

ARTICLE II: ADMINISTRATION AND ENFORCEMENT

DIVISION 1. ADMINISTRATION

§1-19-2.110. ZONING CERTIFICATE AND BUILDING PERMIT.

(A) *Approval of Zoning Administrator required; application to essential services and accessory structures.* It is unlawful to change the use, locate or to begin the new use, erection, construction, reconstruction, extension, conversion or structural alteration or development of any lot or structure without first obtaining a zoning certificate and building permit. No zoning certificate and building permit shall be issued unless it is approved by the Zoning Administrator. This provision does not apply to essential services or accessory structures of 150 square feet or less of floor area.

(B) *Submission and approval of site development plans prior to issuance.* Every multifamily, townhouse, institutional, commercial or industrial development will submit and have approved site development plans, in accordance with §§ 1-19-2.160 and 1-19-3.300 through 1-19-3.300.4 of this Code, prior to the issuance of a zoning certificate and building permit.

(C) *Restrictions on use, arrangement and construction.* Zoning certificates and building permits issued on the basis of approved site plans and applications authorize only the use, arrangement and construction set forth in such applications and plans and no other use, arrangement or construction. Use, arrangement or construction differing from that authorized is a violation of this chapter.

(D) *Application to certificates/permits approved prior to January 24, 1977.* This chapter does not require a change in the plans, construction or designated use of any structure or lot for which a zoning certificate and building permit has been approved prior to January 24, 1977, provided such approved activity continues in compliance with all terms of the previously approved permits.

(E) *Terms of certificates/permits.* A zoning certificate and building permit approval is void 1 year from date of issuance unless the use is established under the terms of the zoning certificate and building permit.

(F) *Transferability/assignability.* A zoning certificate and building permit is nonassignable and nontransferable.

(G) *Revocation for noncompliance.* A zoning certificate and building permit is revocable upon noncompliance with any conditions or requirements imposed under this chapter.

(H) *Filing fees.* A filing fee shall be charged in accordance with the fee schedule provided in this chapter.

§ 1-19-2.150. BOARD OF APPEALS.

(A) (1) The Board of County Commissioners shall appoint a Board of Appeals. The Board of Appeals shall consist of 5 members. The terms of office of the members of the Board is 3 years.

(2) They are removable for cause, upon written charges, and after public hearing. Vacancies shall be filled for the unexpired terms of any member whose term becomes vacant. Members of the Board may receive such compensation as the Board of County Commissioners deem appropriate.

(B) The Board of County Commissioners shall designate 1 alternate member for the Board of Appeals who may be empowered to sit on the Board in the absence of any member of the Board; and when the alternate is absent, the Board of County Commissioners may designate a temporary alternate.

(C) The Board shall adopt rules in accordance with the provisions of this chapter. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. The Chairman, or in the Chairman's absence, the acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, which shall be immediately filed in the office of the Board and shall be a public record.

(D) The Board of Appeals shall have the following powers:

(1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this chapter;

(2) To hear and decide special exceptions to the terms of the chapter upon which the Board is required to pass under this chapter;

(3) To authorize upon appeal in specific cases a variance from the terms of this chapter, subject to the Board's administrative procedures.

(E) Three members of the Board shall constitute a quorum for the conducting of business.

## DIVISION 2. ENFORCEMENT

### § 1-19-2.200. COMPLAINTS

(A) Any person may file a written complaint with the Zoning Administrator alleging a violation of this chapter. Such complaint will state the factual basis for the alleged violation of this chapter.

(B) The Zoning Administrator will investigate and find as a matter of fact whether a violation of this chapter has occurred.

(C) The Zoning Administrator shall keep a permanent public record of all complaints and findings of fact disposing of alleged zoning violations.

(D) Violations of the FEMA floodplain regulations set forth in §§ 1-19-9.100 through 1-19-9.130 shall also be subject to the following:

(1) The Federal Emergency Management Agency and the Maryland Department of the Environment shall be notified immediately in writing of any property or structure in violation of the floodplain section of this chapter.

(2) New or renewal National Flood Insurance shall be denied for any structure remaining in violation or situated on property in violation of this chapter.

§ 1-19-2.210. CIVIL ZONING INFRACTIONS.

