



## Planning Commission Agenda

Wednesday, August 28, 2024

Special Meeting – 6:30 P.M.

Frederick Town Hall

401 Locust St.

### Built On What Matters

In order to promote social distancing and to protect the health and safety of our Commission members, staff, and community this meeting will be hybrid and conducted via Microsoft Teams and in person. **Interested parties are encouraged to access the meeting via Microsoft Teams or in person at Town Hall.**

The meeting information is as follows:

### Microsoft Teams meeting

Join on your computer, mobile app or room device

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Meeting ID: 229 286 565 79

Passcode: GXuhzM

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Please contact Deputy Town Clerk Emily Nitcher with questions regarding the meeting. 720-382-5582 or [enitcher@frederickco.gov](mailto:enitcher@frederickco.gov)

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#### Call to Order – Roll Call

#### Pledge of Allegiance

#### Additions to the Agenda

#### Consent Agenda

- A. July 25, 2024, Meeting Minutes – Emily Nitcher, Deputy Town Clerk

#### Action Agenda

- B. PCR-2024-05 A Resolution of the Planning Commission Recommending Approval of an Amendment to Town of Frederick Land Use Code Section 2.14 – Kylie Couch, Water Conservation

C. A Resolution of the Planning Commission recommending Approval of Amendments to the Town of Frederick Land Use Code Amending Section 1.15, Definitions; Amending Section 2.11.9, Amount Of Open Space Required By Development; Amending Section 3.4.11, Agricultural Uses; Amending Section 3.4.12, Residential Protection Standards, Amending Section 3.4.13, Accessory Uses And Accessory Buildings; Removing Section 3.4.15, Accessory Dwelling Units; Amending Section 3.4.21, Backyard Chickens; Amending Section 3.4.22, Apiaries/Beekeeping; Creating Section 3.4.22, Agricultural Animals; Amending Section 4.7.5, Preliminary Development Plan; Amending Section 4.9.2, Final Development Plan; Amending Section 4.9.3, Minor Subdivision; and Creating Article 16, Planned Unit Development– Audem Gonzales, Senior Planner

**Discussion Item**

**Other Business**

A. Upcoming Meetings – Regular Meeting Thursday, September 5, 2024.

**Adjournment**



# Town of Frederick Planning Commission

Special Commission Meeting Minutes

Meeting Conducted in Person and Via Microsoft Teams

Frederick Town Hall, 401 Locust Street

July 25, 2024

**Call to Order:** At 6:32 p.m., Chairperson Moe called the meeting to order and requested roll call.

**Roll Call:** Present were Chairperson Moe, Vice Chair Conroy, and Commissioner Kelley.

Also Present were Planning Manager Ali van Deutekom, Deputy Town Attorney Christine Francinceti, Deputy Director of FURA (Assistant Town Manager) Ryan Johnson, and Deputy Town Clerk Emily Nitche.

**Pledge of Allegiance:**

**Approval of Agenda:**

**Consent Agenda:**

May 16, 2024, Planning Commission Minutes

June 20, 2024, Planning Commission Minutes

Motion by Vice Chair Conroy and seconded by Commissioner Kelley to approve the consent agenda.

Upon roll call vote, motion passed unanimously.

**Action Agenda:**

PCR-2024-03 Consideration of the Miner's Park Town Center Urban Renewal Project – Ryan Johnson, Deputy Director of FURA presented

Vice Chair Conroy asked why the condition was never met for the Urban Renewal Plan Area. The Town did not follow up and get the tax forms from the districts.

Vice Chair Conroy also asked if it was currently owned by the same person as in 2014. No, it is a different owner.

Chairperson Moe asked if it was a good location and what is the issue with it. The things on the land itself, blighting, as well as the cost make it unappealing. Oil and gas, Drainage and roadway issues.

Commissioner Kelley asked is the Parcel to the East on 52 would also be considered in this district, as it looks like it has the same issues. It has not been considered, and likely will not be at this time as the property owner of that parcel was not noticed before beginning this process.

Vice Chair Conroy asked if the meeting was not noticed as a public hearing.

**Built on What Matters.**

The meeting was not noticed, as there is no noticing requirement for the action this evening. It will be noticed when it goes to the Board of Trustees.

Commissioner Kelley asked if there was a major change as in a change of the Board of Trustees is there a possibility that the main focus would change from Commercial Development. If something were to happen to cause a major change in focus, the Land Use Code could be used to support that change.

Vice Chair Conroy asked why is this item being brought forward now, and not after the 2024 Comprehensive Plan is approved.

The Comprehensive Plan is far enough along to provide clarity that this would align with it. The Silverstone Marketplace has generated some buzz about development in the area.

Commissioner Kelley stated that he believed that this aligns with the new Comprehensive Plan and that he didn't think there was a need for conditions. He was hoping to see development along 52 and agreed that it was a good time to use the buzz from Silverstone Marketplace.

Vice Chair Conroy stated that she agreed that there would not be any substantial changes to the Comprehensive plan or a reason to add any conditions. Vice Chair Conroy did state that she thought the opposite would happen with the buzz of Silverstone Marketplace and an URA would not be needed.

Motion by Commissioner Kelley and seconded by Vice Chair Conroy to approve PCR-2024-03.

Upon roll call vote, motion passed unanimously.

**Discussion Item:**

**Commissioner Reports:**

**Other Business:**

Upcoming Meeting

Regular Meeting Thursday August 15, 2024  
Special Meeting Thursday August 29, 2024

**Adjournment:**

There being no further business of the Planning Commission, Chairperson Moe adjourned the meeting at 7:24 p.m.

Approved by the Planning Commission:

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Tracy Moe, Chairperson

ATTEST:

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Emily Nitcher, Secretary to Planning Commission



# TOWN OF FREDERICK

## Planning Commission

Tracy Moe, Chairperson

Dennis Stark, Alternate Commissioner  
William Mahoney, Alternate Commissioner  
Roger Kelley, Commissioner

Kristin Conroy, Vice-Chairperson  
Nathan Scott, Commissioner  
Joseph Sammartino, Commissioner

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### **Amendments to the Town's Land Use Code Regarding Section 2.14 – Landscape Design**

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**Agenda Date:** Planning Commission – August 28, 2024

**Attachments:**

- a. Draft of Section 2.14 of the Frederick Land Use Code
- b. PCR-2024-05
- c. 10-Year Water Supply Plan Excerpt
- d. Long-Term Water Supply Plan Excerpt
- e. Water Efficiency Plan Excerpt
- f. PROST Commission Recommendation

**Submitted by:** Kylie Couch  
Water Conservation Specialist

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### **Summary Statement:**

On January 30 and March 12 of this year, Town staff provided the Board with updates on the draft of an amended section 2.14 of the Land Use Code regarding landscape design. Since then, staff has been working on finalizing the draft code.

### **Strategic Plan Alignment:**



Strategic, Reliable & Sustainable Infrastructure: Incorporating water conservation into land use and municipal code is discussed in the Town's 2022 Water Efficiency Plan. The Water Efficiency Plan aligns with the Town's dedication to investing in strategic, reliable, and sustainable infrastructure in supporting water conservation programs that will help create a sustainable future for the Town of Frederick.

