. For all other uses, the 10 ft. "Build-To" Front Line maximum applies. For single family homes, which are exempt from Design Review, the "Build-To" Line determination shall be made as part of Plan Review.
4. The building height limitations shall not apply to church spires, belfries, cupolas, or domes not used for human occupancy, nor to chimneys, water tanks, silos, nor to public building or structures located more than one foot horizontally from the property line for each foot of building height.
5. The maximum building height may be increased to 45 ft. if the project demonstrates an exceptional level of improvement to the public good and welfare by providing for pedestrian comforts such as plazas, weather protection, seating, water features and the like.

Section 4. Section 3.6., Town of Frederick Land Use Code, is amended as follows (double strikethrough is deleted text, double underline is added text, * * * represents large blocks of text that are not changed by this Ordinance):

Sec. 3.6. Nonconforming Uses.

1. *Requirements for nonconforming uses.* Except as provided in this Section, the lawful use of any building or land existing at the time of enactment of this Article, or of any amendments to this Chapter, may be continued even though such use does not conform to the requirements of this Code.

a. *Abandonment.* ~~means whenever~~When a nonconforming use has been discontinued for a period in excess of one hundred eighty (180) days, such use shall be considered abandoned, and shall not thereafter be reestablished. ~~and any~~ Any future use shall be in conformance with the provisions of this Article.

b. *Completion.* ~~means that any~~Any building or structure for which a building permit has been issued prior to the date of enactment of this Article may be completed and used in accordance with the plans, specifications and permits on which said building permit was granted, if construction is commenced within sixty (60) days after the issuance of said permit and diligently prosecuted to completion.

c. *Displacement.* ~~means no~~No nonconforming use shall be altered, extended or restored so as to displace any conforming use. A ~~trailer house~~manufactured home or mobile home in any district may be improved or replaced with a newer model manufactured home~~trailer house~~.

d. *Repairs and maintenance.* ~~means that ordinary~~Ordinary repairs and maintenance of a nonconforming building or structure shall not be deemed an extension of such nonconforming building or structure, and shall be permitted.

e. *Restoration.* ~~means a~~A nonconforming building or structure which has been damaged by fire or other causes ~~and which~~ may be restored to its original condition, provided that such work is commenced within one hundred eighty (180) days ~~after~~after such ~~calamity~~casualty and less than fifty percent (50%) of the building or structure is destroyed.

f. *Unsafe buildings.* ~~means any~~A nonconforming building or structure or portion thereof that is declared unsafe by the Building Inspector, ~~which~~ may be replaced, strengthened or restored to a safe condition.

* * *

Section 5. Section 15.6., Town of Frederick Land Use Code, is amended as follows (double strikethrough is deleted text, double underline is added text, * * * represents large blocks of text that are not changed by this Ordinance):

Sec. 15.6. Development Standards.

* * *

2. *Area-Wide Standards.*

* * *

e. *Development Standards.* The development standards are intended to preserve the compact, walkable, historic downtown core. They also serve to enhance social interactions while providing appropriate levels of privacy in adjacent residential areas. Used properly, they will rejuvenate the Town by creating more visual interest and architectural consistency, facilitating development that relates to the pedestrian and site user, and enhancing the character of downtown. In addition, special consideration was given to the fact that the majority of streets in downtown Frederick are currently too narrow to support sidewalks of an appropriate downtown width (approximately 8 ft.–10 ft.). Therefore, "build-to" maximum setbacks have been set at 10 ft. in order to allow for future expansion of the existing narrow sidewalks. The development standards for the D-A and D-B district are provided in Table 3-4 and Table 3-5 below in Table 15.6-1 (Development Standards) and displayed in Figure 15.6-1 (Building Placement).

Section 6.

A. Table 15-6.1, Development Standards, Town of Frederick Land Use Code, and its related notes are deleted in their entirety.

B. Table 15-6.1, Building Placement, Town of Frederick Land Use Code, is renamed to Figure 15.6.1, Building Placement.

Section 7. Effective Date. This Ordinance shall become effective immediately.

Section 8. Validity. If any part, section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining sections of the Ordinance. The Board of Trustees hereby declares that it would have passed the ordinance including each part, section, subsection, sentence, clause or phrase thereof, irrespective of the fact that one or more parts, sections, subsections, sentence, clauses or phrases be declared invalid.

Section 9. Necessity. The Board of Trustees of the Town of Frederick finds that this ordinance is necessary for the immediate preservation and protection of the health, safety, welfare and property of the inhabitants and owners of property in the Town of Frederick.

Section 10. Certification. The Town Clerk shall certify to the passage of this ordinance to the Weld County Clerk and Recorder's office, and make not less than one copy of the adopted Code available for inspection by the public during regular business hours.

INTRODUCED, READ, PASSED, ADOPTED AND ORDERED PUBLISHED THIS 11th DAY OF DECEMBER, 2022.

ATTEST:

TOWN OF FREDERICK

By _____
Meghan Martinez, MMC, Town Clerk

By _____
Tracie Crites, Mayor



TOWN OF FREDERICK BOARD OF TRUSTEES ACTION MEMORANDUM

Dan March, Mayor Pro Tem
Mark Lamach, Trustee
Adam Mahan, Trustee

Tracie Crites, Mayor

Rusty O'Neal, Trustee
Kevin Brown, Trustee
Windi Padia, Trustee

Consideration of Eagle Business Park Filing 5- Final Plat Project No. 2021-026

Agenda Date: Town Board Meeting – January 11, 2022

Attachments:

- a. Eagle Business Park Filing 5- Final Plat
- b. Signed PCR-2021-18A
- c. Updated Title Commitment
- d. MOAPI Amendment
- e. Resolution 21-R-02

Finance Review:

Finance Director

Submitted by:

Maureen Welsh
Planner I

Approved for Presentation:

Ben O'Neal
Town Manager

☒ Quasi-Judicial

☐ Legislative

☐ Administrative

Summary Statement:

This is a request to consider the subdividing existing 23.08 acre parcel into 4 developable lots with 2 outlots. All proposed lots are to remain zoned as Business Light Industrial (BLI).

Detail of Issue/Request:

Applicant: Curtis McDonald, Shadetree Eagle, LLC

Owner: Joel Paas, Rocky Ridge Civil Engineering

Built on What Matters.

Location and Zoning: Located north of the Town of Frederick's Public Works facility and west off of Eagle Boulevard. The property is zoned BLI.

Surrounding Land Uses and Zoning:

North	Land use: Vacant Zoning: Residential Low Density (R-1)
South	Land use: Town of Frederick Public Works Zoning: BLI
West	Land use: Vacant Zoning: TBD with a PUD Overlay
East	Land use: Oil and Gas Wells Zoning: Employment District (C-E)

Vicinity Map:



Background Information:

Eagle Business Park Filing 3 was originally platted in 2014. This created the existing 23.08 acre lot that the Planning Commission and Board of Trustees are considering for subdivision today. Eagle Business Park is made up of parcels that are zoned Employment, Industrial, as well as Business Light Industrial. This allows for a variety of land uses within the business park. With the request to split the lot in question into six total lots, two being designated as outlots and four being developable, the zoning of Business Light Industrial will remain unchanged and follow the Town's Land Use Code strictly. With the creation of the two outlots, Outlot A will be designated for Oil and Gas operations and Outlot B will be designated as drainage for the four adjacent developable lots that are proposed.

The subdivision of this parcel will also require the implementation of a cul-de-sac which will be addressed as Falcon Place. The applicant is dedicating right of way off of Falcon Place to the Town of Frederick. Falcon Place will act as the main access point to all four developable lots. The proposed lot sizes range from approximately 3.4 acres to 5.2 acres allowing for a mix of land uses to develop there in the future.

Request:

This is a request to consider the subdivision of one 23.087 acre parcel into six total lots. Two of these lots will be dedicated as outlots and will not be developed while the remaining four lots will be permitted for future development under the Business Light Industrial zone district. The applicant is dedicating right of way to the Town with the implementation of the main access point to be addressed as Falcon Place. Accompanying the final plat is an amendment to the MOAPI for Eagle Business Park to accommodate the supplement to the engineering cost estimates in the existing MOAPI that are necessitated by the Final Plat. This amendment to the MOAPI was provided for in the original MOAPI.

Review Criteria:

Final plat review criteria. The Town shall use the following criteria to evaluate the Applicant's request:

- (1) The final plat conforms with the approved preliminary plat and incorporates recommended changes, modifications, and conditions attached to the approval of the preliminary plat unless otherwise approved by the Board of Trustees.
- (2) The development will substantially comply with the community design principles and development standards as set forth in Article 2 of this Code.
- (3) All applicable technical standards have been met.
- (4) An updated title commitment dated current to within fourteen (14) days of the Board of Trustees meeting.

Staff Comment: Review Criterion 1) There was no preliminary plat associated with this requested Final Plat. The Final Plat as proposed meets the Land Use Code requirements. Review Criterion 2) The subdivision is in compliance with Article 2. When future developments are proposed, they will also be reviewed for compliance with Article 2. Review Criterion 3) Yes, all applicable technical standards have

been met. Review Criterion 4) An updated title commitment dated within 14 days of the Board of Trustees meeting will be provided.

Public Notice:

This project was properly noticed according to the requirements of Section 4.5 of the Frederick Land Use Code.

Legal Comments:

The application has been reviewed by the Town Land Use Attorney, Todd Messenger.

Planning Commission:

A Planning Commission hearing was held on Thursday, December 16th. The Commission had a question about neighboring property owner input and if there had been any. Staff informed the commission that no neighboring property owner has reached out nor shown opposition of this request. Upon answering the question, the Planning Commission moved to approve PCR-2021-18A, approving the request as presented with a vote of 3-0.

Recommended Motions:

The Board of Trustees may approve the request, deny the request, or approve the request with conditions.

Approval:

I move that the Eagle Business Park Filing 5, case no. 2021-026 and its accompanying MOAPI amendment be approved based on the review criteria found in the Town Land Use Code Section 4.9.1.c, with no conditions; and to direct the Town Attorney to memorialize this approval as a resolution for prompt execution by Mayor Crites without further action of the Board.

Approval with Conditions:

I move that Eagle Business Park Filing 5, case no. 2021-026 and its accompanying MOAPI amendment be approved based on the review criteria found in the Town Land Use Code Section 4.9.1.c, and based on the following conditions;

- 1...
- 2...

Denial:

I move that Eagle Business Park Filing 5, case no. 2021-026 and its accompanying MOAPI amendment be denied based on the following findings of fact (list specific facts); and to direct the Town Attorney to reduce this denial, along with the findings of fact, to writing for prompt execution by Mayor Crites without further action of the Board.

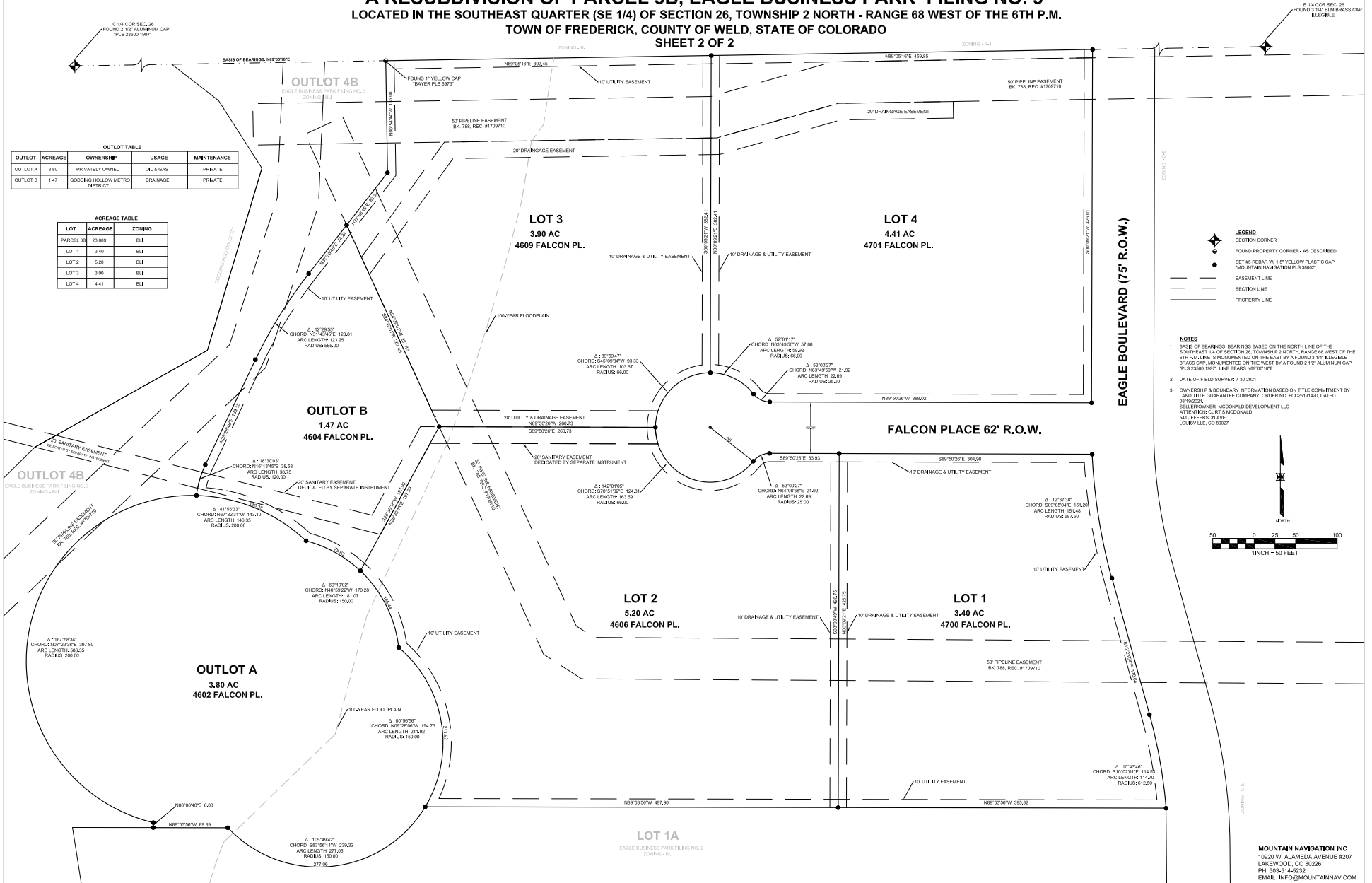
[illegible]