(A) Pursuant to Md. Ann. Code, Art. 66B, § 7.01(C), any violation of any of the provisions of this entire chapter, which is [Chapter 1-19](#), entitled Zoning (also known as the zoning ordinance for Frederick County, Maryland), is a civil zoning violation and shall be called a civil zoning infraction. If, after investigation, a civil zoning infraction is believed to exist, the Zoning Administrator or his authorized agent shall deliver a citation or a warning to the property owner and other person or persons responsible for the infraction. If the person is unable to be located personally, the Zoning Administrator or his authorized agent may post the citation or warning in a conspicuous place on the property and mail a copy of same to the person, which shall be sufficient for delivery under this section.

(B) The citation or warning, as provided for in this section, shall be in writing and shall contain the following:

- (1) The name and address of the person charged (or warned);
- (2) The nature of the violation;
- (3) The location of the violation;
- (4) The date(s) of the violation;
- (5) The amount of the fine assessed (or possible of assessment);
- (6) The manner, location and time in which the fine may be paid (or violation corrected, if applicable);
- (7) The person's right to stand trial for the violation (if applicable); and
- (8) A certification by the Zoning Administrator or his authorized agent attesting to the truth of the matters set forth.

(C) Whenever an alleged or possible civil zoning infraction comes to the attention of the Zoning Administrator, the procedure to be followed is:

- (1) That the Zoning Administrator will investigate whether an infraction has occurred;
- (2) That, if he reasonably finds that an infraction has occurred, he will issue a warning to the person or persons responsible in the form and manner as outlined in this section, with a reasonable time stated to abate or to prevent future infractions;
- (3) That, if the infraction continues or is allowed to occur after the reasonable time stated, the Zoning Administrator will issue a citation to the person or persons responsible in the form and manner as outlined in this section. Notwithstanding the provisions of step (2) above, the Zoning Administrator may issue a citation at step (2) without the prior issue of a warning.

(D) A present fine of \$100 is hereby imposed upon any person responsible for a civil zoning infraction for each violation. Each day such violation is permitted to exist shall be considered a separate infraction. All fines shall be payable to the Board of County Commissioners of Frederick County, Maryland; in the Planning and Zoning Office, which shall remit same on a daily basis to the County Treasurer.

(E) A person who receives a citation may elect to stand trial for the offense by filing with the Zoning Administrator a notice of intention to stand trial. The notice shall be given at least 5 days before the date of payment as set forth in the citation. On receipt of the notice of intention to stand trial, the Zoning Administrator shall forward to the district court for Frederick County, Maryland, a copy of the citation and the notice of intention to stand trial. On receipt of the citation, the district court shall schedule the case for trial and notify the defendant of the trial date. All fines, penalties, or forfeitures collected by the district court for zoning infractions shall be remitted to the Board of County Commissioners of Frederick County, Maryland, through the County Treasurer.

(F) If a person who receives a citation for an infraction fails to pay the fine by the date of payment set forth on the citation and fails to file a notice of intention to stand trial, a formal notice of the infraction shall be sent to the person's last known address. If the citation is not satisfied within 15 days from the date of the notice, the person is liable for a fine of \$200 for each infraction. If, after 35 days, the citation is not satisfied, the Zoning Administrator may request adjudication of the case through the district court. The district court shall schedule the case for trial and summon the defendant to appear.

(G) Adjudication of an infraction under this subsection is not a criminal conviction, nor does it impose any of the civil disabilities ordinarily imposed by a criminal conviction.

(H) In a proceeding before the district court, the violation shall be prosecuted in the same manner and to the same extent as set forth for municipal infractions in Md. Ann. Code, Art. 23A, § 3(B)(8) through (15). However, the County Attorney is hereby authorized to prosecute all civil zoning infractions under this section.

(I) If a person is found by the district court to have committed a civil zoning infraction, he shall be liable for the costs of the proceedings in the district court.

(J) Depending on the circumstances of each case and after consultation with the County Attorney, the Zoning Administrator has the discretionary authority to reduce or suspend all or a portion of the fine payable through his office.

(K) Nothing contained in this section shall prohibit or prevent the Zoning Administrator, or anyone else, from seeking other legal remedies, such as injunctions or criminal prosecution.