### **Detail of Issue/Request:**

The update proposed here includes a full rewrite of section 2.14 of the Land Use Code, which prescribes landscape design for all land uses except parks and open space. This update is a result of collaboration between Planning, Engineering, Parks, and the Town Attorney's Office. An update for the parks and open space section of the Land Use Code, Section 2.11, is also in progress.

Updating the Town's landscape ordinances to support efficient water use is included in a number of the Town's planning efforts:

1. **2022 Water Efficiency Plan** identifies a landscape code update as one of the next steps the Town will take to conserve water.
2. **10-Year Water Supply Plan** assumes that outdoor conservation programs implemented over a 10-year period would be capable of reducing potable water demands by 5%, updating the Town's landscape ordinances will contribute to achieving this goal.
3. **Long-Term Water Supply Plan** assumes 5 – 20% decrease in outdoor water use as part of water planning scenarios.
4. **Growing Water Smart Workshop** – In May 2023, Planning and Engineering attended the Growing Water Smart Workshop. This workshop focuses on the intersection of land use and water. The outcome of the workshop was an action plan which identified updating the Town's landscape code as an action item.

Updating the landscape code to promote water efficiency is critical to the security of our potable water supply, as water savings associated with decreased outdoor water use a part of the Town's water supply planning efforts.

**Existing residents will not be required to bring their landscaping into compliance with the new code.** The new code will contain standards for new development and give existing residents more flexibility in what they can do to make their landscaping more water efficient, if residents would like to make that change. Although the focus of the new code is new development, the Town provides numerous resources to existing residents to support water efficiency, including the Lawn Replacement Program, Garden In A Box Program, Slow the Flow, and Irrigation Controller and Appliance Rebates.

Per the feedback staff received during the January 30 and March 12 work sessions, the following items have been identified to support the adoption of new landscape code:

1. A webpage will be made available prior to adoption of the new landscape code containing resources for residents who are doing landscape conversions. This will include free landscape designs, a user-friendly online plant list, and guidance for installing plants and native grasses.
2. Staff is compiling information to send out to HOAs regarding the new landscape code.
3. Staff is planning on removing turf and installing a demonstration garden at the Wellness House. This project will begin this fall. This demonstration garden will provide the community with an example of what low water landscaping can look like on residential property and provide water savings on Town property.
4. Free gardening and waterwise training have been made available to community members in Summer 2024. Additionally, a Master Gardener has been scheduled to attend some community events this summer to provide the community with additional resources.

Town staff, the Town's Land Use Attorney, and the Town Attorney's Office have drafted landscape code that promotes water conservation and high-quality landscaping. There are two notable changes that have been made to the draft since staff last met with the Board:

1. The final draft incorporates the concept of hydrozoning into the code. Hydrozoning is the practice of clustering together plants with similar water requirements in an effort to conserve water. Plants are categorized into three categories: low, medium, and high hydrozone, with high hydrozone plants requiring the most water and low hydrozone plants requiring the least water. Traditional turf areas are considered high hydrozone. Previous drafts of this code update limited turf in landscaping, the final draft limits high hydrozones. This change is intended to give residents the flexibility to use lower water turf grasses instead of high-water turf. Incorporating hydrozone

requirements into the landscape code ties into the Town's water dedication requirements, adopted in August 2023, which identify hydrozones as one of the deciding factors in the amount of water required for dedication for development projects.

2. In March 2024 SB24-005 was signed into law. On and after January 1, 2026, the act prohibits the installation, planting, or placement of nonfunctional turf, artificial turf, or invasive plant species on commercial, institutional, or industrial property, common interest community property, or a street right-of-way, parking lot, median, or transportation corridor. Town staff recommends incorporating this state bill into this code update, with the exception of continuing to provide some flexibility for the installation of artificial turf on the aforementioned property types until this bill becomes effective on January 1, 2026.

The final draft includes the following changes:

1. **Residential:** Up to 50 percent of the landscaped area (the area excluding the driveway) in the front yard of a single-family detached, duplex, or multiplex residential form may be high hydrozone. *(No requirement or limitation for backyards.)*
2. **Non-Residential:** High hydrozones and non-functional turf are prohibited on commercial, institutional, or industrial property, common interest community property, or a street right-of-way, parking lot, median, and transportation corridors.
3. **Coverage with Living Plant Material:** Landscaped areas shall be designed such that a minimum of 50 percent coverage with living plant material and *not* inorganic or non-living material, such as wood or rock mulch.
4. **Artificial Turf:** Until January 1, 2026 - The Planning Director may approve the use of artificial turf on private nonresidential property when natural turf or alternative groundcover is not viable. Staff recommends this to accommodate specific uses, such as beer gardens or dog daycares, where artificial turf may be the more appropriate choice for landscaping in an outdoor area.

Ultimately, the new code language will encourage aesthetically diverse landscaping in limiting the amount of allowable turf, promoting installation of low-water plants, and prohibiting landscaped areas from being covered exclusively in wood/rock mulch.

#### **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;

*Staff Response: N/A*

- (2) To provide for changes in administrative practices as may be necessary to accommodate changing needs of the community and the Town staff;

*Staff Response: The proposed changes to the Town's Land Use Code are intended to encourage water conservation in Frederick. Updating Section 2.14 of the LUC is identified as a goal in the Town's Water Efficiency Plan and associated water savings are built into the Town's Long Term Water Supply Plan.*

- (3) To accommodate innovations in land use and development practices that were not contemplated at the adoption of this Code; or

*Staff Response: Generally, municipalities in Colorado are incorporating water conservation into land use and development practices to address issues with limited water supply. This is vital as land use and development policy are at the forefront of balancing water supply and water demand.*

- (4) To further the implementation of the goals and objectives of the Comprehensive Plan.

*Staff Response: Water conservation is identified as an objective of the Comprehensive Plan.*

**Public Notice:**

This project was properly noticed according to the requirements found in C.R.S. §24-6-402(2)(c).

**Legal/Political Considerations:**

This code update has been drafted and reviewed by Engineering, Planning, Parks, and the Town Attorney's Office.

**Staff Recommendation:**

Staff recommends the Planning Commission recommend approval of the Land Use Code amendments to the Board of Trustees.

**Alternatives/Options:**

**Approval:**

I move to approve PCR-2024-05, recommending to the Town Board of Trustees that the proposed Land Use Code Section 2.14 be adopted.

**Approval with Conditions:**

I move to approve PCR-2024-05, recommending to the Town Board of Trustees that the proposed Land Use Code Section 2.14 be adopted with the following conditions (list the conditions).

**Denial:**

I move to deny PCR-2024-05, recommending to the Town Board of Trustees that the proposed Land Use Code Section 2.14 not be adopted.