MOUNTAIN NAVIGATION INC
10920 W. ALAMEDA AVENUE #207
LAKEWOOD, CO 80226
PH: 303-514-5232
EMAIL: INFO@MOUNTAINNAV.COM

EAGLE BUSINESS PARK FILING NO. 5
A RESUBDIVISION OF PARCEL 3B, EAGLE BUSINESS PARK FILING NO. 3
 LOCATED IN THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 26, TOWNSHIP 2 NORTH - RANGE 68 WEST OF THE 6TH P.M.
 TOWN OF FREDERICK, COUNTY OF WELD, STATE OF COLORADO
 SHEET 2 OF 2

OUTLOT TABLE				
OUTLOT	ACREAGE	OWNERSHIP	USAGE	MAINTENANCE
OUTLOT A	3.80	PRIVATELY OWNED	CL & GAS	PRIVATE
OUTLOT B	1.47	GODDING HOLLOW METRO DISTRICT	DRAINAGE	PRIVATE

ACREAGE TABLE		
LOT	ACREAGE	ZONING
PARCEL 3B	23.889	BLI
LOT 1	3.40	BLI
LOT 2	5.20	BLI
LOT 3	3.90	BLI
LOT 4	4.41	BLI



2 A Resolution of the Planning Commission

3 Recommending Approval of Eagle Business Park Filing 5

4
5 Be it resolved by the Planning Commission of the Town of Frederick, Colorado:

6
7 Section 1. The Frederick Planning Commission finds that:

8 1.1 An application for the Eagle Business Park Filing 5 has been submitted.

9 1.2 Said application was found to be complete through the review process.

10 1.3 Said application was considered during a public hearing held December 16, 2021.

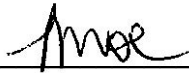
11 1.4 Proper notice was given according to Section 4.5 of the Frederick Land Use Code.

12 1.5 Said application conforms with the applicable requirements of Section 4.9.1 of the
13 Frederick Land Use Code.

14 Section 2. This resolution constitutes the written report, findings and decision of the Town
15 of Frederick Planning Commission.

16 Section 3. On the basis of the above, the Town of Frederick Planning Commission
17 recommends approval of the application.

18
19 This resolution approved this 16th day of December, 2021 by a vote of 3 to 0.

20
21 

22 Tracy Moe, Chairperson, Planning Commission



**Land Title Guarantee Company
Customer Distribution**



PREVENT FRAUD - Please remember to call a member of our closing team when initiating a wire transfer or providing wiring instructions.

Order Number: **FCC25191420-2**

Date: **01/04/2022**

Property Address: **VACANT LAND, Frederick, CO**

PLEASE CONTACT YOUR CLOSER OR CLOSER'S ASSISTANT FOR WIRE TRANSFER INSTRUCTIONS

For Closing Assistance

For Title Assistance

Land Title Customer Care Team
772 WHALERS WAY #100
FORT COLLINS, CO 80525
(970) 282-3649 (Work)
(970) 282-3652 (Work Fax)
customercare@ltgc.com

Seller/Owner

MCDONALD DEVELOPMENT LLC
Attention: CURTIS MCDONALD
541 JEFFERSON AVE
LOUISVILLE, CO 80027
(641) 919-0776 (Work)
curtis@mcdonalddevelopment.org
Delivered via: Electronic Mail



Land Title Guarantee Company
Estimate of Title Fees

Order Number: **FCC25191420-2** Date: **01/04/2022**
Property Address: **VACANT LAND, Frederick, CO**
Parties: **TO BE DETERMINED**
SHADETREE EAGLE LLC, A COLORADO LIMITED LIABILITY COMPANY

Visit Land Title's Website at www.ltgc.com for directions to any of our offices.

Estimate of Title insurance Fees	
"TBD" Commitment	\$283.00
	Total \$283.00
If Land Title Guarantee Company will be closing this transaction, the fees listed above will be collected at closing.	
Thank you for your order!	

Note: The documents linked in this commitment should be reviewed carefully. These documents, such as covenants conditions and restrictions, may affect the title, ownership and use of the property. You may wish to engage legal assistance in order to fully understand and be aware of the implications of the effect of these documents on your property.

Chain of Title Documents:

[Weld county recorded 04/23/2013 under reception no. 3926695](#)

Plat Map(s):

[Weld county recorded 08/04/2014 under reception no. 4035497](#)

ALTA COMMITMENT
Old Republic National Title Insurance Company
Schedule A

Order Number: FCC25191420-2

Property Address:

VACANT LAND, Frederick, CO

1. Effective Date:

12/28/2021 at 5:00 P.M.

2. Policy to be Issued and Proposed Insured:

"TBD" Commitment

\$0.00

Proposed Insured:

TO BE DETERMINED

3. The estate or interest in the land described or referred to in this Commitment and covered herein is:

A FEE SIMPLE

4. Title to the estate or interest covered herein is at the effective date hereof vested in:

SHADETREE EAGLE LLC, A COLORADO LIMITED LIABILITY COMPANY

5. The Land referred to in this Commitment is described as follows:

PARCEL 3B, EAGLE BUSINESS PARK, FILING NO. 3, COUNTY OF WELD, STATE OF COLORADO.

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ALTA COMMITMENT

Old Republic National Title Insurance Company

Schedule B, Part I

(Requirements)

Order Number: FCC25191420-2

All of the following Requirements must be met:

This proposed Insured must notify the Company in writing of the name of any party not referred to in this Commitment who will obtain an interest in the Land or who will make a loan on the Land. The Company may then make additional Requirements or Exceptions.

Pay the agreed amount for the estate or interest to be insured.

Pay the premiums, fees, and charges for the Policy to the Company.

Documents satisfactory to the Company that convey the Title or create the Mortgage to be insured, or both, must be properly authorized, executed, delivered, and recorded in the Public Records.

1. RELEASE OF DEED OF TRUST DATED FEBRUARY 26, 2021 FROM SHADETREE EAGLE LLC, A COLORADO LIMITED LIABILITY COMPANY TO THE PUBLIC TRUSTEE OF WELD COUNTY FOR THE USE OF MONTEGRA CAPITAL RESOURCES LTD TO SECURE THE SUM OF \$320,000.00 RECORDED FEBRUARY 26, 2021, UNDER RECEPTION NO. [4687120](#).
2. TERMINATION OF FINANCING STATEMENT BY MONTEGRA CAPITAL RESOURCES LTD, THE SECURED PARTY, RECORDED FEBRUARY 26, 2021, UNDER RECEPTION NO. [4687121](#).
3. WRITTEN CONFIRMATION THAT THE INFORMATION CONTAINED IN STATEMENT OF AUTHORITY FOR SHADETREE EAGLE LLC, A COLORADO LIMITED LIABILITY COMPANY RECORDED JANUARY 15, 2020 AT RECEPTION NO. [4558566](#) IS CURRENT.

NOTE: SAID INSTRUMENT DISCLOSES CURTIS MCDONALD, MANAGER AND/OR ARJUNA MARTLIN, MANAGER, AS AUTHORIZED TO EXECUTE INSTRUMENTS CONVEYING, ENCUMBERING OR OTHERWISE AFFECTING TITLE TO REAL PROPERTY ON BEHALF OF SAID ENTITY. IF THIS INFORMATION IS NOT ACCURATE, A CURRENT STATEMENT OF AUTHORITY MUST BE RECORDED.

NOTE: ADDITIONAL REQUIREMENTS OR EXCEPTIONS MAY BE NECESSARY WHEN THE BUYERS NAMES ARE ADDED TO THIS COMMITMENT. COVERAGES AND/OR CHARGES REFLECTED HEREIN, IF ANY, ARE SUBJECT TO CHANGE UPON RECEIPT OF THE CONTRACT TO BUY AND SELL REAL ESTATE AND ANY AMENDMENTS THERETO.

ALTA COMMITMENT
Old Republic National Title Insurance Company
Schedule B, Part II
(Exceptions)

Order Number: FCC25191420-2

This commitment does not republish any covenants, condition, restriction, or limitation contained in any document referred to in this commitment to the extent that the specific covenant, conditions, restriction, or limitation violates state or federal law based on race, color, religion, sex, sexual orientation, gender identity, handicap, familial status, or national origin.

- 1. Any facts, rights, interests, or claims thereof, not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.**
- 2. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.**
- 3. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.**
- 4. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the Public Records.**
- 5. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date of the proposed insured acquires of record for value the estate or interest or mortgage thereon covered by this Commitment.**
- 6. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.**
- 7. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water.**
- 8. EXISTING LEASES AND TENANCIES, IF ANY.**
- 9. RIGHT OF PROPRIETOR OF A VEIN OR LODE TO EXTRACT AND REMOVE HIS ORE THEREFROM SHOULD THE SAME BE FOUND TO PENETRATE OR INTERSECT THE PREMISES AS RESERVED IN UNITED STATES PATENT RECORDED DECEMBER 03, 1872, IN BOOK 8 AT PAGE [135](#).**
- 10. ALL OIL, GAS, COAL AND OTHER MINERAL RIGHTS AS CONVEYED IN INSTRUMENT RECORDED MARCH 10, 1908, IN BOOK 278 AT PAGE [47](#), AND ANY AND ALL ASSIGNMENTS THEREOF OR INTERESTS THEREIN.**
- 11. RIGHT OF WAY EASEMENT AS GRANTED TO NORTHERN COLORADO WATER CONSERVANCY DISTRICT IN INSTRUMENT RECORDED FEBRUARY 21, 1956, IN BOOK 1443 AT PAGE [261](#).**
- 12. OIL AND GAS LEASE RECORDED SEPTEMBER 14, 1970 UNDER RECEPTION NO. [1554541](#) IN BOOK 633 AND ANY AND ALL ASSIGNMENTS THEREOF, OR INTEREST THEREIN.**

NOTE: AFFIDAVIT RELATED TO SAID LEASE RECORDED MARCH 12, 1976 AT RECEPTION NO. [1683336](#) IN BOOK 761 AND AMENDED MAY 28, 1976 AT RECEPTION NO. [1689762](#) IN BOOK 768.

NOTE: THE PRESENT OWNERSHIP OF THE LEASEHOLD CREATED BY SAID LEASE AND OTHER MATTERS AFFECTING THE INTEREST OF THE LESSEE ARE NOT SHOWN HEREIN.

ALTA COMMITMENT
Old Republic National Title Insurance Company
Schedule B, Part II
(Exceptions)

Order Number: FCC25191420-2

13. OIL AND GAS LEASE RECORDED FEBRUARY 18, 1971 UNDER RECEPTION NO. [1562474](#) IN BOOK 640 AND ANY AND ALL ASSIGNMENTS THEREOF, OR INTEREST THEREIN.

NOTE: AFFIDAVIT RELATED TO SAID LEASE RECORDED MARCH 12, 1976 AT RECEPTION NO. [1683336](#) IN BOOK 761 AND AMENDED MAY 28, 1976 AT RECEPTION NO. [1689762](#) IN BOOK 768.

NOTE: THE PRESENT OWNERSHIP OF THE LEASEHOLD CREATED BY SAID LEASE AND OTHER MATTERS AFFECTING THE INTEREST OF THE LESSEE ARE NOT SHOWN HEREIN.
14. OIL AND GAS LEASE RECORDED DECEMBER 18, 1973 UNDER RECEPTION NO. [1626790](#) IN BOOK 705 AND ANY AND ALL ASSIGNMENTS THEREOF, OR INTEREST THEREIN.

NOTE: AFFIDAVIT RELATED TO SAID LEASE RECORDED MARCH 12, 1976 AT RECEPTION NO. [1683336](#) IN BOOK 761 AND AMENDED MAY 28, 1976 AT RECEPTION NO. [1689762](#) IN BOOK 768.