## ARTICLE III: REVIEW AND APPROVAL PROCEDURES

### DIVISION 1. ZONING AMENDMENTS

#### § 1-19-3.100. ZONING TEXT AMENDMENTS.

*Editor's note:*

*Ord. 98-23-225, adopted Nov. 10, 1998, amended [Chapter 1-19](#) by deleting provisions formerly codified as §§ 1-19-66 through 1-19-77, which comprised part of former Div. 3 of Art. II, pertaining to amendments to this zoning ordinance and which derived from the following:*

<i>Ord. No.</i>	<i>Date</i>	<i>Ord. No.</i>	<i>Date</i>
77-1-78	1-24-77	86-3-380	3-18-86
79-8-134	5-1-79	88-13-490	5-3-86
81-3-193	1-27-81	89-3-534	1-3-89
85-41-373	10-22-85	92-20-055	8-14-92

*In addition, Ord. No. 98-23-225 enacted §§ 1-19-60—1-19-64, being provisions of a new Div. 3, and created a Div. 4, a new division consisting of new provisions in §§ 1-19-70—1-19-75 and amended provisions in §§ 1-19-78 and 1-19-79.*

§ 1-19-3.100.1. INITIATION BY BOARD OF COUNTY COMMISSIONERS.

The Board of County Commissioners may initiate a zoning text amendment. No particular form is required for the Board of County Commissioners to initiate a zoning text amendment.

§ 1-19-3.100.2. REFERRAL TO PLANNING COMMISSION.

(A) The Zoning Administrator shall refer the initial proposed zoning text amendment to the Planning Commission for a recommendation.

(B) The Planning Commission will hold a public hearing prior to making its recommendation. A failure to act within 62 days of the last hearing shall be deemed as providing no recommendation on the request.

(C) The Board of County Commissioners shall act within 45 days on a zoning text amendment after receiving the recommendation of the Planning Commission unless the time is extended by the Board.

§ 1-19-3.100.3. PUBLICATION OF NOTICE.

(A) The Zoning Administrator shall cause notices of the public hearings of the Planning Commission and the Board of County Commissioners to be published.

(B) Public notice of the time and place of the Frederick County Planning Commission hearing, together with a summary of the proposed zoning text amendment, shall be published in at least 1 newspaper of general circulation in Frederick County at least 14 days prior to the hearing.

(C) Public hearing notice of the time and place of the Board of County Commissioners hearing, together with a summary of the proposed zoning text amendment, shall be published in at least 1 newspaper of general circulation in Frederick County once each week for 2 successive weeks with the first such publication of notice at least 14 days prior to the hearing.

§ 1-19-3.100.4. BOARD OF COUNTY COMMISSIONERS AND DECISION.

(A) The Board of County Commissioners shall hold a public hearing on the proposed zoning text amendment.

(B) Any interested person shall have the right to submit oral and/or written testimony at the public hearing in accordance with the established rules.

(C) The Board of County Commissioners may revise, amend, supplant or modify any provision of the proposed zoning text amendment in whole or in part. No additional referral to the Planning Commission is required.

§ 1-19-3.110. ZONING MAP AMENDMENTS

*Editor's note:*

*See the editor's note 1-19-3.100.*

§ 1-19-3.110.1. ZONING MAP AMENDMENT AND FLOATING ZONE RECLASSIFICATION PROCEDURES.

(A) An application for zoning map amendment or floating zone reclassification may be made by any property owner or his duly authorized agent, a contract purchaser or any other person with at least a 50% proprietary interest in the area covered by any zoning map amendment or floating zone reclassification application. Applications for zoning map amendments, except for applications for floating zones (PUD, mineral mining, mobile home park, solid waste) will be accepted only in the months of April and October. Each zoning map amendment or floating zone reclassification application must cover a contiguous area.

(B) The Zoning Administrator shall review the applications for individual map amendments and floating zone reclassifications as filed and may:

(1) Reject the application, if:

(a) The information is incomplete; or

(b) The property is subject to review under a region plan update and comprehensive rezoning process, unless a waiver is granted by the Board of County Commissioners; or

(c) The amendment has been filed for the whole or part of land which was subject to a map amendment request for a zoning district designation which was opposed, denied, or dismissed by the Board of County Commissioners on the merits within 12 months from the date of the Board's signed resolution.