TOWN OF FREDERICK, COLORADO  
ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE TOWN OF FREDERICK, COLORADO TO AMEND THE FREDERICK LAND USE CODE TO UPDATE LANDSCAPING PROVISIONS AND PROVIDE RELATED DEFINITIONS BY AMENDING SECTION 1.15, DEFINITIONS, AND SECTION 2.14, LANDSCAPE DESIGN, AND PROVIDING FOR REPEALER, SEVERABILITY, AND EFFECTIVE DATE.

WHEREAS, the Town of Frederick is in the process of updating its comprehensive plan and revising its Land Use Code; and

WHEREAS, during the process, the Board of Trustees determined that interim amendments to the existing Land Use Code to update and modernize the landscaping provisions would provide immediate public benefits in terms of enhancement of community character and conservation of water; and

WHEREAS, the Board of Trustees intends that the interim updates to the landscaping provisions, with adjustments as appropriate, will be incorporated into the revised Land Use Code when it is complete; and

WHEREAS, on \_\_\_\_\_, the Town of Frederick Planning Commission reviewed the proposed amendments to the Land Use Code and upon such review, recommended that the Board of Trustees adopt the same; and

WHEREAS, on \_\_\_\_\_, the Town of Frederick Parks, Recreation, Open Space and Trails Commission reviewed the proposed amendments to the Land Use Code and upon such review, recommended that the Board of Trustees adopt the same.

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF FREDERICK, WELD COUNTY, COLORADO, AS FOLLOWS

**Section 1.** Section 1.15, Definitions, Town of Frederick Land Use Code, is hereby amended to add definitions as follows (\* \* \* represents large blocks of text that are unchanged by this amendment):

**Sec. 1.15. Definitions**

Functional turf: Turf that is located in a recreational use area or other space that is regularly used for civic, community, or recreational purpose, which may include playgrounds; sports fields;

picnic grounds; amphitheaters; portions of parks; and the playing areas of golf courses, such as driving ranges, chipping and putting greens, tee boxes, greens, fairways, and roughs.

\* \* \*

Hydrozone: Landscape containing vegetation requiring similar water needs and exposure. For the purpose of this document, hydrozones are broken into three (3) categories. A hydrozone may be irrigated or non-irrigated. For example, a naturalized area planted with native vegetation that will not need supplemental irrigation once established is a non-irrigated hydrozone. In the Approved Plant List, if a plant is identified as being in more than one hydrozone, the higher hydrozone designation shall be used in the landscape and hydrozone plans.

<b>Hydrozone Classifications</b>		
<b>Hydrozone</b>	<b>Irrigation Water Required for an Average Year</b>	<b>General Land Use</b>
Low Hydrozone	0-6 gallons per sq. ft per year	Limited uses. Plant materials within this zone are typically drought-tolerant natives used to provide visual interest, habitat, and ecological services.
Medium Hydrozone	6-12 gallons per sq. ft per year	Limited uses. Plant materials within this zone are typically drought-tolerant natives used to provide visual interest, habitat, and ecological services.
High Hydrozone	12-18.70 gallons per sq. ft per year	High pedestrian traffic areas. Plant materials within this zone are intended for high-pedestrian traffic areas such as athletic fields or community gathering spaces. There are limits to the amount of high water use plant materials that may be used.

\* \* \*

Landscaped area: The area within a lot or property not comprised of impervious surfaces, measured at the ground plane. Landscaped area will not include bare dirt or weeds. Landscaped area will consist of living groundcover, including turf or other groundcover, or shrub bed area that is permanently irrigated.

\* \* \*

Nonfunctional turf: Turf that does not meet definition of functional turf found in this code.

\* \* \*

Planting season: The period from March 15 to June 15 and the period from September 1 to October 15 of any calendar year.

**Section 2. Amendment of Section 2.14, Landscape Design.** Section 2.14 is replaced in its entirety and renamed “Landscaping and Buffering.”

## **Section 2.14. Landscaping and Buffering**

### **Section 2.14.1. Purpose and Intent; Applicability; Landscape Plan Required; Landscape Design Principles.**

#### Sec. 2.14.1.1. Purpose and Intent.

- a. *Purpose.* The purpose of this Article is to establish minimum landscaping and buffering requirements.
- b. *Intent.* The intent of this Article is to preserve and enhance the Town’s special character, and integrate new development into the community by promoting high quality landscape design that:
  - (1) Reinforces the identity of the community and each neighborhood;
  - (2) Provides tree-lined and landscaped streets, which contribute to the safety of pedestrians and motorists;
  - (3) Contributes to desired community character by softening the visual impacts of buildings and development, breaking up the appearance of building mass, and providing contextually appropriate balances among landscaping, buildings, and paved areas;
  - (4) Screens unsightly land uses and structures from view from public rights-of-way and neighboring residential properties and contributes to the mitigation of off-site impacts including dust, noise, and external lighting;
  - (5) Provides tree canopies over, and landscaping within, paved areas, to enhance community aesthetics, reduce the urban heat island effect, and slow stormwater runoff;
  - (6) Preserves existing trees, conserves and efficiently utilizes water, prioritizes the planting of native species, and enhances valuable habitat, all of which promote natural resource stewardship;
  - (7) Promotes health, wellness, community vitality, interest, public safety, and physical comfort; and
  - (8) Provides for structured and non-structured recreation areas.

#### Sec. 2.14.1.2. Applicability.

The standards of this Article apply to all new development, redevelopment, or substantial improvements to existing sites or buildings.

Sec. 2.14.1.3. Landscape Plan, Hydrozone Plan, and Irrigation Plan Required.

- a. *Applicability and exceptions.*
  - (1) All land development or redevelopment applications shall be accompanied by an appropriate site analysis, landscape plan, hydrozone plan, and irrigation plan. Building permit applications for individual single-family residences will not require landscape plans, hydrozone plans, or irrigation plans, but landscaping on properties designated for single-family residences shall comply with applicable requirements of this Article.
  - (2) Any portion of existing landscaping that is renovated and requires an irrigation system shall comply with this Article. Renovations include expansions and rehabilitation of landscape materials (except pruning) and components installed (except replacement of rocks or mulch) prior to the adoption of these regulations.
- b. *Landscape plan, hydrozone plan, and irrigation plan requirements.*
  - (1) All final and approved landscape plans shall be developed and stamped by a professional Landscape Architect who is licensed by the State Board of Landscape Architects, or an equivalent approved by the Director. Landscaping improvements on a lot used for single-family detached or duplex purposes are exempt from this requirement, except as may be provided in an agreement between the Town and the developer.
  - (2) All landscape plans, hydrozone plans, and irrigation plans shall follow requirements outlined in Town of Frederick Development Application User Guides.
  - (3) Landscape, grading, and utility plans shall be coordinated to ensure consistency.