NOTE: THE PRESENT OWNERSHIP OF THE LEASEHOLD CREATED BY SAID LEASE AND OTHER MATTERS AFFECTING THE INTEREST OF THE LESSEE ARE NOT SHOWN HEREIN.
15. RIGHT OF WAY EASEMENT AS GRANTED TO AMOCO PRODUCTION COMPANY IN INSTRUMENT RECORDED MARCH 14, 1975, UNDER RECEPTION NO. [1656036](#) IN BOOK 734.
16. UNDIVIDED INTEREST IN AND TO ALL OIL, GAS AND MINERAL RIGHTS AS RESERVED BY MEREDITH O. JOHNSON IN DEED RECORDED JULY 08, 1976, UNDER RECEPTION NO. [1693182](#), AND IN DEED RECORDED NOVEMBER 25, 1981 AT RECEPTION NO. [1875538](#), AND ANY AND ALL ASSIGNMENTS THEREOF OR INTERESTS THEREIN.
17. RIGHT OF WAY EASEMENT AS GRANTED TO PANHANDLE EASTERN PIPE LINE CO IN INSTRUMENT RECORDED JANUARY 25, 1977, UNDER RECEPTION NO. [1709710](#) IN BOOK 788.
18. TERMS, CONDITIONS AND PROVISIONS OF DRY UP COVENANT RECORDED SEPTEMBER 09, 1980 AT RECEPTION NO. [1835511](#) IN BOOK 914.
19. RIGHT OF WAY EASEMENT AS GRANTED IN INSTRUMENT RECORDED JULY 6, 1981 UNDER RECEPTION NO. [1862471](#) IN BOOK 940 AND RE-RECORDED NOVEMBER 25, 1981, UNDER RECEPTION NO. [1875538](#) IN BOOK 954 AND AGREEMENT RECORDED OCTOBER 8, 1984 UNDER RECEPTION NO. [1984275](#) IN BOOK 1045 AND AGREEMENT RECORDED JULY 27, 1988 AT RECEPTION NO. [2149527](#) IN BOOK 1203.
20. TERMS, CONDITIONS AND PROVISIONS OF ANNEXATION AGREEMENT RECORDED FEBRUARY 15, 1989 AT RECEPTION NO. [2170876](#) IN BOOK 1228 AND AUGUST 19, 1991 AT RECEPTION NO. [2259958](#).
21. TERMS, CONDITIONS AND PROVISIONS OF NOTICE RECORDED JANUARY 24, 1991 AT RECEPTION NO. [2239296](#) IN BOOK 1288.
22. TERMS, CONDITIONS AND PROVISIONS OF ANNEXATION AGREEMENT RECORDED OCTOBER 05, 1995 AT RECEPTION NO. [2458422](#) IN BOOK 1514.
23. RIGHT OF WAY EASEMENT AS GRANTED TO KN GAS GATHERING IN INSTRUMENT RECORDED MARCH 03, 1999, UNDER RECEPTION NO. [2677461](#).
24. TERMS, CONDITIONS AND PROVISIONS OF ROADWAY LEASE RECORDED OCTOBER 31, 1977 AT RECEPTION NO. [1734645](#) IN BOOK 813.

ALTA COMMITMENT
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25. TERMS, CONDITIONS AND PROVISIONS OF WATER LINE EASEMENT RECORDED JULY 27, 1988 AT RECEPTION NO. [2149524](#) IN BOOK 1203.
26. MATTERS SET FORTH ON SURVEY BY ROCKY MOUNTAIN CONSULTANTS INC, RECORDED JANUARY 23, 2001 AT RECEPTION NO. [2820810](#).
27. RIGHT OF WAY EASEMENT AS GRANTED TO TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC. IN INSTRUMENT RECORDED FEBRUARY 05, 2003, UNDER RECEPTION NO. [3030598](#) AND FEBRUARY 5, 2003 AT RECEPTION NO. [3030599](#).
28. TERMS, CONDITIONS AND PROVISIONS OF COMPATIBLE DEVELOPMENT AND SURFACE USE AGREEMENT RECORDED MARCH 09, 2006 AT RECEPTION NO. [3369246](#) AND AMENDED JULY 2, 2009 AT RECEPTION NO. [3634219](#)
29. TERMS, CONDITIONS AND PROVISIONS OF MATTERS SHOWN ON SURVEY RECORDED NOVEMBER 08, 2007 AT RECEPTION NO. [3516462](#).
30. TERMS, CONDITIONS AND PROVISIONS OF EASEMENT AND RIGHT OF WAY AGREEMENT RECORDED AUGUST 25, 2008 AT RECEPTION NO. [3574204](#).
31. TERMS, CONDITIONS AND PROVISIONS OF SURFACE USE AGREEMENT RECORDED JUNE 04, 2009 AT RECEPTION NO. [3627507](#).
32. TERMS, CONDITIONS AND PROVISIONS OF LINE EASEMENT AGREEMENT RECORDED JUNE 17, 2009 AT RECEPTION NO. [3630646](#).
33. TERMS, CONDITIONS AND PROVISIONS OF NOTICE OF OIL AND GAS OPERATIONS RECORDED JUNE 17, 2009 AT RECEPTION NO. [3630647](#).
34. TERMS, CONDITIONS AND PROVISIONS OF DEED OF DEDICATION RECORDED JUNE 24, 2009 AT RECEPTION NO. [3632302](#).
35. TERMS, CONDITIONS AND PROVISIONS OF AGREEMENT FOR PUBLIC IMPROVEMENTS RECORDED JUNE 29, 2009 AT RECEPTION NO. [3633220](#) AND AMENDED AUGUST 4, 2014 AT RECEPTION NO. [4035499](#) AND NOVEMBER 30, 2018 AT RECEPTION NO. [4450406](#) AND DECEMBER 20, 2019 AT RECEPTION NO. [4552239](#)
36. EASEMENTS, CONDITIONS, COVENANTS, RESTRICTIONS, RESERVATIONS AND NOTES ON THE PLAT RECORDED JUNE 29, 2009 AT RECEPTION NO. [3633221](#)
37. RESTRICTIVE COVENANTS, WHICH DO NOT CONTAIN A FORFEITURE OR REVERTER CLAUSE, BUT OMITTING ANY COVENANTS OR RESTRICTIONS, IF ANY, BASED UPON RACE, COLOR, RELIGION, SEX, SEXUAL ORIENTATION, FAMILIAL STATUS, MARITAL STATUS, DISABILITY, HANDICAP, NATIONAL ORIGIN, ANCESTRY, OR SOURCE OF INCOME, AS SET FORTH IN APPLICABLE STATE OR FEDERAL LAWS, EXCEPT TO THE EXTENT THAT SAID COVENANT OR RESTRICTION IS PERMITTED BY APPLICABLE LAW, AS CONTAINED IN INSTRUMENT RECORDED JULY 02, 2009, UNDER RECEPTION NO. [3634222](#) AND TRANSFER OF DECLARANT RIGHTS RECORDED APRIL 23, 2013 AT RECEPTION NO. [3926698](#) AND APRIL 23, 2013 AT RECEPTION NO. [3926699](#) AND AMENDED SEPTEMBER 4, 2014 AT RECEPTION NO. [4043408](#)
38. TERMS, CONDITIONS AND PROVISIONS OF DETENTION AND DRAINAGE EASEMENT AGREEMENT RECORDED JULY 02, 2009 AT RECEPTION NO. [3634223](#).

ALTA COMMITMENT
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39. TERMS, CONDITIONS AND PROVISIONS OF ORDINANCE RECORDED NOVEMBER 10, 2009 AT RECEPTION NO. [3658791](#).
40. TERMS, CONDITIONS AND PROVISIONS OF ORDINANCE RECORDED DECEMBER 30, 2009 AT RECEPTION NO. [3667678](#).
41. TERMS, CONDITIONS AND PROVISIONS OF ORDINANCE RECORDED SEPTEMBER 29, 2010 AT RECEPTION NO. [3721790](#).
42. TERMS, CONDITIONS AND PROVISIONS OF ORDINANCE RECORDED FEBRUARY 03, 2011 AT RECEPTION NO. [3748712](#).
43. EASEMENTS, CONDITIONS, COVENANTS, RESTRICTIONS, RESERVATIONS AND NOTES ON THE PLAT OF EAGLE BUSINESS PARK, FILING NO. 2 RECORDED SEPTEMBER 18, 2013 AT RECEPTION NO. [3964328](#).
44. TERMS, CONDITIONS AND PROVISIONS OF ORDINANCE RECORDED AUGUST 04, 2014 AT RECEPTION NO. [4035496](#).
45. EASEMENTS, CONDITIONS, COVENANTS, RESTRICTIONS, RESERVATIONS AND NOTES ON THE PLAT OF EAGLE BUSINESS PARK, FILING NO. 3 RECORDED AUGUST 04, 2014 UNDER RECEPTION NO. [4035497](#).
46. TERMS, CONDITIONS AND PROVISIONS OF REZONE MAP RECORDED AUGUST 04, 2014 AT RECEPTION NO. [4035498](#).
47. TERMS, CONDITIONS AND PROVISIONS OF PIPELINE EASEMENT GRANT AND RESERVATION RECORDED AUGUST 06, 2014 AT RECEPTION NO. [4036438](#).
48. TERMS, CONDITIONS AND PROVISIONS OF PIPELINE EASEMENT GRANT AND RESERVATION RECORDED AUGUST 06, 2014 AT RECEPTION NO. [4036439](#).
49. TERMS, CONDITIONS AND PROVISIONS OF GRANT OF EASEMENT RECORDED FEBRUARY 16, 2018 UNDER RECEPTION NO. [4376110](#) AND AMENDED APRIL 5, 2018 AT RECEPTION NO. [4388411](#).
50. TERMS, CONDITIONS AND PROVISIONS OF GRANT OF EASEMENT RECORDED FEBRUARY 26, 2018 UNDER RECEPTION NO. [4377850](#).
51. TERMS, CONDITIONS AND PROVISIONS OF RIGHT OF WAY GRANT RECORDED FEBRUARY 27, 2018 UNDER RECEPTION NO. [4378201](#).
52. TERMS, CONDITIONS, PROVISIONS, BURDENS AND OBLIGATIONS AS SET FORTH IN ORDINANCE NO. 10-01 AMENDING THE OFFICIAL ZONING MAP RECORDED OCTOBER 28, 2020 UNDER RECEPTION NO. [4644645](#).
53. MATTERS AS SET FORTH ON SURVEY RECORDED FEBRUARY 22, 2021 AT RECEPTION NO. [4684833](#)
54. TERMS, CONDITIONS AND PROVISIONS OF SEWER SERVICE AGREEMENT RECORDED JUNE 02, 2021 UNDER RECEPTION NO. [4720673](#).



LAND TITLE GUARANTEE COMPANY DISCLOSURE STATEMENTS

Note: Pursuant to CRS 10-11-122, notice is hereby given that:

- (A) The Subject real property may be located in a special taxing district.
- (B) A certificate of taxes due listing each taxing jurisdiction will be obtained from the county treasurer of the county in which the real property is located or that county treasurer's authorized agent unless the proposed insured provides written instructions to the contrary. (for an Owner's Policy of Title Insurance pertaining to a sale of residential real property).
- (C) The information regarding special districts and the boundaries of such districts may be obtained from the Board of County Commissioners, the County Clerk and Recorder, or the County Assessor.

Note: Effective September 1, 1997, CRS 30-10-406 requires that all documents received for recording or filing in the clerk and recorder's office shall contain a top margin of at least one inch and a left, right and bottom margin of at least one half of an inch. The clerk and recorder may refuse to record or file any document that does not conform, except that, the requirement for the top margin shall not apply to documents using forms on which space is provided for recording or filing information at the top margin of the document.

Note: Colorado Division of Insurance Regulations 8-1-2 requires that "Every title entity shall be responsible for all matters which appear of record prior to the time of recording whenever the title entity conducts the closing and is responsible for recording or filing of legal documents resulting from the transaction which was closed". Provided that Land Title Guarantee Company conducts the closing of the insured transaction and is responsible for recording the legal documents from the transaction, exception number 5 will not appear on the Owner's Title Policy and the Lenders Policy when issued.

Note: Affirmative mechanic's lien protection for the Owner may be available (typically by deletion of Exception no. 4 of Schedule B, Section 2 of the Commitment from the Owner's Policy to be issued) upon compliance with the following conditions:

- (A) The land described in Schedule A of this commitment must be a single family residence which includes a condominium or townhouse unit.
- (B) No labor or materials have been furnished by mechanics or material-men for purposes of construction on the land described in Schedule A of this Commitment within the past 6 months.
- (C) The Company must receive an appropriate affidavit indemnifying the Company against un-filed mechanic's and material-men's liens.
- (D) The Company must receive payment of the appropriate premium.
- (E) If there has been construction, improvements or major repairs undertaken on the property to be purchased within six months prior to the Date of Commitment, the requirements to obtain coverage for unrecorded liens will include: disclosure of certain construction information; financial information as to the seller, the builder and or the contractor; payment of the appropriate premium fully executed Indemnity Agreements satisfactory to the company, and, any additional requirements as may be necessary after an examination of the aforesaid information by the Company.

No coverage will be given under any circumstances for labor or material for which the insured has contracted for or agreed to pay.

Note: Pursuant to CRS 10-11-123, notice is hereby given:

This notice applies to owner's policy commitments disclosing that a mineral estate has been severed from the surface estate, in Schedule B-2.

- (A) That there is recorded evidence that a mineral estate has been severed, leased, or otherwise conveyed from the surface estate and that there is substantial likelihood that a third party holds some or all interest in oil, gas, other minerals, or geothermal energy in the property; and
- (B) That such mineral estate may include the right to enter and use the property without the surface owner's permission.

Note: Pursuant to CRS 10-1-128(6)(a), It is unlawful to knowingly provide false, incomplete, or misleading facts or information to an insurance company for the purpose of defrauding or attempting to defraud the company. Penalties may include imprisonment, fines, denial of insurance, and civil damages. Any insurance company or agent of an insurance company who knowingly provides false, incomplete, or misleading facts or information to a policyholder or claimant for the purpose of defrauding or attempting to defraud the policyholder or claimant with regard to a settlement or award payable from insurance proceeds shall be reported to the Colorado Division of Insurance within the Department of Regulatory Agencies.