(2) Accept the application where all the required information has been provided and the appropriate fee paid.

(C) A zoning map amendment or floating zone reclassification application shall be filed with the Zoning Administrator during normal office hours. The application shall include the following:

(1) Completed application form;

(2) The required fee as set forth in § 1-19-2.130 of this chapter;

(3) Ownership verification: copy of deed or if contract purchaser, submit copy of contract;

(4) A boundary plat prepared and sealed by a surveyor registered in the State of Maryland, prepared in accordance with the minimum standards of practice, showing metes and bounds (courses and distances);

(5) A list of names and addresses of all adjoining property owners, whether or not separated by streets, railroads, or other rights-of-way. This list must be obtained from the latest Frederick County Property Tax assessments records;

(6) A vicinity map covering the area within at least 1,000 feet of the boundaries of the land proposed to be reclassified, including the existing zoning classification of all land shown on the map; and

(7) A written explanation justifying the amendment or floating zone reclassification, setting forth in sufficient detail to advise county officials required to review the application.

(D) The Zoning Administrator shall retain custody of all application files, which will be available for public inspection during normal office hours. Any person may obtain, at their expense, copies of any and all papers in the file.

#### § 1-19-3.110.2. PUBLIC NOTICE.

(A) *Posting of property.* At least 30 days before the public hearing of the Planning Commission or the Board of County Commissioners on the zoning map amendment, the applicant shall erect signs provided by the Zoning Administrator on the land proposed to be reclassified.

(1) The signs shall be erected within 10 feet of each boundary or right-of-way line of the subject property where it abuts a public road, and if no public road abuts thereon, then facing in such a manner as may be most readily seen by the public.

(2) The signs shall be affixed to a rigid Board and be maintained by the applicant at all times until a decision is announced by the Board of County Commissioners.

(3) The applicant shall file a notarized affidavit certifying the posting of the signs.

(4) The Zoning Administrator shall have the authority to postpone a public hearing if the applicant has not complied with the requirements for posting of property as detailed in this section.

(5) It shall be a misdemeanor to remove or tamper with any sign during the period it is required to be posted.

(B) The Zoning Administrator will make a good faith effort to notify the owners of all properties adjoining a property for which an application for zoning map amendment or floating zone reclassification application has been accepted. Such notice shall be by first class mail at least 14 days prior to such public hearing and contain the date, time, place and nature of any public hearing to be held concerning the application.

(1) Adjoining property owners shall include the owners of properties immediately contiguous to the applicant's property as well as those separated by streets, railroads, or other rights-of-way as set forth in § 1-19-3.110.1(C)(5).

(2) Appearance by a property owner at the public hearing shall constitute a waiver of any defect in this notice requirement.

(C) Notice of the time and place of the Board of County Commissioners public hearing, together with a summary of the proposed zoning map amendment or floating zone reclassification shall be published in at least 1 newspaper of general circulation in Frederick County once each week for 2 successive weeks with the first such publication of notice at least 14 days prior to the hearing.

§ 1-19-3.110.3. STAFF AND PLANNING COMMISSION APPLICATION REVIEW AND PROCESSING.

(A) An application for a zoning map amendment or a floating zone reclassification shall be reviewed by the Planning Department staff which shall prepare a report and recommendation to the Planning Commission. After completion of this staff report the application shall be presented to the Planning Commission for consideration.

(B) Within 62 days after acceptance of the application by the Zoning Administrator, the Planning Commission shall hold a public hearing on the application for zoning map amendment or floating zone reclassification. The Planning Commission review will include, but not be limited to:

- (1) Consistency with the Comprehensive Plan;
- (2) Availability of public facilities;
- (3) Adequacy of existing and future transportation systems;
- (4) Compatibility with existing and proposed development;
- (5) Population change; and
- (6) The timing of development and facilities.

(C) The Planning Commission shall forward its recommendation to the Board of County Commissioners within 62 days of its last public hearing. If the Planning Commission fails to make a recommendation within this time frame, the map amendment will be forwarded without a recommendation.