Sec. 2.14.1.4. Landscape Design Principles

- a. *Application of Landscape Design Principles.* The landscape design principles of this Section are intended as guidelines for landscape design. They are not intended to be applied to require more landscape material or larger setbacks or buffers than otherwise required by this Code. However, the Town may request redesign or alternative arrangement of required landscaping to optimize the application of these principles.
- b. *General Landscape Design Principles.* Landscape plans shall be guided by the following design principles:
  - (1) Building orientation, site design, and planting schemes should address climatic and micro-climatic conditions to promote the wise use of water and energy resources;

- (2) Plant and turf selection and placement should focus on minimizing energy, water use, and maintenance requirements;
- (3) Soil moisture should be maintained, and evaporation reduced, through the optimal use of layered landscaping (e.g., organic mulch, ground cover, shrubs, grasses, and overstory landscaping);
- (4) Plant materials should be organized into hydrozones according to microclimatic needs and water requirements;
- (5) Soil should be augmented as needed to promote plant health and longevity;
- (6) Irrigation systems should be efficient, with weather and rain gauges to minimize resource consumption, waste, and optimize the efficiency of water use;
- (7) Landscapes should be attended to with appropriate maintenance, care, and irrigation schedules;
- (8) Where landscaping is adjacent to a transportation corridor, it should be designed to provide for the safety and comfort of all users of the transportation corridor, provide access to all ages and abilities, and reduce opportunities for illicit activity or behavior;
- (9) As appropriate to Colorado's climate and to the extent allowed by Colorado water law, materials (e.g., permeable pavers), systems, and landscape designs that minimize storm water runoff and maximize water infiltration while reducing the potential for non-point source groundwater pollution should be used;
- (10) Native species and natural drainage ways should be protected;
- (11) Landscapes should provide for seasonal variation in interest, as well as framing and buffering of views (as appropriate), and the careful placement of overstory and understory materials to mitigate winter winds and provide shade from summer sun;
- (12) Where a subject property is adjacent to a natural resource or amenity such as a flood plain, trail corridor, park, or other open space, the landscape plan should be designed to complement the natural character and integrity of the resource or amenity; and
- (13) Near natural streams and wetlands in particular, trees and shrubs should be preserved in the streamside zone and middle zone (within the floodplain), and grasses and groundcovers should be planted in the outer zone in order to filter runoff (see Figure 2.14.1.4).

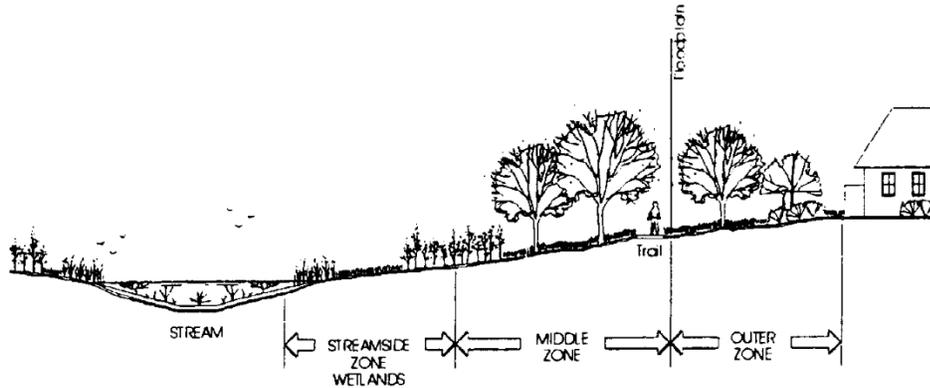


Figure 2.14.1.4

## Section 2.14.2. Landscape Requirements

### Sec. 2.14.2.1. Generally.

- a. *Coverage with living plant material.* Covering landscaped areas with living plant material aims to add color and versatility to outdoor landscapes. All distinct landscaped areas shall be designed with a minimum of fifty (50) percent coverage with living plant material at maturity (3 years). No more than fifty (50) percent may be non-living material, such as wood mulch and rock. Living plant materials can include shrubs, ornamental grasses, and turfgrass. Landscaped areas shall not be covered in native seed in the front of principal buildings, unless approved by the Director. Plant material shall be planted or installed as appropriate to meet the requirements of this Article and to stabilize soil and prevent erosion.
- b. *Artificial turf.* Artificial turf is prohibited in landscaped areas. The Director may approve the use of artificial turf on private nonresidential property if it is demonstrated that natural turf or alternative groundcover is not a viable alternative due to the nature or intensity of use of the area proposed to be covered by artificial turf.
- c. *Mulch.* Including wood mulch and rock mulch.
  - (1) Rock mulch placed within one foot of a sidewalk or vehicular use area must be contained with a border or be of a sufficient size that it will not travel onto the sidewalk or vehicular use area.
  - (2) Wood mulch placed within one foot of a sidewalk or vehicular use area must be contained with a border.
  - (3) Where used, mulch shall be applied over a weed control barrier to a depth of three (3) inches.
- d. *Drainage.* Landscaping improvements shall not alter the drainage pattern or amount of storm water run-off that is set out in the applicable, approved grading plan.

### Sec. 2.14.2.2. Size and Quality of Landscape Plants.

- a. *Size and quality of landscape plants.* In general, plant materials that are installed according to the requirements of this Article shall meet the standards that are set

out in this Section. However, the Town may require larger sizes as it determines necessary to ensure survival, or to implement a condition of approval of a limited use, a conditional use, or a requirement that is set out in an approved planned unit development document.

- b. *Shrubs.* When grouped three (3) or more, shall be installed in a shrub bed, which are defined as mulched planter areas.
- c. *Minimum size of landscape materials.* The minimum size of landscape materials used to satisfy the requirements of this Article are set out in Table 2.14.2.2, *Plant Material Requirements.*

<b>Table 17.2.2 PLANT MATERIAL REQUIREMENTS</b>	
<b>Plant Type</b>	<b>Minimum Planting or Installation Size</b>
Deciduous Shade Tree	1.5 inch caliper measured 6 inches above ground
Deciduous Ornamental Tree	1 inch caliper measured 6 inches above ground; or multi-stemmed clump form with minimum height of 4 feet
Evergreen Tree	6 feet height
Evergreen and Deciduous Shrubs	5 gallon container
Ornamental Grasses and Perennials	1 gallon container
Ground Covers and Vines	1 gallon container

- d. *Specification of landscape materials.* All plant material shall be true to type, form, species, quality, and free of injury, broken root balls, pests, and diseases, as well as conform to the minimum requirements described in “American Standards for Nursery Stock” (ANSI Z60.1), published by AmericanHort, as may be amended from time to time, and follow the Green Industries of Colorado (“GreenCo”) Tree Planting Recommendations, as may be amended from time to time. Plant materials shall have normal, well-developed branches and vigorous root systems.

Sec. 2.14.2.3. Selection and Arrangement of Plant Material.