Note: Pursuant to Colorado Division of Insurance Regulations 8-1-3, notice is hereby given of the availability of a closing protection letter for the lender, purchaser, lessee or seller in connection with this transaction.

Note: Pursuant to CRS 10-1-11(4)(a)(1), Colorado notaries may remotely notarize real estate deeds and other documents using real-time audio-video communication technology. You may choose not to use remote notarization for any document.



**JOINT NOTICE OF PRIVACY POLICY OF
LAND TITLE GUARANTEE COMPANY,
LAND TITLE GUARANTEE COMPANY OF SUMMIT COUNTY
LAND TITLE INSURANCE CORPORATION AND
OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY**

This Statement is provided to you as a customer of Land Title Guarantee Company as agent for Land Title Insurance Corporation and Old Republic National Title Insurance Company.

We want you to know that we recognize and respect your privacy expectations and the requirements of federal and state privacy laws. Information security is one of our highest priorities. We recognize that maintaining your trust and confidence is the bedrock of our business. We maintain and regularly review internal and external safeguards against unauthorized access to your non-public personal information ("Personal Information").

In the course of our business, we may collect Personal Information about you from:

- applications or other forms we receive from you, including communications sent through TMX, our web-based transaction management system;
 - your transactions with, or from the services being performed by us, our affiliates, or others;
 - a consumer reporting agency, if such information is provided to us in connection with your transaction;
- and
- The public records maintained by governmental entities that we obtain either directly from those entities, or from our affiliates and non-affiliates.

Our policies regarding the protection of the confidentiality and security of your Personal Information are as follows:

- We restrict access to all Personal Information about you to those employees who need to know that information in order to provide products and services to you.
- We may share your Personal Information with affiliated contractors or service providers who provide services in the course of our business, but only to the extent necessary for these providers to perform their services and to provide these services to you as may be required by your transaction.
- We maintain physical, electronic and procedural safeguards that comply with federal standards to protect your Personal Information from unauthorized access or intrusion.
- Employees who violate our strict policies and procedures regarding privacy are subject to disciplinary action.
- We regularly assess security standards and procedures to protect against unauthorized access to Personal Information.

WE DO NOT DISCLOSE ANY PERSONAL INFORMATION ABOUT YOU WITH ANYONE FOR ANY PURPOSE THAT IS NOT STATED ABOVE OR PERMITTED BY LAW.

Consistent with applicable privacy laws, there are some situations in which Personal Information may be disclosed. We may disclose your Personal Information when you direct or give us permission; when we are required by law to do so, for example, if we are served a subpoena; or when we suspect fraudulent or criminal activities. We also may disclose your Personal Information when otherwise permitted by applicable privacy laws such as, for example, when disclosure is needed to enforce our rights arising out of any agreement, transaction or relationship with you.

Our policy regarding dispute resolution is as follows: Any controversy or claim arising out of or relating to our privacy policy, or the breach thereof, shall be settled by arbitration in accordance with the rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.



Commitment For Title Insurance

Issued by Old Republic National Title Insurance Company

NOTICE

IMPORTANT—READ CAREFULLY: THIS COMMITMENT IS AN OFFER TO ISSUE ONE OR MORE TITLE INSURANCE POLICIES. ALL CLAIMS OR REMEDIES SOUGHT AGAINST THE COMPANY INVOLVING THE CONTENT OF THIS COMMITMENT OR THE POLICY MUST BE BASED SOLELY IN CONTRACT.

THIS COMMITMENT IS NOT AN ABSTRACT OF TITLE, REPORT OF THE CONDITION OF TITLE, LEGAL OPINION, OPINION OF TITLE, OR OTHER REPRESENTATION OF THE STATUS OF TITLE. THE PROCEDURES USED BY THE COMPANY TO DETERMINE INSURABILITY OF THE TITLE, INCLUDING ANY SEARCH AND EXAMINATION, ARE PROPRIETARY TO THE COMPANY, WERE PERFORMED SOLELY FOR THE BENEFIT OF THE COMPANY, AND CREATE NO EXTRACONTRACTUAL LIABILITY TO ANY PERSON, INCLUDING A PROPOSED INSURED.

THE COMPANY'S OBLIGATION UNDER THIS COMMITMENT IS TO ISSUE A POLICY TO A PROPOSED INSURED IDENTIFIED IN SCHEDULE A IN ACCORDANCE WITH THE TERMS AND PROVISIONS OF THIS COMMITMENT. THE COMPANY HAS NO LIABILITY OR OBLIGATION INVOLVING THE CONTENT OF THIS COMMITMENT TO ANY OTHER PERSON. .

COMMITMENT TO ISSUE POLICY

Subject to the Notice; Schedule B, Part I—Requirements; Schedule B, Part II—Exceptions; and the Commitment Conditions, Old Republic National Title Insurance Company, a Minnesota corporation (the "Company"), commits to issue the Policy according to the terms and provisions of this Commitment. This Commitment is effective as of the Commitment Date shown in Schedule A for each Policy described in Schedule A, only when the Company has entered in Schedule A both the specified dollar amount as the Proposed Policy Amount and the name of the Proposed Insured. If all of the Schedule B, Part I—Requirements have not been met within 6 months after the Commitment Date, this Commitment terminates and the Company's liability and obligation end.

COMMITMENT CONDITIONS

1. DEFINITIONS

- (a) "Knowledge" or "Known": Actual or imputed knowledge, but not constructive notice imparted by the Public Records.
- (b) "Land": The land described in Schedule A and affixed improvements that by law constitute real property. The term "Land" does not include any property beyond the lines of the area described in Schedule A, nor any right, title, interest, estate, or easement in abutting streets, roads, avenues, alleys, lanes, ways, or waterways, but this does not modify or limit the extent that a right of access to and from the Land is to be insured by the Policy.
- (c) "Mortgage": A mortgage, deed of trust, or other security instrument, including one evidenced by electronic means authorized by law.
- (d) "Policy": Each contract of title insurance, in a form adopted by the American Land Title Association, issued or to be issued by the Company pursuant to this Commitment.
- (e) "Proposed Insured": Each person identified in Schedule A as the Proposed Insured of each Policy to be issued pursuant to this Commitment.
- (f) "Proposed Policy Amount": Each dollar amount specified in Schedule A as the Proposed Policy Amount of each Policy to be issued pursuant to this Commitment.
- (g) "Public Records": Records established under state statutes at the Commitment Date for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without Knowledge.
- (h) "Title": The estate or interest described in Schedule A.

2. If all of the Schedule B, Part I—Requirements have not been met within the time period specified in the Commitment to Issue Policy, Commitment terminates and the Company's liability and obligation end.

3. The Company's liability and obligation is limited by and this Commitment is not valid without:

- (a) the Notice;
- (b) the Commitment to Issue Policy;
- (c) the Commitment Conditions;
- (d) Schedule A;
- (e) Schedule B, Part I—Requirements; and
- (f) Schedule B, Part II—Exceptions; and
- (g) a counter-signature by the Company or its issuing agent that may be in electronic form.

4. COMPANY'S RIGHT TO AMEND

The Company may amend this Commitment at any time. If the Company amends this Commitment to add a defect, lien, encumbrance, adverse claim, or other matter recorded in the Public Records prior to the Commitment Date, any liability of the Company is limited by Commitment Condition 5. The Company shall not be liable for any other amendment to this Commitment.

5. LIMITATIONS OF LIABILITY

- (a) The Company's liability under Commitment Condition 4 is limited to the Proposed Insured's actual expense incurred in the interval between the Company's delivery to the Proposed Insured of the Commitment and the delivery of the amended Commitment, resulting from the Proposed Insured's good faith reliance to:
 - i. comply with the Schedule B, Part I—Requirements;
 - ii. eliminate, with the Company's written consent, any Schedule B, Part II—Exceptions; or
 - iii. acquire the Title or create the Mortgage covered by this Commitment.
- (b) The Company shall not be liable under Commitment Condition 5(a) if the Proposed Insured requested the amendment or had Knowledge of the matter and did not notify the Company about it in writing.
- (c) The Company will only have liability under Commitment Condition 4 if the Proposed Insured would not have incurred the expense had the Commitment included the added matter when the Commitment was first delivered to the Proposed Insured.
- (d) The Company's liability shall not exceed the lesser of the Proposed Insured's actual expense incurred in good faith and described in Commitment Conditions 5(a)(i) through 5(a)(iii) or the Proposed Policy Amount.
- (e) The Company shall not be liable for the content of the Transaction Identification Data, if any.

- (f) In no event shall the Company be obligated to issue the Policy referred to in this Commitment unless all of the Schedule B, Part I—Requirements have been met to the satisfaction of the Company.
- (g) In any event, the Company's liability is limited by the terms and provisions of the Policy.

6. LIABILITY OF THE COMPANY MUST BE BASED ON THIS COMMITMENT

- (a) Only a Proposed Insured identified in Schedule A, and no other person, may make a claim under this Commitment.
- (b) Any claim must be based in contract and must be restricted solely to the terms and provisions of this Commitment.
- (c) Until the Policy is issued, this Commitment, as last revised, is the exclusive and entire agreement between the parties with respect to the subject matter of this Commitment and supersedes all prior commitment negotiations, representations, and proposals of any kind, whether written or oral, express or implied, relating to the subject matter of this Commitment.
- (d) The deletion or modification of any Schedule B, Part II—Exception does not constitute an agreement or obligation to provide coverage beyond the terms and provisions of this Commitment or the Policy.
- (e) Any amendment or endorsement to this Commitment must be in writing and authenticated by a person authorized by the Company.
- (f) When the Policy is issued, all liability and obligation under this Commitment will end and the Company's only liability will be under the Policy.

7. IF THIS COMMITMENT HAS BEEN ISSUED BY AN ISSUING AGENT

The issuing agent is the Company's agent only for the limited purpose of issuing title insurance commitments and policies. The issuing agent is not the Company's agent for the purpose of providing closing or settlement services.

8. PRO-FORMA POLICY

The Company may provide, at the request of a Proposed Insured, a pro-forma policy illustrating the coverage that the Company may provide. A pro-forma policy neither reflects the status of Title at the time that the pro-forma policy is delivered to a Proposed Insured, nor is it a commitment to insure.

9. ARBITRATION

The Policy contains an arbitration clause. All arbitrable matters when the Proposed Policy Amount is \$2,000,000 or less shall be arbitrated at the option of either the Company or the Proposed Insured as the exclusive remedy of the parties. A Proposed Insured may review a copy of the arbitration rules at <http://www.alta.org/arbitration>.

IN WITNESS WHEREOF, Land Title Insurance Corporation has caused its corporate name and seal to be affixed by its duly authorized officers on the date shown in Schedule A to be valid when countersigned by a validating officer or other authorized signatory.

Issued by:
Land Title Guarantee Company
3033 East First Avenue Suite 600
Denver, Colorado 80206
303-321-1880



Craig B. Rants, Senior Vice President



OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY
A Stock Company
400 Second Avenue South, Minneapolis, Minnesota 55401
(612) 371-1111

By



President

Attest



Secretary

This page is only a part of a 2016 ALTA® Commitment for Title Insurance issued by Old Republic National Title Insurance Company. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I—Requirements; and Schedule B, Part II—Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form.

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**THIRD AMENDMENT TO THE
EAGLE BUSINESS PARK
MEMORANDUM OF AGREEMENT FOR PUBLIC IMPROVEMENTS**

THIS THIRD AMENDMENT to the Eagle Business Park Memorandum of Agreement for Public Improvements (“THIRD AMENDMENT”) is made and entered into this _____ day of _____, 20__ by and between the Town of Frederick, a Colorado municipal corporation, whose address is P. O. Box 435, Frederick, Colorado (“TOWN”), and Shadetree Eagle LLC Company, Inc., a Colorado corporation, whose address is 401 Interlocken Blvd #1407 Broomfield, Colorado 80021 (“DEVELOPER”).

WHEREAS, prior developer, Red Mill Development Inc. entered into a Memorandum of Agreement for Public Improvements (“MOAPI”) on June 25, 2009, said agreement recorded at the Weld County Clerk and Recorder’s office at Reception No. 3633220, hereinafter called the “AGREEMENT”; and

WHEREAS, Shadetree Eagle LLC acquired Parcel 1 of the subdivision, which is approximately 107.414 acres; and

WHEREAS Shadetree Eagle LLC has submitted, and the Town has approved, an Administrative Subdivision Replat of Parcel 1, known as Eagle Business Park Subdivision Filing No. 2, which created three lots 1A, 2A, 3A and Parcel 1A; and

WHEREAS Shadetree Eagle LLC has submitted, and the Town has approved, a Minor Subdivision Replat of Lot 2A and Parcel 1A, known as Eagle Business Park Subdivision Filing No. 3 which created Lot 1B, Parcels 1B, 2B and 3B and Outlots 1B, 2B, 3B and 4B.

WHEREAS Shadetree Eagle LLC has submitted a Site Plan for Lot 3A and intends to sell Lot 1B.

WHEREAS Shadetree Eagle LLC has submitted, and the Town has approved, A Minor Subdivision Replat of Parcel 1B of Eagle Business Park Filing No. 3, known as Eagle Business Park Filing No. 4A which created Lots 1 and 2.