§ 1-19-3.110.4. BOARD OF COUNTY COMMISSIONERS CONSIDERATION AND ACTION.

(A) The Board of County Commissioners shall hold a public hearing on the application for a zoning map amendment or floating zone reclassification.

(B) Any interested person shall have the right to submit oral and/or written testimony at the hearing and shall have the right to reasonable cross-examination in accordance with the established rules.

§ 1-19-3.110.5. CONDITIONS.

The Board of County Commissioners may impose, upon the granting of a zoning map amendment or floating zone reclassification, such additional restrictions, conditions, or limitations as may be deemed appropriate to preserve, enhance, or protect the general character and design of the lands and improvements being zoned or rezoned or of the surrounding or adjacent lands and improvements. The Board may, upon the zoning or rezoning of any land, retain or reserve the power and authority to approve or disapprove the design of structures, construction, landscaping or other improvements, alterations and changes made or to be made on the subject land or lands to assure conformity with the intent and purposes of this chapter. Conditions imposed or requested may not include the prohibition of any uses expressly permitted in the district.

§ 1-19-3.110.6. CONTINUANCES AND WITHDRAWAL OF APPLICATIONS.

(A) *Withdrawal.* By filing a written request with the Zoning Administrator prior to any public hearing, the applicant may withdraw the application for zoning map amendment or floating zone reclassification.

(B) A request by the applicant for continuance of a map amendment or floating zone reclassification application hearing may be granted by the Board of County Commissioners for good cause shown. The applicant shall be responsible for any costs to the county caused by the continuance.

§ 1-19-3.110.7. SPECIAL PROVISIONS FOR COMPREHENSIVE ZONING MAP AMENDMENTS.

In the case of a comprehensive zoning map amendment, the following public notice procedure shall govern.

(A) The Planning Commission shall cause notice of comprehensive zoning map amendment hearing to be published in a newspaper of general circulation in the county in accordance with §1-19-3.110.2.

(B) Upon receipt of the recommendation of the Planning Commission, the Board of County Commissioners shall cause notice of comprehensive zoning map amendment hearing to be published in accordance with §1-19-3.110.2.

(C) Posting of property will not be required.

§ 1-19-3.110.8. USE IT OR LOSE IT PROVISION.

All applications for individual residential or planned unit development (PUD) or mobile home (MH) floating zones or a mixed use development floating zone (MXD) with a residential component or landowner initiated comprehensive rezonings granted by the Board of County Commissioners after March 2, 1990, shall be subject to the following conditions.

(A) The rezoned property shall automatically revert to its prior classification unless at the next comprehensive zoning of the property:

(1) A preliminary or final subdivision plat has been approved and at least 10% of the lots have been recorded; unless otherwise restrained by the conditions of rezoning or conditions of adequate public facilities ordinance (APFO) approval; or

(2) Site plan approval has been obtained, building permits issued and substantial construction begun on the buildings or structures approved as part of that site plan; or

(3) The Board of County Commissioners confirms the zoning during the comprehensive zoning process.

(B) Paragraph (A) above shall apply only to:

(1) All residential zoning classifications;

(2) The PUD and MH floating zone classifications; and

(3) The MXD floating zone with a residential component.

§ 1-19-3.110.9. APPEALS.

Pursuant to the authority granted in Md. Ann. Code, Art. 66B, § 4.08(f), the Board of County Commissioners may appeal to the circuit court of the county and thence to the Court of Special Appeals of Maryland, or, upon certiorari, to the Court of Appeals of Maryland, any decision concerning zoning made by the Board of Appeals, and the Board of County Commissioners may file an answer and be a party to any zoning appeal filed in the circuit court of the county concerning a decision made by the Board of County Commissioners and may appeal any decision of the circuit court of the county to the Court of Special Appeals of Maryland, or, upon certiorari, to the Court of Appeals of Maryland.

DIVISION 2. SPECIAL EXCEPTIONS, VARIANCES, AND APPEALS

§ 1-19-3.200. GENERALLY.

(A) An application for appeals, variances or special exception shall be made on forms approved by the Division of Planning.

(B) The application for a variance or special exception and the information required in subsection (C) below shall be filed with the Zoning Administrator a minimum of 45 days prior to the regularly scheduled monthly meeting of the Board of Appeals.