- a. *Water Conservation Required.* All landscaping plans shall be designed to incorporate water conserving materials and techniques, including low-water use and native plants, hydrozoning, and efficient irrigation systems. Water conservation does not include or allow artificial turf or plants, large mulched (including gravel) beds, or areas without landscape plant material, paving of areas that are 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 Article.
- b. *Tree spacing.* Trees shall be spaced as outlined in this Section. Exceptions to these requirements may be approved by the Director where utilities are not located in their standard designated locations, or where the landscape design is otherwise incompatible with existing and planned utility installations. Tree and utility separations shall not be used as a means of avoiding the planting of required street trees.
- (1) Tree spacing shall allow for adequate growth of plants at maturity and for intersection visibility.
  - (2) Spacing from street lights:
    - (a) Deciduous shade trees and evergreen trees that reach a mature height of fifteen (15) feet or larger shall be located a minimum forty (40) feet from street lights.
    - (b) Deciduous ornamental trees and evergreen trees that reach a mature height of less than fifteen (15) feet shall be located a minimum of fifteen (15) feet from street lights.
  - (3) Spacing from utilities:
    - (a) Trees shall be spaced fifteen (15) feet from water and sewer mains and gas collection lines, six (6) feet from water, sewer, and gas service lines, and ten (10) feet from fire hydrants.
    - (b) Trees that reach a mature height of more than twenty-five (25) feet shall not be planted within twenty (20) feet of an overhead utility line.
- c. *Sight distance triangles.* Landscaping near pedestrian and vehicle intersections shall meet sight triangle requirements as noted in the *Town of Frederick Design Standards and Construction Specifications*.
- d. *Approved plant species.* The Director shall maintain and periodically update an Approved Plant List, which shall identify approved plant species (including references to family and genus) that may be used to demonstrate compliance with the requirements of this Article. The Director shall also maintain an Approved Street Tree List, which shall identify approved tree species that are permitted for use in right-of-way landscaping.
- e. *Prohibited plant species.* The Director shall maintain and periodically update a Prohibited Plant List, which shall identify plant species that are prohibited in the Town of Frederick (or prohibited in certain locations as may be specified).
- f. *Plant selection.* Plants shall be selected from the approved plant list. The Director may approve or approve with conditions other plants if the Director finds that they are low-maintenance, non-invasive, drought-tolerant, water-wise, and otherwise appropriate for use in the locations in which they are proposed.
- (1) Native, drought-tolerant, and water-wise plants and turf shall be used where practicable.
  - (2) Plants shall be compatible with project soils.

- g. *Required biodiversity.* 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-turf plant materials on site.

Sec. 2.14.2.4. Tree Preservation Credits.

- a. *Applicability and exceptions.* Existing trees that are preserved on a subject property count towards the planting requirements of this Article, provided that the applicant selects a Consulting Arborist, registered with the American Society of Consulting Arborists, or Certified Arborist, registered with the International Society of Arboriculture, to create a Tree Preservation Plan using the most recent version of the Guide for Plant Appraisal published by the International Society of Arboriculture. The Tree Preservation Plan must be submitted to the Town detailing the following:
  - (1) Existing trees are established for at least five (5) years and not a species that is prohibited by this Article; and
  - (2) Existing trees are not overmature, diseased, poor in form, leaning heavily over buildings, too close to building foundations, damaging sidewalks and driveways, or impacting utilities.
- b. *Protected Trees.* Existing significant trees (six (6) inches and greater in diameter) within development area and within natural habitat buffer zones shall be preserved to the extent reasonably feasible and may count as tree preservation credits. Such trees shall be considered “protected” trees. Streets, buildings, and lot layouts shall be designed to minimize the disturbance to significant existing trees. All required landscape plans shall accurately identify the locations, species, size, and condition of all significant trees, each labeled showing the applicant’s intent to either remove, transplant, or protect. Where it is not feasible to protect and retain significant existing tree(s) or to transplant them to another on-site location, the applicant shall replace such tree(s) in addition to satisfying the tree planting standards of this Section. To the extent reasonably feasible, replacement trees shall be planted on the development site or, if not reasonably feasible, in the closest available and suitable planting site on nearby public or private property.
- c. *Calculation of credits.* Preserved trees may count as more than one (1) tree for the purposes of the landscaping requirements of this Article, as set out in Table 2.14.2.4, *Tree Preservation Credits*.

<b>Table 2.14.2.4</b>		
<b>TREE PRESERVATION CREDITS</b>		
DBH of Tree to be Preserved		

Min. Diameter (Inches)	Up to, But Not Including	Tree Credit	Landscaped Area Where Credit May Be Applied
None	10 inches	1	Location of preserved tree
10 inches	15 inches	2	Location of preserved tree
15 inches	20 inches	3	Location of preserved tree, or any other location except a buffer
20 inches	No limit	5	Location of preserved tree, or any other location except a buffer.

- d. *Restrictions within dripline or critical root zone of trees used for credit.* Construction activities around trees that are used for credit pursuant to this Section are restricted, within the larger of the perimeter of the dripline or the critical root zone.
- (1) The following construction activities are prohibited:
    - (a) Cutting or filling;
    - (b) Storage of building materials or debris;
    - (c) Disposal of waste;
    - (d) Installation of buildings, structures, or impervious paving.
  - (2) The larger of the dripline or the critical root zone shall be barricaded during construction to prevent damage to the preserved trees and their roots by construction equipment.

### Section 2.14.3. Landscaping Categories and Calculations

#### Sec. 2.14.3.1. Landscaping Categories.

- a. *Categories established.* This Article establishes standards for four (4) categories of landscaping:
  - (1) *Site landscaping.* Site landscaping is the landscaping that is required on a subject property, excluding parking lots and right-of-way landscaping.
  - (2) *Gateway Landscaping.* Gateway landscaping establishes a landscaped buffer for developments adjacent to arterial streets.
  - (3) *Parking lot landscaping.* Parking lot landscaping is the required landscaping within and on the boundaries of surface parking lots.
  - (4) *Right-of-way landscaping.* Right-of-way landscaping is landscaping that is required within public street rights-of-way or adjacent to public street rights-of-way as provided in this Article.
- b. *Designation of categories on landscape plans.* Landscape plans shall delineate areas within the subject property to which each applicable landscaping category applies and shall provide a table showing the number square feet of land within

each landscaping category and the proportion of the subject property (expressed as a percentage) occupied by each landscaping category.

Sec. 2.14.3.2. Calculations.

- a. *Counting areas.* No area of a subject property shall be counted more than once for the purposes of applying landscaping requirements unless specifically exempted below.
- b. *Minimum required landscaping.* The minimum required landscaped area of a given multifamily or non-residential property shall be fifteen percent (15%) of the lot area. The areas eligible to be counted toward this minimum are site landscaping and buffer landscaping that are provided within the boundaries of the subject property. Front yards of single-family, duplex, and multiplex properties shall be landscaped and such landscaping shall follow the requirements set out in section 2.14.3.3. On these lots, the front and side yards are considered the landscaped area. All landscaped areas must meet minimum standards found in section 2.14.3.3.b.(1) of this article.
  - (1) *Areas that shall not be included toward required site landscaping:*
    - (a) Areas within and extending up to fifteen (15) feet from plazas, play fields, golf greens and fairways, or other outdoor gathering spaces or recreation areas, the use of which would be diminished by the presence of trees;
    - (b) Areas within designated outdoor storage areas;
    - (c) Areas within, and within five (5) feet of, irrigation ditch property or easements, or within thirty-five (35) feet of the outer toe of the ditch bank if the easement does not have delineated boundaries;
    - (d) Areas used for agriculture or gardens;
    - (e) Wetlands and waterbodies;
    - (f) Areas where ground-mounted solar panels (of any type) are installed, and any areas around them that must be kept clear of vegetation to avoid shading of the panels in order to optimize their use;
    - (g) Permeable areas that are less than eighty (80) square feet that are enclosed by any combination of buildings, structures, impermeable surfaces such as asphalt or concrete; and
    - (h) Areas in which the soils or topography are not suitable for the establishment and growth of healthy trees, and that cannot reasonably be made suitable using soil amendments or grading. Soil and topography must be appropriate for plant species.
    - (i) No more than forty (40) percent of the area of vegetated stormwater detention ponds and stormwater retention ponds may

be counted toward the minimum required landscaped area of a site. This percentage shall be calculated based on the plan view of the stormwater retention pond.