WHEREAS Shadetree Eagle LLC has submitted, and the Town has approved, a Replat of Lot 2 of Eagle Business Park Filing No. 4A, known as Eagle Business Park Filing No. 4B Preliminary/Final Plat, which created lots 1, 2, 3, and Outlots A and B.

WHEREAS Shadetree Eagle LLC has submitted, and the Town has approved, a Resubdivision of Parcel 3B of Eagle Business Park Filing 3, known as Eagle Business Park Filing No. 5, which created lots 1, 2, 3, 4, and Outlots A and B.

NOW THEREFORE, in consideration of the foregoing, the parties hereto promise, covenant, and agree as follows:

A. The estimated cost of construction for public improvements for Eagle Business Park Filing No. 5 is as contained in the attached Exhibit B-5.

B. Ratification of Agreement. Except as specifically amended hereby, TOWN and DEVELOPER agree that the MOAPI, as amended, continues uninterrupted, shall remain in full force and effect, and shall be binding as amended upon the Parties hereto. In the event of any conflict between the MOAPI and this Third Amendment, the terms of this Third Amendment shall prevail.

C. Counterparts. This Third Amendment may be executed in any number of counterparts, each of which shall be deemed to be an original and all such counterparts taken together shall be deemed to constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this agreement as of the date first set forth above.

TOWN OF FREDERICK

DEVELOPER

Shadetree Eagle LLC

By _____
Tracie Crites, Mayor

By _____
Curtis McDonald

ATTEST:

By _____
Meghan C Martinez, Town Clerk

STATE OF COLORADO)
) SS:
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of
, 20__ by _____ as Mayor and _____ as Town Clerk
of the Town of Frederick.

My commission expires:

Witness my hand and official seal.

Notary Public

STATE OF COLORADO)
) SS:
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____,
20 __ by _____ (signatory's name) as _____
(position/title).

My commission expires:

Witness my hand and official seal.

Notary Public

Eagle Business Park
Filing No. 5



CONSTRUCTION ITEM	QTY	UNIT	UNIT COST	TOTAL COST
GENERAL REQUIREMENTS				
Mobilization	1	LS	\$6,000.00	\$6,000.00
Subtotal				\$6,000.00
EARTHWORK				
Strip topsoil, stockpile, redistribute along site. This includes the roadway footprint only.	1	LS	\$8,400.00	\$8,400.00
Excavate detention pond, swales, rough grade road/lots	1	LS	\$32,000.00	\$32,000.00
6" Gravel Shoulder Falcon Pl.	1,162	LF	\$6.80	\$7,901.60
Subtotal				\$48,301.60
STREET & CONCRETE				
8" Asphalt	2,190	SY	\$65.00	\$142,350.00
3' Wide Concrete Pan	2,292	SF	\$4.50	\$10,314.00
Subtotal				\$152,664.00
UTILITIES				
Pond Overflow wier/Riprap	1	LS	\$5,000.00	\$5,000.00
18" RCP	101	LF	\$76.00	\$7,676.00
18" RCP FES w/ trash rack & riprap	2	EA	\$1,600.00	\$3,200.00
24" RCP	104	LF	\$90.00	\$9,360.00
24" RCP FES w/ trash rack & riprap	1	EA	\$1,800.00	\$1,800.00
29"x45" ERCP	268	LF	\$188.00	\$50,384.00
29"x45" ERCP FES w/ trash rack & riprap	1	EA	\$2,200.00	\$2,200.00
Pond outlet structure	1	EA	\$11,000.00	\$11,000.00
48" DIA Sanitary MH	3	EA	\$4,750.00	\$14,250.00
8" SDR35 Sewer line	843	LF	\$45.00	\$37,935.00
4" SDR35 Services	4	EA	\$2,000.00	\$8,000.00
6" Gate Valve	5	EA	\$1,500.00	\$7,500.00
8"x6" Tee	4	EA	\$1,000.00	\$4,000.00
6" Bend	1	EA	\$700.00	\$700.00
8"x6" Reducer	1	EA	\$700.00	\$700.00
8" DR14 Water line	510	LF	\$38.00	\$19,380.00
Fire Hydrant Assembly	1	EA	\$6,000.00	\$6,000.00
6" DIP Fire Lines	4	EA	\$3,200.00	\$12,800.00
1.5" Type K Copper Water Service	4	EA	\$2,500.00	\$10,000.00
Subtotal				\$211,885.00
TOTAL PUBLIC ESTIMATE				\$418,850.60

**TOWN OF FREDERICK, COLORADO
RESOLUTION NO. 22-R-02**

**A RESOLUTION OF THE TOWN OF FREDERICK, COLORADO
AUTHORIZING THE MAYOR TO EXECUTE THE THIRD
AMENDMENT TO THE EAGLE BUSINESS PARK MEMORANDUM OF
AGREEMENT FOR PUBLIC IMPROVEMENTS**

WHEREAS, the Town and the previous developer, Red Mill Development Inc. executed a Memorandum of Agreement for Public Improvements dated June 25, 2009; and

WHEREAS, Shadetree Eagle LLC acquired Parcel 1 of the subdivision, which is approximately 107.414 acre; and

WHEREAS, Shadetree Eagle LLC has requested certain amendments to the MOAPI which are acceptable to the Town.

NOW THEREFORE, BE IT RESOLVED by the Board of Trustees of the Town of Frederick, Colorado, that:

Section 1. The attached Third Amendment to the Memorandum of Agreement for Public Improvements is approved and the Mayor is authorized to execute the same.

Section 2. Effective Date. This resolution shall become effective immediately upon adoption.

Section 3. Repealer. All resolutions, or parts thereof, in conflict with this resolution are hereby repealed, provided that such repealer shall not repeal the repealer clauses of such resolution nor revive any resolution thereby.

Section 4. Certification. The Town Clerk shall certify to the passage of this resolution and make not less than one copy of the adopted resolution available for inspection by the public during regular business hours.

**INTRODUCED, READ, PASSED, AND ADOPTED THIS 11TH DAY OF
JANUARY, 2022.**

ATTEST:

TOWN OF FREDERICK

By _____
Meghan C. Martinez, MMC, Town Clerk

By _____
Tracie Crites, Mayor



TOWN OF FREDERICK BOARD OF TRUSTEES ACTION MEMORANDUM

Tracie Crites, Mayor

Dan March, Mayor Pro Tem
Mark Lamach, Trustee
Adam Mahan, Trustee

Rusty O'Neal, Trustee
Kevin Brown, Trustee
Windi Padia, Trustee

20 Colorado-Big Thompson Units Purchase

Agenda Date: Town Board Meeting - January 11, 2022

Attachments:

- a. C-BT Purchase Documents
- b. Resolution 22-R-03

Finance Review:

Finance Director

Submitted by:

Sarah Watson
Civil Engineer I

Approved for Presentation:

[Signature]
Town Manager

☐ Quasi-Judicial

☐ Legislative

☐ Administrative

Summary Statement:

Request for approval of purchase of 20 units of Colorado-Big Thompson (C-BT) water.

Detail of Issue/Request:

In accordance with the recently adopted 10-Year Water Supply Plan staff has been in contact with a water broker, Arnold Turner, about the purchase of 20 units of Colorado-Big Thompson water. The Plan recommends purchasing C-BT water when it is available to the Town as the cost of C-BT units are projected to continue to increase. The recently adopted 2022 Budget included funds for the purchase of at least 200 units of C-BT water. These 200 units are intended to be used for economic incentives which will work towards the Town's 2021-2022 Strategic Plan: Strategic, Reliable & Sustainable Infrastructure goal.

These 20 units are being purchased from three entities, ROCKING R RANCH LLC, ROCKING R RANCH NO. 1 LLC and ROCKING R RANCH NO. 2 LLC, which are represented by Danny L.

Built on What Matters.

Souders. The purchase price is \$65,000 per unit for a total of \$1,300,000. The transfer of the C-BT water from the seller to the Town must be approved by the Northern Colorado Water Conservancy District (NCWCD) Board prior to the Town completing the purchase. The transfer request is proposed to be taken to the NCWCD Board at the January meeting. If the purchase is approved by the Town Board and the transfer is approved by the NCWCD Board staff will move forward with the purchase as described in the agreement documents.

Legal Comments:

The Town is required to supply water to properties and customers that the Town has commitments to serve.

Alternatives/Options:

The Town may choose to wait to purchase C-BT units.

Financial Considerations:

The Town has budgeted funds for the purchase of 200 C-BT unit and has adequate funds to purchase the 20 units proposed at this time.

Staff Recommendation:

Staff recommends the approval of resolution 22-R-03 for the purchase of 20 units from ROCKING R RANCH NO. 2 LLC and ROCKING R RANCH NO. 2 LLC.

**AGREEMENT FOR SALE AND PURCHASE OF UNITS OF
COLORADO-BIG THOMPSON PROJECT**

This Agreement for Sale and Purchase of Units of Colorado-Big Thompson Project ("Agreement") is made and entered into this 3rd day of January, 2022, by and between Rocking R Ranch LLC, Danny Souders Managing Member ("Seller"), and the Town of Frederick, a Colorado municipal corporation ("Town") (each a "Party" and together the "Parties").

Recitals

- A. The Colorado-Big Thompson Project ("C-BT") is administered by the Northern Colorado Water Conservancy District ("NCWCD").
- B. Seller is the record owner of 11 C-BT units, with such ownership shown on the books of NCWCD ("Seller's C-BT Units").
- C. NCWCD allocates water to Seller's C-BT Units under a Class D Allotment Contract.
- D. Seller wishes to sell, convey, and assign to the Town, and the Town wishes to acquire, Seller's C-BT Units on the terms and conditions given in this Agreement.

For and in consideration of the mutual promises, covenants, and conditions in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and the Town agree as follows:

- 1. **Purchase Price.** The purchase price for Seller's C-BT Units is **\$65,000** per unit, for a total of **\$715,000** ("Purchase Price").
 - 1.1 The Parties agree that Stewart Title Company, 12110 N. Pecos St., Suite 150, Westminster, CO, 80234, will act as the escrow agent for this transaction ("Escrow Agent"), according to the Escrow Agreement and Instructions attached as **Exhibit A**.
 - 1.2 No earnest money is required for this transaction.
 - 1.3 If all pre-conditions to closing have been met, then on or before the Closing Date, as the term "Closing Date" is defined in paragraph 8 below, the Town shall deposit the Purchase Price with the Escrow Agent, in immediately available certified funds or cash.
 - 1.4 If all pre-conditions to closing have been met, then on or before the Closing Date, the Town also shall deposit with the Escrow Agent the estimated NCWCD Fee

and Assessment Credit, as that term is defined in paragraph 4 below, in certified Funds or cash.

- 1.5 Turner Realty will receive from the Seller a commission of 2% of the total Purchase Price, to be paid from proceeds at closing.
 - 1.6 The Purchase Price, estimated NCWCD Fee and Assessment Credit, and estimated Town's Broker's Fee deposited with the Escrow Agent are the "Escrowed Funds."
 - 1.7 Seller shall pay all escrow and closing fees invoiced by the Escrow Agent, with such fees to be debited to Seller in the closing statement and paid to the Escrow Agent out of the Escrowed Funds.
 - 1.8 Any fee or commission due to a broker engaged by the Seller ("Seller Broker's Fee") will be debited to Seller in the closing statement and paid out of the Escrowed Funds.
 - 1.9 The Town Broker's Fee, if any, will be debited to Town in the closing statement and paid out of the Escrowed Funds.
2. Pre-conditions to closing. The Town's obligation to pay the Purchase Price and close on the transaction is expressly conditioned on each of the following:
- 2.1 Seller must have delivered to Town, at Seller's sole expense and within seven days of the date of this Agreement, copies of all documents in Seller's possession pertaining to Seller's unencumbered title to and right to transfer to the Town Seller's C-BT Units, including without limitation any property records documenting the separation of Seller's C-BT Units from specified real property and any records documenting the termination or release of any liens or encumbrances on or security interests in Seller's C-BT Units.
 - 2.2 If Seller's C-BT Units are used for irrigation of land or are tied to designated land in the records of NCWCD, Seller must have delivered to the Town, no earlier than 21 days and no later than 7 days before the Closing Date, a satisfactory ownership and encumbrance report for all such land ("O&E Report").
 - 2.3 As documented by the O&E Report, the records of NCWCD, and other records pertaining to ownership of Seller's C-BT Units, title to Seller's C-BT Units must be good and merchantable in Seller as of the Closing Date, with such title free and clear of all liens, encumbrances, assessments, and security interests. The Town shall decide, in the reasonable exercise of its sole discretion, whether and when Seller has documented good and merchantable title to Seller's C-BT Units.