(C) Required information for a variance or special exception shall include:

(1) Plot plan or accurate drawing of the property showing the distances of all existing and proposed structures from all property lines, driveways and parking areas;

(2) Name and address of each person owning property adjacent to the subject property;

(3) Plans, architectural drawings, photographs, elevations, specifications or other detailed information fully depicting the exterior appearance of any existing structures on the property, including signs and the proposed construction;

(4) In addition, for all applications for a special exception, a statement shall be provided explaining in detail how the use is to be operated. The following information is required to be submitted:

(a) Hours of operation;

(b) Number of anticipated employees;

(c) Equipment involved; and

(d) Any special conditions or limitations which the applicant proposes for adoption by the Board.

(D) The application for an appeal shall be filed in accordance with § 1-19-3.230 within 30 days after the date of the action or decision being appealed. Required information for an appeal shall include a copy of any written decision that is being appealed and all other information pertinent to the appeal.

(E) Fee shall be paid at the time of filing of application in accordance with the fee schedule established in this chapter.

(F) The Board of Zoning Appeals shall hold a public hearing before making a decision on any appeal or other matter within its powers. Upon accepting an application for an appeal or for a special exception, the Zoning Administrator shall schedule the public hearing by the Board of Appeals. Appeals and applications filed in proper form shall be numbered serially, docketed and placed upon the calendar of the Board.

(G) The Administrator shall cause to be published once a notice of the public hearing. This notice shall be published in a newspaper of general circulation in the county not less than 15 days prior to the date set for the hearing. All adjoining property owners, whether separated by streets, railroads, or other rights-of-way, shall be notified by mail, of the time, date, place, and nature of the public hearing.

(H) Within 3 days after acceptance of an application for an appeal, variance or a special exception, the applicant shall erect a sign as provided by the Zoning Administrator on the land involved. Such a sign shall be erected within 10 feet of the boundary line of such land which abuts the most traveled public road and if no public road abuts thereon, then facing in such a manner as may be most readily seen by the public. If the land lies within more than one block as shown on a plat recorded in the county land records, then a sign shall be erected on the land in each such block. A sign shall be maintained at all times by the applicant until a decision on the application has been made public by the Board of Appeals. It is a misdemeanor for any person to remove or tamper with such sign during the period it is required to be maintained. The applicant shall file an affidavit certifying the posting of the required sign.

(I) The Board of Appeals shall make an on the site inspection of the premises involved in the application for a variance or special exception.

(J) A decision of the Board granting a variance or a special exception will be void 2 years from date of approval by the Board of Appeals unless the use is established or a building permit is issued and construction has begun and is in accordance with the terms of the decision. Upon written request submitted to the Zoning Administrator no later than 1 month prior to the expiration date and for good cause shown by the applicant, a 1 time extension may be granted by the Zoning Administrator for a period not to exceed 6 months.

#### § 1-19-3.220. VARIANCES.

(A) The Board of Appeals may authorize a variance in height, lot area and yard regulations only in cases where the strict compliance with the terms of this chapter would result in unreasonable hardship, and only if in strict harmony with the spirit and intent of such regulations and only in a manner so as to grant relief without substantial injury to the public health, safety and general welfare.

(B) An application for a variance shall be filed with the Board of Appeals only after refusal of a zoning certificate by the Zoning Administrator.

(C) The Board of Appeals shall not grant a variance unless and until the following conditions are satisfied:

(1) That special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable to other lands or structures in the same district; and

(2) The literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under terms of this chapter;

(3) That the special conditions and circumstances do not result from the actions of the applicant; and

(4) That granting the variance will not confer on the applicant any special privilege that is denied by this chapter to other lands or structures in the same district; and

(5) A public hearing has been held;

(6) That the granting of the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

(D) In granting the variance, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, is a violation of this chapter.

(E) Under no circumstances shall the Board of Appeals grant a variance to allow a use not permissible under the terms of this chapter in the zone involved, or any use expressly or by implication prohibited by the terms of this chapter in said zone.