Sec. 2.14.3.3. Site Landscaping.

- a. *Applicability and exceptions.* Site landscaping is required as set out in this section. The standards of this section apply in all zoning districts except D-A.
- b. *Use Specific Landscape Requirements.*
  - (1) *Residential – Single-Family/Duplex.*
    - (a) High hydrozones. No more than fifty percent (50%) of the landscaped area shall be high hydrozone.
    - (b) Coverage with living plant material. Refer to Section 2.14.2.1.a.
    - (c) Trees. A minimum of one (1) tree per single-family/duplex lot shall be required to be planted within the front yard.
    - (d) Shrubs. A minimum of five (5) shrubs per single-family/duplex lot shall be required. Corner lots shall have five (5) additional shrubs placed in the side yard when practical.
  - (2) *Residential – Multifamily.*
    - (a) High hydrozones. No more than thirty percent (30%) of the landscaped areas shall be high hydrozone.
    - (b) Coverage with living plant material. Refer to Section 2.14.2.1.a.
    - (c) Trees. A minimum of one (1) tree for every fifteen hundred (1,500) square feet of required landscaped area shall be required.
    - (d) Shrubs. A minimum of one (1) shrub for every one hundred fifty (150) square feet of required landscaped area shall be required.
  - (3) *Non-Residential.*
    - (a) High hydrozones. High hydrozones are prohibited on non-residential properties, unless otherwise approved by the Director.
    - (b) Nonfunctional turf. Nonfunctional turf is prohibited in commercial, institutional, industrial, and common interest community property.
    - (c) Coverage with living plant material. Refer to Section 2.14.2.1.a.
    - (d) Trees. A minimum of one (1) tree for every fifteen hundred (1,500) square feet of required landscaped area shall be required.
      - i) Areas within vegetated stormwater detention ponds and stormwater retention ponds that are counted towards landscaping requirements shall be used for the calculation of tree planting requirements. However, the resulting required trees shall be planted elsewhere on the subject property.
      - ii) Waiver or reduction of tree planting requirements. The Director may waive or decrease planting requirements if the total number of trees that are required exceeds the number that can be reasonably planted on the subject property without materially increasing fire risk,

compromising the health of the trees, or diminishing the use of the property.

- iii) Shrubs. A minimum of one (1) shrub for every one hundred fifty (150) square feet of landscaped area shall be required.
- (4) All existing development previously approved through a site plan shall be allowed to remain with existing amounts of high hydrozone plants.

#### Sec. 2.14.3.4. Gateway Landscaping.

- a. *Applicability.* Gateway landscaping for all developments adjacent to all arterials is required as set out in this section.
- b. *High hydrozones.* High hydrozones are prohibited in gateway landscaping.
- c. *Nonfunctional turf.* Nonfunctional turf is prohibited in commercial, institutional, industrial, or common interest community property.
- d. *Coverage with living plant material.* Refer to Section 2.14.2.1.a.
- e. *Criteria.* A minimum gateway landscaping of thirty (30) feet shall be provided and measured from the right-of-way line.
  - (a) No building or parking lot shall be permitted within gateway landscaping.
  - (b) Signage may be included in gateway landscaping, provided that it conforms to Article 7 of the Land Use Code and applicable site triangle requirements.
  - (c) Gateway landscaping may be reduced to fifteen (15) feet if used in combination with a masonry wall between three (3) and four (4) feet in height. The wall shall be articulated every fifty (50) feet per the standards set forth in Section 2.16 of this Code. Fifty (50) percent of the gateway landscaping shall be located between the masonry wall and the adjacent right-of-way.
  - (d) *Trees.* A minimum of one (1) tree for every fifteen hundred (1,500) square feet of landscaped area shall be required.
  - (e) *Shrubs.* A minimum of one (1) shrub for every 150 square feet of landscaped area shall be required.
- (2) Gateway landscaping may count toward the site landscaping requirement per 2.14.3.2, when applicable.

#### Sec. 2.14.3.5. Parking Lot Landscaping.

- a. *Purpose.* Parking lot landscaping shall break up expanses of pavement, provide shade, buffer views of parking lots from adjacent streets and development, and enhance the overall appearance of each project.
- b. *Applicability and exceptions.* All parking lots with ten (10) spaces or more, on a single lot, excluding the Downtown zoning districts, shall be subject to the requirements of this Section. Parking lot landscaping requirements are in addition to any other landscaping that may be required for the site.

- c. Trees and shrubs shall not interfere with driver visibility of pedestrians or drive-aisle traffic.
- d. Turfgrass, native seed, artificial turf, and high hydrozones are prohibited in parking lot landscaping.
- e. Mulch shall be sufficiently contained within parking lot islands.
- f. Coverage with living plant material. Refer to Section 2.14.2.1.a.
- g. Required site landscaping set out in section 2.14.3.3 shall be installed around the perimeter of parking lots to provide screening from adjacent streets and development, when feasible. Landscape for screening purposes is recommended to be within ten (10) feet of parking lot edge.
- h. *All developments shall provide:*
  - (1) A minimum of one parking lot island per ten (10) contiguous spaces.
  - (2) Every parking lot island shall have a minimum of one (1) shade tree and five (5) shrubs.
  - (3) Parking lot islands shall be at minimum the same dimensions as the adjacent parking stall(s).
  - (4) All rows of parking spaces shall terminate in a parking lot island, regardless of the number of contiguous spaces.