- 2.4 Seller must have completed all requirements of NCWCD for transfer of Seller's C-BT Units to the Town, and the NCWCD Board must have formally approved the transfer in writing.
 - 2.5 Seller must have paid, directly to NCWCD, the transfer fee imposed by NCWCD for transfer of Seller's C-BT Units to the Town.
 - 2.6 The Town's Board of Trustees must have approved the Town's acquisition of Seller's C-BT Units, including by virtue of directing the Mayor or Town administrators or staff to complete the acquisition.
3. Seller's warranties.
- 3.1 Seller warrants that it has, or that by the Closing Date it will have, good and marketable title to Seller's C-BT Units, along with the right and privilege to sell the same.
 - 3.2 Seller warrants that there are, or that by the Closing Date there will be, no outstanding liens, mortgages, or other encumbrances on title to Seller's C-BT Units.
 - 3.3 Seller warrants that no NCWCD fees or assessments are, or that by the Closing Date no NCWCD fees or assessments will be, outstanding or due and owing on Seller's C-BT Units.
 - 3.4 Seller warrants that no other person or entity holds preemptive rights to purchase or lease Seller's C-BT Units.
 - 3.5 Seller warrants that it has not entered into any agreement with a third party with respect to Seller's C-BT Units that may result in liability or expense to the Town based on the Town's acquisition of all or any portion of Seller's C-BT Units.
 - 3.6 Seller warrants that it has received no actual notice of and that Seller has no other knowledge of any litigation, claim, or proceeding of any type, pending or threatened, that in any matter affects or pertains to Seller's C-BT Units.
 - 3.7 Seller warrants that it has received no actual notice of and that Seller has no other knowledge of any existing violation of any federal, state, or local law, code, ordinance, rule, regulation, or requirement pertaining to Seller's C-BT Units.
4. NCWCD assessments. On the Closing Date, the NCWCD fees and assessments documented to have been paid on Seller's C-BT Units for the then-current water year will be pro-rated between the portion of the water year ending on the Closing Date and the portion of the water year remaining as of that date. The NCWCD fees and assessments

for the portion of the water year remaining on the Closing Date ("NCWCD Fee and Assessment Credit") will be credited to Seller in the closing statement and paid to Seller out of the Escrowed Funds.

5. Use of water allocated to Seller's C-BT Units. Beginning on the day after the Closing Date, the Town will have sole use of water allocated by NCWCD to Seller's C-BT Units. Before and through the Closing Date, Seller will retain sole use of such water unless Seller and the Town enter into a separate agreement for the Town's temporary use of the water allocated to Seller's C-BT Units.
6. NCWCD requirements.
 - 6.1 The Parties shall promptly execute and deliver to NCWCD all required applications and other documentation required by NCWCD for transfer of Seller's C-BT Units to the Town, including without limitation an Application for a Temporary Use Permit, an Affidavit Regarding Base Water Supply, a completed Application for Change of Class D Allotment Contract, and any other documents required by NCWCD. The Parties shall work cooperatively to meet all deadlines for submittal of such materials for the NCWCD Board's consideration and approval at its next regular meeting.
 - 6.2 Seller shall pay, directly to NCWCD, the transfer fee of \$500 imposed by NCWCD for transfer of Seller's C-BT Units to the Town.
7. Section 1031 exchange. Seller may elect to structure this transaction as an exchange under Section 1031 of the Internal Revenue Code ("1031 Exchange"). In such event, Seller shall give written notice to the Town as provided in paragraph 9 below. The Parties shall confer to determine if a reasonable extension of the Closing Date is necessary for Seller to complete the 1031 Exchange. Any expenses related to a 1031 Exchange will be Seller's sole responsibility, but the Town will cooperate with the Seller in implementing the 1031 Exchange.
8. Closing. The Parties will consummate the transaction at a closing to take place electronically within 5 business days of the date on which all pre-conditions to closing, as described in paragraph 2 above, have been successfully completed.
 - 8.1 Closing Date. The actual date of the closing, which must take place on or before March 31, 2022, is the "Closing Date."
 - 8.2 Performance of closing. On the Closing Date, the Escrow Agent shall perform as described in the Escrow Agreement and Instructions attached as **Exhibit A**, including without limitation by distributing the total amount due to seller (Purchase Price + final NCWCD Fee and Assessment Credit – escrow and closing fees – any Seller Broker's Fee) by wire transfer or in other immediately available

funds; by distributing payment of the broker commission described in paragraph 1.5 above directly to Turner Realty by check or wire transfer; and by delivering to the Parties, by FedEx, UPS, or other delivery service with tracking, any final instruments or other documents memorializing the transaction, including without limitation the Bill of Sale and Assignment described in paragraph 8.3 below and Seller's Certification of Warranties described in paragraph 8.4 below.

8.3 Bill of Sale and Assignment. No later than seven days before the Closing Date, Seller shall deliver to the Escrow Agent a good and sufficient Bill of Sale and Assignment acceptable to the Town and substantially in the form of attached **Exhibit B**. Seller shall execute the Bill of Sale and Assignment, but leave it undated; the Escrow Agent shall handwrite in the date on the Closing Date.

8.4 Seller's Certification of Warranties. No earlier than seven days and no later than one day before the Closing Date, Seller shall deliver to the Escrow Agent a written certification that Seller's warranties given in paragraph 3 above remain true and correct as of the Closing Date. In the event that Seller is unable to certify that one or more of the warranties remains true and correct as of the Closing Date, the Town may, at its sole option, proceed to closing notwithstanding such defects or, upon written notice to Seller, declare this Agreement terminated. In the event of such termination, the Parties will have no further rights or obligations hereunder.

9. Notices. All notices or other documents required to be sent to either Party under this Agreement must be in writing. Such notices or documents will be deemed effective upon receipt following delivery by certified mail, return receipt requested; email; personal delivery; or delivery by FedEx, UPS, or another delivery service with tracking. Notices or documents must be addressed and delivered as follows:

TO SELLER:

Rocking R Ranch LLC
Danny L. Souders, Manager
c/o Western Disposal Services
5880 Butte Mill Road
Boulder, CO 80301
Email: ckimber@westerndisposal.com
(303) 444-2037

TO TOWN:

Town of Frederick
Attn: Kevin Ash, Engineering Director
P.O. Box 435
401 Locust Street
Frederick, CO 80530
E-mail: kash@frederickco.gov

With copies by email only to the following:

Sarah Watson, Civil Engineer, Town of Frederick
swatson@frederickco.gov

Jason Meyers, Town Attorney
jmeyers@frederickco.gov

Jennifer DiLalla, Special Water Counsel
jdilalla@mwhw.com

TO ESCROW AGENT:

Stewart Title Company
Gina Cruz
12110 North Pecos St , Suite 150
Westminster, CO, 80234
Email: Gina.Cruz@stewart.com

The addresses above may be changed by written notice given in the manner provided above.

10. Default and remedies. In the event of default, the non-defaulting Party shall notify the defaulting Party in writing of such default, documenting the nature thereof. If such default is not cured within fourteen days, the non-defaulting Party will be entitled to all remedies available at law and in equity, including without limitation the remedy of specific performance and the remedy of damages.
11. Successors and assigns. This Agreement benefits and burdens the Parties and their respective successors and assigns; provided, however, that neither Party may assign its rights or obligations hereunder except with the prior written consent of the other Party.
12. Amendment or modification. This Agreement may be modified only by a signed writing executed by the Parties with the same formality as was this Agreement.
13. Time of the essence. Time is of the essence under this Agreement.

14. Attorney fees and other litigation costs. If either party initiates a court proceeding to enforce any provision of this Agreement, including without limitation an action for specific performance or for damages, the non-prevailing Party shall pay the prevailing Party's costs and fees for the proceeding, including reasonable attorney fees and reasonable expert witness fees.
15. Venue. The sole venue for any action to enforce this Agreement will be the District Court for Weld County, Colorado.
16. No continuing waiver of default. A party's waiver of any instance of default under this Agreement will not constitute a continuing waiver of any subsequent default concerning either the same or any other provision hereof.
17. No waiver of governmental immunity. Nothing in this Agreement constitutes or is to be deemed or construed as constituting a waiver of any privilege or immunity available to the Town under the statutes and constitution of the State of Colorado, including the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101 through -119, as it may be amended.
18. Headings for convenience only. Paragraph headings and titles in this Agreement are intended for convenience and reference only and are not intended to define, limit, or describe the scope or intent of any term of this Agreement.
19. Non-severability. Each paragraph and sub-paragraph of this Agreement is intertwined with the others and is not severable unless by mutual written consent of the Parties.
20. Entire agreement. This Agreement constitutes the entire agreement between the Parties relating to the subject matter hereof, and any prior oral or written agreements pertaining to that subject matter have been merged or integrated into this Agreement.
21. Authority to execute Agreement. Each Party represents and warrants that the individual(s) executing this Agreement on that Party's behalf is authorized to do so and to bind such Party to the Agreement's terms. Each Party further represents and warrants that it is legally entitled to enter into this Agreement and to consummate the transaction described herein.
22. Execution in counterparts and electronic scans. This Agreement may be executed in counterparts, and all such executed counterparts together will constitute the Agreement. A legible electronic scan of the original Agreement and signatures in PDF format will be deemed an original, and such electronic scans will be binding for all purposes.

IN WITNESS WHEREOF, the Parties have executed this Agreement in counterparts on the date first written above.

SELLER: ROCKING R RANCH LLC

By: Danny L. Souders
Danny L. Souders, Manager

STATE OF COLORADO)

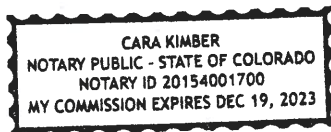
SS.

COUNTY OF Boulder)

The foregoing instrument was acknowledged before me this 3rd day of January, 2022, by Danny L. Souders, Manager of Rocking R Ranch LLC.

Witness my hand and official seal.

My commission expires Dec 19th, 2023.



Cara Kimber
Notary Public

Signatures continue on next page.

By: _____
Tracie Crites, Mayor

By: Meghan C. Martinez, Town Clerk

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by Tracie Crites, Mayor of the Town of Frederick, a Colorado municipal corporation.

My commission expires _____.

9

**AGREEMENT FOR SALE AND PURCHASE OF UNITS OF
COLORADO-BIG THOMPSON PROJECT**

This Agreement for Sale and Purchase of Units of Colorado-Big Thompson Project ("Agreement") is made and entered into this 3rd day of January, 2022, by and between Rocking R Ranch No. 1 LLC, Danny Souders Managing Member ("Seller"), and the Town of Frederick, a Colorado municipal corporation ("Town") (each a "Party" and together the "Parties").

Recitals

- A. The Colorado-Big Thompson Project ("C-BT") is administered by the Northern Colorado Water Conservancy District ("NCWCD").
- B. Seller is the record owner of 4 C-BT units, with such ownership shown on the books of NCWCD ("Seller's C-BT Units").
- C. NCWCD allocates water to Seller's C-BT Units under a Class D Allotment Contract.
- D. Seller wishes to sell, convey, and assign to the Town, and the Town wishes to acquire, Seller's C-BT Units on the terms and conditions given in this Agreement.

For and in consideration of the mutual promises, covenants, and conditions in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and the Town agree as follows:

- 1. **Purchase Price.** The purchase price for Seller's C-BT Units is \$65,000 per unit, for a total of \$260,000 ("Purchase Price").
 - 1.1 The Parties agree that Stewart Title Company, 12110 N. Pecos St., Suite 150, Westminster, CO, 80234, will act as the escrow agent for this transaction ("Escrow Agent"), according to the Escrow Agreement and Instructions attached as **Exhibit A**.
 - 1.2 No earnest money is required for this transaction.
 - 1.3 If all pre-conditions to closing have been met, then on or before the Closing Date, as the term "Closing Date" is defined in paragraph 8 below, the Town shall deposit the Purchase Price with the Escrow Agent, in immediately available certified funds or cash.
 - 1.4 If all pre-conditions to closing have been met, then on or before the Closing Date, the Town also shall deposit with the Escrow Agent the estimated NCWCD Fee

and Assessment Credit, as that term is defined in paragraph 4 below, in certified Funds or cash.

- 1.5 Turner Realty will receive from the Seller a commission of 2% of the total Purchase Price, to be paid from proceeds at closing.
 - 1.6 The Purchase Price, estimated NCWCD Fee and Assessment Credit, and estimated Town's Broker's Fee deposited with the Escrow Agent are the "Escrowed Funds."
 - 1.7 Seller shall pay all escrow and closing fees invoiced by the Escrow Agent, with such fees to be debited to Seller in the closing statement and paid to the Escrow Agent out of the Escrowed Funds.
 - 1.8 Any fee or commission due to a broker engaged by the Seller ("Seller Broker's Fee") will be debited to Seller in the closing statement and paid out of the Escrowed Funds.
 - 1.9 The Town Broker's Fee, if any, will be debited to Town in the closing statement and paid out of the Escrowed Funds.
2. Pre-conditions to closing. The Town's obligation to pay the Purchase Price and close on the transaction is expressly conditioned on each of the following:
- 2.1 Seller must have delivered to Town, at Seller's sole expense and within seven days of the date of this Agreement, copies of all documents in Seller's possession pertaining to Seller's unencumbered title to and right to transfer to the Town Seller's C-BT Units, including without limitation any property records documenting the separation of Seller's C-BT Units from specified real property and any records documenting the termination or release of any liens or encumbrances on or security interests in Seller's C-BT Units.
 - 2.2 If Seller's C-BT Units are used for irrigation of land or are tied to designated land in the records of NCWCD, Seller must have delivered to the Town, no earlier than 21 days and no later than 7 days before the Closing Date, a satisfactory ownership and encumbrance report for all such land ("O&E Report").
 - 2.3 As documented by the O&E Report, the records of NCWCD, and other records pertaining to ownership of Seller's C-BT Units, title to Seller's C-BT Units must be good and merchantable in Seller as of the Closing Date, with such title free and clear of all liens, encumbrances, assessments, and security interests. The Town shall decide, in the reasonable exercise of its sole discretion, whether and when Seller has documented good and merchantable title to Seller's C-BT Units.