#### § 1-19-3.230. APPEALS.

(A) Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the jurisdiction affected by any decisions of the administrative officer. Such appeal shall be taken within 30 days after the date of the action or decision being appealed, by filing with the officer from whom the appeal is taken and with the Board of Appeals a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

(B) An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Appeals after notice of appeal shall have been filed with him that by reason of the facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown.

(C) The Board of Appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

(D) In exercising the above-mentioned powers such Board may, in conformity with Md. Ann. Code, Art. 66B, as amended, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

ARTICLE IV: REGULATIONS APPLICABLE TO ALL DISTRICTS  
DIVISION 2. NONCONFORMING LOTS, STRUCTURES, AND USES  
§1-19-4.220. NONCONFORMING STRUCTURES.

(A) A nonconforming structure is a structure lawfully existing January 24, 1977 or on the effective date of an amendment of this chapter that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot. A nonconforming structure may be continued so long as it remains otherwise lawful, subject to the following provisions.

- (1) No such structure may be modified so as to increase its nonconformity.
- (2) Such structure once destroyed by any means will not be reconstructed unless:
  - (a) It is in conformity with this chapter; or
  - (b) The Board of Appeals grants a variance;
- (3) Such structure once moved, will thereafter conform to the regulations for the district to which it is moved.

(B) This movement does not include minor shifting or settling of the structure from natural or accidental causes.

§ 1-19-4.230. NONCONFORMING USES.

(A) A nonconforming use is a use which legally exists on January 24, 1977 or at the time of amendment of this chapter but that does not comply with the regulations of the district in which it is located. Such nonconforming use may consist of any nonconforming use of land, a nonconforming use of structure, or a nonconforming use of land and structure. Nonconforming uses are incompatible with permitted uses in the same district and will not be modified or enlarged, except by special exception, after January 24, 1977.

(B) The Board of Appeals may grant a special exception to:

- (1) Change a nonconforming use to another nonconforming use if:
  - (a) No structural alterations are made; and
  - (b) The Board of Appeals, by a specific finding in the case, finds that the proposed use is more appropriate to the district;
  - (c) A nonconforming use will not be changed to a use considered less appropriate to the district;
  - (d) The Board of Appeals may impose conditions within the scope of this chapter on the granting of such a special exception.

(2) Expand a nonconforming use or structure. Expansion is limited to the lot that exists on January 24, 1977. Additional acreage or dwelling units will not be added to expand a nonconforming use.

(C) No building, structure, or lot where a nonconforming use has ceased for one year or more shall again be put to a nonconforming use.

(D) The casual, temporary or illegal use of land or structure does not establish the existence of a nonconforming use.

(E) Existing mobile home parks.

(1) A mobile home park which existed on January 24, 1977 may continue in existence under the rules and regulations then in effect.

(2) A mobile home located in an existing mobile home park on the effective date of this section may be replaced by another mobile home no larger than 840 square feet in size.

(3) No increase in the number of units or parcel size of any existing mobile home park will be allowed except as provided in §1-19-10.600.2, Mobile home parks.

## ARTICLE XI: DEFINITIONS

### DIVISION 1. DEFINITIONS

***FRONTAGE.*** See ***LOT FRONTAGE.***

***LOT TYPES.*** The lots with the following definitions.

(a) ***CORNER LOT.*** A lot located at the intersection of 2 or more streets. A lot abutting on a curved street or streets is considered a corner lot, if straight lines drawn from the foremost points of the side lot lines to the foremost points of the lot meet at an interior angle of less than 135 degrees.

(b) ***INTERIOR LOT.*** A lot with only 1 frontage on a street other than an alley.

(c) ***OUTLOT.*** A parcel of land within a subdivision which has been included on a preliminary and final plat, but not designated as a buildable lot. Establishment shall only be due to the necessity of providing for access to adjoining properties a continuation of appropriate street patterns, or any other approved governmental use.

(d) ***PANHANDLE LOT.*** A lot with the appearance of a "frying pan" or "flag and staff" in which the handle is most often used as the point of access to a street or road. The "handle," when less than the minimum width for a building lot in the zoning district in which it is located, is not to be used in computing the minimum required area or delineating the minimum required "building envelope." The handle shall not be less at any point than the required minimum road frontage.

(e) ***THROUGH LOT.*** A lot (other than a corner lot) with frontage of more than 1 street other than an alley.