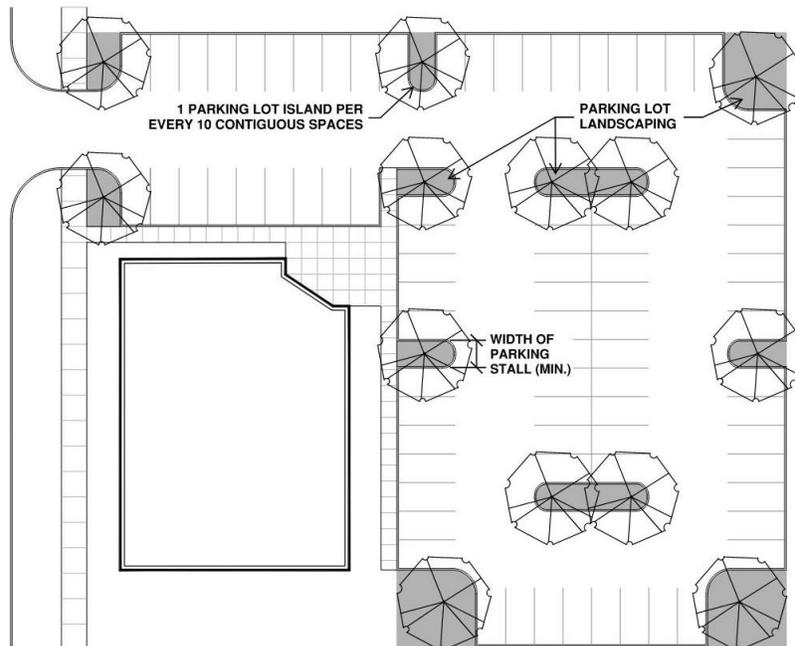


Figure 2.14.3.5

- i. The Director may waive the planting requirements of this Section, or allow the landscaping to be planted in an alternative location on the subject property (if reasonably available), for any particular landscaped area or portion thereof if:
  - (1) The tree(s) will interfere with sight triangles that are necessary for safe ingress to or egress from the parking lot;
  - (2) The tree(s) are in conflict with utilities and or parking lot lighting;
  - (3) The landscaped area is part of a stormwater conveyance system, and is not suitable for tree planting.

Sec. 2.14.3.6. Right-of-Way Landscaping.

- a. *Applicability and exceptions.* Landscaped areas within the right-of-way shall be provided as set out in this Section. The Town Engineer, after consultation with the Director, may waive or modify the requirements of this Section in order to resolve conflicts with utilities or street design requirements. Such waivers or modifications shall minimize reductions in the overall number of trees required by this Article, and tree plantings outside the right-of-way may be used to mitigate necessary reductions in the right-of-way landscape requirements adjacent to a subject property. Additional exceptions include:
  - (1) Right-of-way landscaping is not required in the Agricultural (A) zone district and Residential Estate (RE) zone district.
  - (2) In locations where a landscape master plan has been approved by the Town landscaping shall be consistent with the approved master plan.
  - (3) Roads intersecting with the I-25 Frontage Roads are not required to have landscaped medians; however, the other applicable requirements of this Section shall apply along the I-25 frontage.
- b. Street corridors should feel cohesive. The selection and placement of plant materials shall enhance the aesthetic character of the corridor and adjacent properties. Rhythmic spacing and the use of a variety of tree species is encouraged to meet the intent of this standard.
- c. *Permitted Tree Species.* See Approved Street Tree List.
- d. *High hydrozones.* High hydrozones are prohibited within right-of-way landscaping.
- e. *Nonfunctional turf.* Nonfunctional turf is prohibited within street right-of-way, median, and transportation corridor landscaping.
- f. *Mulch.* Wood mulch is prohibited in right-of-way landscaping except up to four (4) feet around trees and shrubs.
- g. *Tree lawns.* Landscaped areas within the right-of-way along arterial, collector, and local streets shall be installed by the developer and shall include street trees, coverage with living plant material (shrubs, ornamental grass, or perennials), and mulch.
  - (1) Coverage with living plant material. Refer to Section 2.14.2.1.a.
  - (2) *Street trees.*
    - (a) *Minimum number of street trees.* One (1) deciduous shade tree for every forty (40) linear feet of road frontage or curb shall be provided.
    - (b) *Location.* Street trees shall be planted within the tree lawn portion of the right-of-way. Where a tree lawn is not available within the right-of-way or when it is not feasible or practical to place trees in the tree lawn street trees shall be planted on the subject property within ten (10) feet of the right-of-way boundary, if this is not feasible, street trees shall be replaced with shrubs at a rate of ten (10) shrubs per eligible tree.

- (c) *Spacing.* Street trees shall be spaced evenly, with adequate spacing to allow for the mature spread of the trees. The linear spacing of the street trees may be altered based on the character of the streetscape or to avoid utilities, site triangles, and curb cuts.
    - (d) *Rights-of-way adjacent to parks and open space.* Street trees that are required to be located along parks and open space shall conform to the requirements of Section 2.11.4(a).
  - h. *Medians.* Not less than one half of the required median shall consist of landscaped area, which shall include trees, shrubs, and rock mulch.
    - (1) *Coverage with living plant material.* No required coverage.
    - (2) *Medians in arterial streets.* Medians in arterial streets shall follow the street tree requirement in this section. Any additional living material is prohibited.
    - (3) *Medians in streets other than arterials.* Medians in streets other than arterials shall follow the street tree and shrub requirements in this section.
    - (4) *Street Trees.*
      - (a) *Minimum number of trees.* There shall be a minimum one (1) tree for every forty (40) linear feet of median. Fewer trees may be placed if the Director determines that such reduction will ensure that views of significant cultural, economic, or natural features are preserved and framed.
      - (b) *Spacing.* Trees shall be spaced evenly, with adequate spacing to allow for the mature spread of the trees.
    - (5) *Shrubs.* Shrubs shall be provided at a ratio of one (1) shrub per seventy-five (75) square feet of landscaped area.
  - i. *Roundabouts.* Roundabouts should be appropriately landscaped to conserve water, minimize maintenance, promote traffic calming, and maintain visibility for safe pedestrian circulation while enhancing and complementing the aesthetic character of the adjacent properties. The use of boulders, variation of rock mulch, artistic vertical elements, and berming are encouraged to meet the intent of this standard.

#### **Section 2.14.4. Installation and Maintenance Standards.**

##### Sec. 2.14.4.1. Timing of Installation; Surety.

- a. *Generally.* All approved and required landscaping outside of individual lot landscaping (e.g., subdivision outlots, pocket parks, subdivision open space, right-of-way tree lawns, etc.) shall be installed as stipulated in a development agreement with the Town prior to final acceptance of public improvements. 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 (in the case of residential development) Certificate of Occupancy, as applicable, or final inspection.
- b. *Seasonal Delays.* In no event shall landscaping be delayed beyond seven months from issuance of a Temporary Certificate of Occupancy or three weeks into the beginning of the next planting season, whichever is sooner.

- c. *Surety*. If landscaping is not installed at the time of Temporary or Final Certificate of Occupancy, then the developer shall post a financial guarantee for the installation of the improvements, based on one hundred twenty-five percent (125%) of the estimated total cost of installation. The estimated total cost of installation shall include all labor, materials, and necessary activities required for installation of the approved landscaping. The Town will release the guarantee after installation of improvements following a passed final inspection.