- 2.4 Seller must have completed all requirements of NCWCD for transfer of Seller's C-BT Units to the Town, and the NCWCD Board must have formally approved the transfer in writing.
 - 2.5 Seller must have paid, directly to NCWCD, the transfer fee imposed by NCWCD for transfer of Seller's C-BT Units to the Town.
 - 2.6 The Town's Board of Trustees must have approved the Town's acquisition of Seller's C-BT Units, including by virtue of directing the Mayor or Town administrators or staff to complete the acquisition.
3. Seller's warranties.
- 3.1 Seller warrants that it has, or that by the Closing Date it will have, good and marketable title to Seller's C-BT Units, along with the right and privilege to sell the same.
 - 3.2 Seller warrants that there are, or that by the Closing Date there will be, no outstanding liens, mortgages, or other encumbrances on title to Seller's C-BT Units.
 - 3.3 Seller warrants that no NCWCD fees or assessments are, or that by the Closing Date no NCWCD fees or assessments will be, outstanding or due and owing on Seller's C-BT Units.
 - 3.4 Seller warrants that no other person or entity holds preemptive rights to purchase or lease Seller's C-BT Units.
 - 3.5 Seller warrants that it has not entered into any agreement with a third party with respect to Seller's C-BT Units that may result in liability or expense to the Town based on the Town's acquisition of all or any portion of Seller's C-BT Units.
 - 3.6 Seller warrants that it has received no actual notice of and that Seller has no other knowledge of any litigation, claim, or proceeding of any type, pending or threatened, that in any matter affects or pertains to Seller's C-BT Units.
 - 3.7 Seller warrants that it has received no actual notice of and that Seller has no other knowledge of any existing violation of any federal, state, or local law, code, ordinance, rule, regulation, or requirement pertaining to Seller's C-BT Units.
4. NCWCD assessments. On the Closing Date, the NCWCD fees and assessments documented to have been paid on Seller's C-BT Units for the then-current water year will be pro-rated between the portion of the water year ending on the Closing Date and the

portion of the water year remaining as of that date. The NCWCD fees and assessments for the portion of the water year remaining on the Closing Date ("NCWCD Fee and Assessment Credit") will be credited to Seller in the closing statement and paid to Seller out of the Escrowed Funds.

5. Use of water allocated to Seller's C-BT Units. Beginning on the day after the Closing Date, the Town will have sole use of water allocated by NCWCD to Seller's C-BT Units. Before and through the Closing Date, Seller will retain sole use of such water unless Seller and the Town enter into a separate agreement for the Town's temporary use of the water allocated to Seller's C-BT Units.
6. NCWCD requirements.
 - 6.1 The Parties shall promptly execute and deliver to NCWCD all required applications and other documentation required by NCWCD for transfer of Seller's C-BT Units to the Town, including without limitation an Application for a Temporary Use Permit, an Affidavit Regarding Base Water Supply, a completed Application for Change of Class D Allotment Contract, and any other documents required by NCWCD. The Parties shall work cooperatively to meet all deadlines for submittal of such materials for the NCWCD Board's consideration and approval at its next regular meeting.
 - 6.2 Seller shall pay, directly to NCWCD, the transfer fee of \$500 imposed by NCWCD for transfer of Seller's C-BT Units to the Town.
7. Section 1031 exchange. Seller may elect to structure this transaction as an exchange under Section 1031 of the Internal Revenue Code ("1031 Exchange"). In such event, Seller shall give written notice to the Town as provided in paragraph 9 below. The Parties shall confer to determine if a reasonable extension of the Closing Date is necessary for Seller to complete the 1031 Exchange. Any expenses related to a 1031 Exchange will be Seller's sole responsibility, but the Town will cooperate with the Seller in implementing the 1031 Exchange.
8. Closing. The Parties will consummate the transaction at a closing to take place electronically within 5 business days of the date on which all pre-conditions to closing, as described in paragraph 2 above, have been successfully completed.
 - 8.1 Closing Date. The actual date of the closing, which must take place on or before March 31, 2022, is the "Closing Date."
 - 8.2 Performance of closing. On the Closing Date, the Escrow Agent shall perform as described in the Escrow Agreement and Instructions attached as **Exhibit A**, including without limitation by distributing the total amount due to seller

(Purchase Price + final NCWCD Fee and Assessment Credit – escrow and closing fees – any Seller Broker’s Fee) by wire transfer or in other immediately available funds; by distributing payment of the broker commission described in paragraph 1.5 above directly to Turner Realty by check or wire transfer; and by delivering to the Parties, by FedEx, UPS, or other delivery service with tracking, any final instruments or other documents memorializing the transaction, including without limitation the Bill of Sale and Assignment described in paragraph 8.3 below and Seller’s Certification of Warranties described in paragraph 8.4 below.

8.3 Bill of Sale and Assignment. No later than seven days before the Closing Date, Seller shall deliver to the Escrow Agent a good and sufficient Bill of Sale and Assignment acceptable to the Town and substantially in the form of attached **Exhibit B.** Seller shall execute the Bill of Sale and Assignment, but leave it undated; the Escrow Agent shall handwrite in the date on the Closing Date.

8.4 Seller’s Certification of Warranties. No earlier than seven days and no later than one day before the Closing Date, Seller shall deliver to the Escrow Agent a written certification that Seller’s warranties given in paragraph 3 above remain true and correct as of the Closing Date. In the event that Seller is unable to certify that one or more of the warranties remains true and correct as of the Closing Date, the Town may, at its sole option, proceed to closing notwithstanding such defects or, upon written notice to Seller, declare this Agreement terminated. In the event of such termination, the Parties will have no further rights or obligations hereunder.

9. Notices. All notices or other documents required to be sent to either Party under this Agreement must be in writing. Such notices or documents will be deemed effective upon receipt following delivery by certified mail, return receipt requested; email; personal delivery; or delivery by FedEx, UPS, or another delivery service with tracking. Notices or documents must be addressed and delivered as follows:

TO SELLER:

Rocking R Ranch No 1 LLC
Danny L. Souders, Manager
c/o Western Disposal Services
5880 Butte Mill Road
Boulder, CO 80301
Email: ckimber@westerndisposal.com
(303) 444-2037

TO TOWN:

Town of Frederick
Attn: Kevin Ash, Engineering Director
P.O. Box 435
401 Locust Street
Frederick, CO 80530
E-mail: kash@frederickco.gov

With copies by email only to the following:

Sarah Watson, Civil Engineer, Town of Frederick
swatson@frederickco.gov

Jason Meyers, Town Attorney
jmeyers@frederickco.gov

Jennifer DiLalla, Special Water Counsel
jdilalla@mwhw.com

TO ESCROW AGENT:

Stewart Title Company
Gina Cruz
12110 North Pecos St , Suite 150
Westminster, CO, 80234
Email: Gina.Cruz@stewart.com

The addresses above may be changed by written notice given in the manner provided above.

10. Default and remedies. In the event of default, the non-defaulting Party shall notify the defaulting Party in writing of such default, documenting the nature thereof. If such default is not cured within fourteen days, the non-defaulting Party will be entitled to all remedies available at law and in equity, including without limitation the remedy of specific performance and the remedy of damages.
11. Successors and assigns. This Agreement benefits and burdens the Parties and their respective successors and assigns; provided, however, that neither Party may assign its rights or obligations hereunder except with the prior written consent of the other Party.
12. Amendment or modification. This Agreement may be modified only by a signed writing executed by the Parties with the same formality as was this Agreement.
13. Time of the essence. Time is of the essence under this Agreement.

14. Attorney fees and other litigation costs. If either party initiates a court proceeding to enforce any provision of this Agreement, including without limitation an action for specific performance or for damages, the non-prevailing Party shall pay the prevailing Party's costs and fees for the proceeding, including reasonable attorney fees and reasonable expert witness fees.
15. Venue. The sole venue for any action to enforce this Agreement will be the District Court for Weld County, Colorado.
16. No continuing waiver of default. A party's waiver of any instance of default under this Agreement will not constitute a continuing waiver of any subsequent default concerning either the same or any other provision hereof.
17. No waiver of governmental immunity. Nothing in this Agreement constitutes or is to be deemed or construed as constituting a waiver of any privilege or immunity available to the Town under the statutes and constitution of the State of Colorado, including the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101 through -119, as it may be amended.
18. Headings for convenience only. Paragraph headings and titles in this Agreement are intended for convenience and reference only and are not intended to define, limit, or describe the scope or intent of any term of this Agreement.
19. Non-severability. Each paragraph and sub-paragraph of this Agreement is intertwined with the others and is not severable unless by mutual written consent of the Parties.
20. Entire agreement. This Agreement constitutes the entire agreement between the Parties relating to the subject matter hereof, and any prior oral or written agreements pertaining to that subject matter have been merged or integrated into this Agreement.
21. Authority to execute Agreement. Each Party represents and warrants that the individual(s) executing this Agreement on that Party's behalf is authorized to do so and to bind such Party to the Agreement's terms. Each Party further represents and warrants that it is legally entitled to enter into this Agreement and to consummate the transaction described herein.
22. Execution in counterparts and electronic scans. This Agreement may be executed in counterparts, and all such executed counterparts together will constitute the Agreement. A legible electronic scan of the original Agreement and signatures in PDF format will be deemed an original, and such electronic scans will be binding for all purposes.

IN WITNESS WHEREOF, the Parties have executed this Agreement in counterparts on the date first written above.

SELLER: ROCKING R RANCH NO. 1 LLC

By: Danny L. Souders
Danny L. Souders, Manager

STATE OF COLORADO)

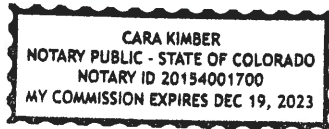
SS.

COUNTY OF Boulder)

The foregoing instrument was acknowledged before me this 3rd day of January, 2022, by Danny L. Souders, Manager of Rocking R Ranch No. 1 LLC.

Witness my hand and official seal.

My commission expires Dec 19th, 2023.



Cara Kimber
Notary Public

Signatures continue on next page.

PURCHASER: Town of Frederick, a Colorado municipal corporation

By: _____
Tracie Crites, Mayor

ATTEST:

By: Meghan C. Martinez, Town Clerk

[illegible]

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by Tracie Crites, Mayor of the Town of Frederick, a Colorado municipal corporation.

Witness my hand and official seal.

My commission expires _____.

Notary Public

**AGREEMENT FOR SALE AND PURCHASE OF UNITS OF
COLORADO-BIG THOMPSON PROJECT**

This Agreement for Sale and Purchase of Units of Colorado-Big Thompson Project ("Agreement") is made and entered into this 3rd day of January, 2022, by and between Rocking R Ranch No. 2 LLC, Danny Souders Managing Member ("Seller"), and the Town of Frederick, a Colorado municipal corporation ("Town") (each a "Party" and together the "Parties").

Recitals

- A. The Colorado-Big Thompson Project ("C-BT") is administered by the Northern Colorado Water Conservancy District ("NCWCD").
- B. Seller is the record owner of 5 C-BT units, with such ownership shown on the books of NCWCD ("Seller's C-BT Units").
- C. NCWCD allocates water to Seller's C-BT Units under a Class D Allotment Contract.
- D. Seller wishes to sell, convey, and assign to the Town, and the Town wishes to acquire, Seller's C-BT Units on the terms and conditions given in this Agreement.

For and in consideration of the mutual promises, covenants, and conditions in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and the Town agree as follows:

- 1. **Purchase Price.** The purchase price for Seller's C-BT Units is **\$65,000** per unit, for a total of **\$325,000** ("Purchase Price").
 - 1.1 The Parties agree that Stewart Title Company, 12110 N. Pecos St., Suite 150, Westminster, CO, 80234, will act as the escrow agent for this transaction ("Escrow Agent"), according to the Escrow Agreement and Instructions attached as **Exhibit A**.
 - 1.2 No earnest money is required for this transaction.
 - 1.3 If all pre-conditions to closing have been met, then on or before the Closing Date, as the term "Closing Date" is defined in paragraph 8 below, the Town shall deposit the Purchase Price with the Escrow Agent, in immediately available certified funds or cash.
 - 1.4 If all pre-conditions to closing have been met, then on or before the Closing Date, the Town also shall deposit with the Escrow Agent the estimated NCWCD Fee

and Assessment Credit, as that term is defined in paragraph 4 below, in certified Funds or cash.

- 1.5 Turner Realty will receive from the Seller a commission of 2% of the total Purchase Price, to be paid from proceeds at closing.
 - 1.6 The Purchase Price, estimated NCWCD Fee and Assessment Credit, and estimated Town's Broker's Fee deposited with the Escrow Agent are the "Escrowed Funds."
 - 1.7 Seller shall pay all escrow and closing fees invoiced by the Escrow Agent, with such fees to be debited to Seller in the closing statement and paid to the Escrow Agent out of the Escrowed Funds.
 - 1.8 Any fee or commission due to a broker engaged by the Seller ("Seller Broker's Fee") will be debited to Seller in the closing statement and paid out of the Escrowed Funds.
 - 1.9 The Town Broker's Fee, if any, will be debited to Town in the closing statement and paid out of the Escrowed Funds.
2. Pre-conditions to closing. The Town's obligation to pay the Purchase Price and close on the transaction is expressly conditioned on each of the following:
- 2.1 Seller must have delivered to Town, at Seller's sole expense and within seven days of the date of this Agreement, copies of all documents in Seller's possession pertaining to Seller's unencumbered title to and right to transfer to the Town Seller's C-BT Units, including without limitation any property records documenting the separation of Seller's C-BT Units from specified real property and any records documenting the termination or release of any liens or encumbrances on or security interests in Seller's C-BT Units.
 - 2.2 If Seller's C-BT Units are used for irrigation of land or are tied to designated land in the records of NCWCD, Seller must have delivered to the Town, no earlier than 21 days and no later than 7 days before the Closing Date, a satisfactory ownership and encumbrance report for all such land ("O&E Report").
 - 2.3 As documented by the O&E Report, the records of NCWCD, and other records pertaining to ownership of Seller's C-BT Units, title to Seller's C-BT Units must be good and merchantable in Seller as of the Closing Date, with such title free and clear of all liens, encumbrances, assessments, and security interests. The Town shall decide, in the reasonable exercise of its sole discretion, whether and when Seller has documented good and merchantable title to Seller's C-BT Units.

- 2.4 Seller must have completed all requirements of NCWCD for transfer of Seller's C-BT Units to the Town, and the NCWCD Board must have formally approved the transfer in writing.
 - 2.5 Seller must have paid, directly to NCWCD, the transfer fee imposed by NCWCD for transfer of Seller's C-BT Units to the Town.
 - 2.6 The Town's Board of Trustees must have approved the Town's acquisition of Seller's C-BT Units, including by virtue of directing the Mayor or Town administrators or staff to complete the acquisition.
3. Seller's warranties.
- 3.1 Seller warrants that it has, or that by the Closing Date it will have, good and marketable title to Seller's C-BT Units, along with the right and privilege to sell the same.
 - 3.2 Seller warrants that there are, or that by the Closing Date there will be, no outstanding liens, mortgages, or other encumbrances on title to Seller's C-BT Units.
 - 3.3 Seller warrants that no NCWCD fees or assessments are, or that by the Closing Date no NCWCD fees or assessments will be, outstanding or due and owing on Seller's C-BT Units.
 - 3.4 Seller warrants that no other person or entity holds preemptive rights to purchase or lease Seller's C-BT Units.
 - 3.5 Seller warrants that it has not entered into any agreement with a third party with respect to Seller's C-BT Units that may result in liability or expense to the Town based on the Town's acquisition of all or any portion of Seller's C-BT Units.
 - 3.6 Seller warrants that it has received no actual notice of and that Seller has no other knowledge of any litigation, claim, or proceeding of any type, pending or threatened, that in any matter affects or pertains to Seller's C-BT Units.
 - 3.7 Seller warrants that it has received no actual notice of and that Seller has no other knowledge of any existing violation of any federal, state, or local law, code, ordinance, rule, regulation, or requirement pertaining to Seller's C-BT Units.
4. NCWCD assessments. On the Closing Date, the NCWCD fees and assessments documented to have been paid on Seller's C-BT Units for the then-current water year will be pro-rated between the portion of the water year ending on the Closing Date and the portion of the water year remaining as of that date. The NCWCD fees and assessments for

the portion of the water year remaining on the Closing Date (“NCWCD Fee and Assessment Credit”) will be credited to Seller in the closing statement and paid to Seller out of the Escrowed Funds.

5. Use of water allocated to Seller’s C-BT Units. Beginning on the day after the Closing Date, the Town will have sole use of water allocated by NCWCD to Seller’s C-BT Units. Before and through the Closing Date, Seller will retain sole use of such water unless Seller and the Town enter into a separate agreement for the Town’s temporary use of the water allocated to Seller’s C-BT Units.
6. NCWCD requirements.
 - 6.1 The Parties shall promptly execute and deliver to NCWCD all required applications and other documentation required by NCWCD for transfer of Seller’s C-BT Units to the Town, including without limitation an Application for a Temporary Use Permit, an Affidavit Regarding Base Water Supply, a completed Application for Change of Class D Allotment Contract, and any other documents required by NCWCD. The Parties shall work cooperatively to meet all deadlines for submittal of such materials for the NCWCD Board’s consideration and approval at its next regular meeting.
 - 6.2 Seller shall pay, directly to NCWCD, the transfer fee of \$500 imposed by NCWCD for transfer of Seller’s C-BT Units to the Town.
7. Section 1031 exchange. Seller may elect to structure this transaction as an exchange under Section 1031 of the Internal Revenue Code (“1031 Exchange”). In such event, Seller shall give written notice to the Town as provided in paragraph 9 below. The Parties shall confer to determine if a reasonable extension of the Closing Date is necessary for Seller to complete the 1031 Exchange. Any expenses related to a 1031 Exchange will be Seller’s sole responsibility, but the Town will cooperate with the Seller in implementing the 1031 Exchange.
8. Closing. The Parties will consummate the transaction at a closing to take place electronically within 5 business days of the date on which all pre-conditions to closing, as described in paragraph 2 above, have been successfully completed.
 - 8.1 Closing Date. The actual date of the closing, which must take place on or before March 31, 2022, is the “Closing Date.”
 - 8.2 Performance of closing. On the Closing Date, the Escrow Agent shall perform as described in the Escrow Agreement and Instructions attached as **Exhibit A**, including without limitation by distributing the total amount due to seller (Purchase Price + final NCWCD Fee and Assessment Credit – escrow and closing fees – any

Seller Broker's Fee) by wire transfer or in other immediately available funds; by distributing payment of the broker commission described in paragraph 1.5 above directly to Turner Realty by check or wire transfer; and by delivering to the Parties, by FedEx, UPS, or other delivery service with tracking, any final instruments or other documents memorializing the transaction, including without limitation the Bill of Sale and Assignment described in paragraph 8.3 below and Seller's Certification of Warranties described in paragraph 8.4 below.

8.3 Bill of Sale and Assignment. No later than seven days before the Closing Date, Seller shall deliver to the Escrow Agent a good and sufficient Bill of Sale and Assignment acceptable to the Town and substantially in the form of attached **Exhibit B**. Seller shall execute the Bill of Sale and Assignment, but leave it undated; the Escrow Agent shall handwrite in the date on the Closing Date.

8.4 Seller's Certification of Warranties. No earlier than seven days and no later than one day before the Closing Date, Seller shall deliver to the Escrow Agent a written certification that Seller's warranties given in paragraph 3 above remain true and correct as of the Closing Date. In the event that Seller is unable to certify that one or more of the warranties remains true and correct as of the Closing Date, the Town may, at its sole option, proceed to closing notwithstanding such defects or, upon written notice to Seller, declare this Agreement terminated. In the event of such termination, the Parties will have no further rights or obligations hereunder.

9. Notices. All notices or other documents required to be sent to either Party under this Agreement must be in writing. Such notices or documents will be deemed effective upon receipt following delivery by certified mail, return receipt requested; email; personal delivery; or delivery by FedEx, UPS, or another delivery service with tracking. Notices or documents must be addressed and delivered as follows:

TO SELLER:

Rocking R Ranch No 2 LLC
Danny L. Souders, Manager
c/o Western Disposal Services
5880 Butte Mill Road
Boulder, CO 80301
Email: ckimber@westerndisposal.com
(303) 444-2037

TO TOWN:

Town of Frederick
Attn: Kevin Ash, Engineering Director
P.O. Box 435
401 Locust Street
Frederick, CO 80530
E-mail: kash@frederickco.gov

With copies by email only to the following:

Sarah Watson, Civil Engineer, Town of Frederick
swatson@frederickco.gov

Jason Meyers, Town Attorney
jmeyers@frederickco.gov

Jennifer DiLalla, Special Water Counsel
jdilalla@mwhw.com

TO ESCROW AGENT:

Stewart Title Company
Gina Cruz
12110 North Pecos St , Suite 150
Westminster, CO, 80234
Email: Gina.Cruz@stewart.com

The addresses above may be changed by written notice given in the manner provided above.

10. Default and remedies. In the event of default, the non-defaulting Party shall notify the defaulting Party in writing of such default, documenting the nature thereof. If such default is not cured within fourteen days, the non-defaulting Party will be entitled to all remedies available at law and in equity, including without limitation the remedy of specific performance and the remedy of damages.
11. Successors and assigns. This Agreement benefits and burdens the Parties and their respective successors and assigns; provided, however, that neither Party may assign its rights or obligations hereunder except with the prior written consent of the other Party.
12. Amendment or modification. This Agreement may be modified only by a signed writing executed by the Parties with the same formality as was this Agreement.
13. Time of the essence. Time is of the essence under this Agreement.

14. Attorney fees and other litigation costs. If either party initiates a court proceeding to enforce any provision of this Agreement, including without limitation an action for specific performance or for damages, the non-prevailing Party shall pay the prevailing Party's costs and fees for the proceeding, including reasonable attorney fees and reasonable expert witness fees.
15. Venue. The sole venue for any action to enforce this Agreement will be the District Court for Weld County, Colorado.
16. No continuing waiver of default. A party's waiver of any instance of default under this Agreement will not constitute a continuing waiver of any subsequent default concerning either the same or any other provision hereof.
17. No waiver of governmental immunity. Nothing in this Agreement constitutes or is to be deemed or construed as constituting a waiver of any privilege or immunity available to the Town under the statutes and constitution of the State of Colorado, including the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101 through -119, as it may be amended.
18. Headings for convenience only. Paragraph headings and titles in this Agreement are intended for convenience and reference only and are not intended to define, limit, or describe the scope or intent of any term of this Agreement.
19. Non-severability. Each paragraph and sub-paragraph of this Agreement is intertwined with the others and is not severable unless by mutual written consent of the Parties.
20. Entire agreement. This Agreement constitutes the entire agreement between the Parties relating to the subject matter hereof, and any prior oral or written agreements pertaining to that subject matter have been merged or integrated into this Agreement.
21. Authority to execute Agreement. Each Party represents and warrants that the individual(s) executing this Agreement on that Party's behalf is authorized to do so and to bind such Party to the Agreement's terms. Each Party further represents and warrants that it is legally entitled to enter into this Agreement and to consummate the transaction described herein.
22. Execution in counterparts and electronic scans. This Agreement may be executed in counterparts, and all such executed counterparts together will constitute the Agreement. A legible electronic scan of the original Agreement and signatures in PDF format will be deemed an original, and such electronic scans will be binding for all purposes.

IN WITNESS WHEREOF, the Parties have executed this Agreement in counterparts on the date first written above.

SELLER: ROCKING R RANCH NO. 2 LLC

By: *Danny L. Souders*
Danny L. Souders, Manager

STATE OF COLORADO)

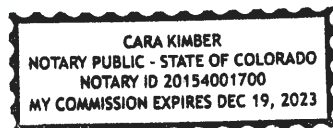
ss.

COUNTY OF Boulder)

The foregoing instrument was acknowledged before me this 3rd day of January, 2022, by Danny L. Souders, Manager of Rocking R Ranch No. 1 LLC.

Witness my hand and official seal.

My commission expires Dec 19th, 2023.



Cara Kimber
Notary Public

Signatures continue on next page.

By: Tracie Crites, Mayor

By: Meghan C. Martinez, Town Clerk

The foregoing instrument was acknowledged before me this _____ day of _____, 2022, by Tracie Crites, Mayor of the Town of Frederick, a Colorado municipal corporation.

My commission expires _____.

9

**TOWN OF FREDERICK, COLORADO
RESOLUTION NO. 22-R-03**

**A RESOLUTION OF THE TOWN OF FREDERICK, COLORADO,
AUTHORIZING THE PURCHASE OF 20 UNITS OF CBT WATER FROM
TWO SEPARATE SELLERS**

WHEREAS, C.R.S. § 31-35-101 authorizes the purchase by a municipality of rights and interests in water, waterways, and water franchises in order to supply the municipality and its residents with water; and; and

WHEREAS, the Board of Trustees of the Town of Frederick has received two offers for the sale of 20 units of CBT water in units of 4, 5, and 11 respectively; and

WHEREAS, the water fund contains sufficient appropriated funds to make the payment and the expenditures would be deemed an eligible expenditure; and

WHEREAS, the Board of Trustees has determined it is in the best interests of the residents of the Town to secure water rights for municipal purposes; and

WHEREAS, the Board of Trustees authorizes the Town Manager to execute the contracts for the purchase of those respective units; and

WHEREAS, in the 2022 Budget, the Town Board of Trustees authorized the appropriation and expenditures of funds from the water fund; and

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF
THE TOWN OF FREDERICK, WELD COUNTY, COLORADO THAT;**

Section 1. The following contracts for the purchase of CBT water rights are hereby ratified and approved:

a. ROCKING R RANCH LLC, Danny L. Souders; 11 units of CBT water at \$65,000 per unit for a total of \$585,000.

b. ROCKING R RANCH NO. 1 LLC, Danny L. Souders; 4 units of CBT water at \$65,000 per unit for a total of \$715,000.

c. ROCKING R RANCH NO. 2 LLC, Danny L. Souders; 5 units of CBT water at \$65,000 per unit for a total of \$715,000.

Section 2. The 2022 Budget for the Town of Frederick included funds for CBT unit purchases.

Section 3. **Effective Date.** This resolution shall become effective immediately upon adoption.

Section 5. **Repealer.** All resolutions, or parts thereof, in conflict with this resolution are hereby repealed, provided that such repealer shall not repeal the repealer clauses of such resolution nor revive any resolution thereby.

Section 3. **Certification.** The Town Clerk shall certify to the passage of this resolution and make not less than one copy of the adopted resolution available for inspection by the public during regular business hours.

**INTRODUCED, READ, PASSED, AND ADOPTED THIS 11TH DAY OF
JANUARY, 2022.**

ATTEST:

TOWN OF FREDERICK

By _____
Meghan C. Martinez, MMC, Town Clerk

By _____
Tracie Crites, Mayor