#### Sec. 2.14.4.2. Maintenance.

- a. All landscaping elements and irrigation equipment shall be maintained in good condition. Ongoing maintenance, including but not limited to pruning, replacement of dead or unhealthy plantings, and replenishment of mulches, is required for areas that are landscaped pursuant to an approved landscape plan.
- b. Right-of-Way Landscaping Maintenance. All property owners or occupants shall be jointly and severally responsible for the maintenance of landscaping within the portion of the public right-of-way between the back of the curb or street pavement and their adjacent property, unless otherwise specified in a maintenance agreement.
- c. Tree Pruning Techniques.
  - (1) All pruning of trees shall be performed in accordance with ANSI A300, Part 1 (Pruning), as amended from time to time, and Tree Pruning Best Management Practices or Best Management Practices - Utility Pruning of Trees, as applicable (published by the International Society of Arboriculture), as either may be amended from time to time.
  - (2) Other Private Property. The following pruning techniques are prohibited on trees that are preserved or planted pursuant to an approved landscape plan, and that are not otherwise subject to subsection a., above:
    - (a) Topping (cutting large vertical branches of the tree to reduce its height).
    - (b) Tipping (cutting branches between nodes).
  - (3) Bark ripping (cutting branches so that the bark rips when the branch falls).
  - (4) Flush cuts (cutting the branch too close to the collar, the area where the branch connects to the tree).
  - (5) Stub cuts (cutting branches too far away from the collar, the area where the branch connects to the tree).

### Section 2.14.5. Irrigation Requirements

#### Sec. 2.14.5.1. Irrigation.

- a. *Generally*. All required landscaping shall be irrigated as required for plant establishment, health, and maintenance. The developer shall install irrigation systems that conform 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.

- (1) 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.
  - (2) Irrigation systems shall be capable of supporting multiple zones and settings, including adjusting for weather conditions and water restrictions.
  - (3) All irrigation systems shall have central control.
  - (4) All irrigation systems shall be connected to a back flow prevention device.
- b. *Irrigation water.* The developer or property owner shall provide water taps, irrigation improvements, and dedicate water as needed to supply the landscaping. Use of non-treated water for irrigation is encouraged if a permanent, suitable supply is available.
- c. *Temporary irrigation.* 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.

**Section 3.** **Codification Amendments.** The codifier of the Frederick Land Use Code is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of this ordinance into the Frederick Land Use Code.

**Section 4.** **Repealer.** All ordinances or resolutions, or parts thereof, in conflict with this Ordinance are hereby repealed, provided that such repealer shall not repeal the repealer clauses of such ordinance nor revive any ordinance thereby.

**Section 5.** **Severability.** 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 6.** **Effective Date.** This Ordinance shall be published and become effective as provided by law.

**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 the passage of this Ordinance 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 \_\_\_\_  
DAY OF \_\_\_\_\_, 2024.

ATTEST:

TOWN OF FREDERICK

By:

\_\_\_\_\_  
Town Clerk

By:

\_\_\_\_\_  
Tracie Crites, Mayor

**PCR-2024-05**

**A Resolution of the Planning Commission**

**Recommending Approval of an Amendment to Town of Frederick Land Use Code Section 2.14**

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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 Section 2.14 to landscaping and buffering regulations are necessary in order to provide immediate public benefits in terms of enhancement of community character and conservation of water within the Town.
  - 1.2 Said amendments generally conform with the applicable requirements of Section 4.7.9.b. of the Frederick Land Use Code regarding amendments to the Code.
  - 1.3 Said Code update was reviewed and recommended for approval by the Town of Frederick PROST Commission on August 14, 2024.
- Section 2. This Resolution constitutes the written report, findings, and decision of the Town of Frederick Planning Commission.
- Section 2. On the basis of the above, the Town of Frederick Planning Commission recommends adoption of the update to Land Use Code Section 2.14.

This resolution approved this 28 day of August, 2024 by a vote of \_\_\_ to \_\_\_.

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Tracy Moe, Chairperson, Planning Commission

Infrastructure costs to implement the potable conversion project are still being evaluated by Town staff. For comparison against other projects under consideration, a planning-level cost of \$4.3 million for infrastructure was used based on information in the 2008 Plan.<sup>10</sup> This planning-level analysis indicates that the cost to implement the potable conversion project is approximately \$94,000/AFY of demand reduction.

### 3.2.4 OUTDOOR CONSERVATION

The Town is evaluating opportunities to reduce potable demands through outdoor conservation programs that will be implemented under the forthcoming 2021 WEP update; however, preliminary planning-level demand reduction values have been incorporated into the 10-Year Water Resources Plan analyses for comparison against other projects. It has been assumed that outdoor conservation programs implemented over the 10-year planning period would be capable of reducing outdoor potable demands by 5%, which would result in a demand reduction of approximately 100 AFY in 2030.

A robust water conservation program would be necessary to achieve outdoor demand reductions on the order of 5% over the 10-year planning period. It is also important that the selected programs continue to be implemented over time so that the savings are maintained. Following are examples of the types of measures being evaluated with Town staff.

- Improved utility water loss control.
- Rebates for landscape irrigation technology such as irrigation controllers that adjust watering due to actual weather conditions.
- Landscape water budgets and water rates tied to each customer's budget.
- Turf replacement incentive program.
- Water-efficient landscape ordinances for new construction, redevelopment, and municipal facilities.

The preliminary annual budget for implementing the outdoor conservation program is estimated at \$200,000 per year in 2022 and \$450,000 per year in subsequent years through 2030 with adjustments for inflation. These planning estimates are based on a review of six recent WEPs published by Colorado Front Range utilities and include a combination of program and infrastructure costs.<sup>11</sup> The planning estimate includes the addition of a full-time equivalent staff person to focus on implementing the selected programs, as success is unlikely without a dedicated staff member.

The total planning-level cost for the outdoor conservation program over the 10-year planning period is \$4.3 million. This indicates that the cost to implement this project is approximately \$43,000/AFY of demand reduction; however, the costs would be ongoing beyond the 2030 planning horizon. The projected costs will be further refined as part of the WEP and Long-Term Water Resources Plan.

## 3.3 POTABLE ALTERNATIVES

The Town's current C-BT and Windy Gap supplies are insufficient to meet the projected potable demands through 2030. Four alternative combinations of the projects described above in Section 3.2 (Alternatives 1 – 4) were originally prepared for consideration by Town staff and the Board of

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<sup>10</sup> Based on information in the 2008 Raw Water Infrastructure Master Plan to construct Systems B, E, and F, adjusted by inflation for this report.

<sup>11</sup> Implementation of certain types of water loss control projects could far exceed these costs and are not accounted for in this plan.

TOWN OF FREDERICK LONG-TERM WATER RESOURCES PLAN

- **Non-residential growth:** The Town’s planning department provided information about the amount of non-residential developed space that is expected at buildout, which was used to calculate the amount of future non-residential development. Non-residential developed space was projected to increase at a 2.5% annual growth rate under all of the Town’s planning scenarios, reaching the maximum level of development around 2060.
- **Non-residential indoor conservation:** As described in the Technical Update, it is impractical to develop non-residential indoor water usage benchmarks due to variations in customer types, developed space, and water use characteristics for commercial and industrial water customers. However, some amount of reduced indoor water use may be possible through future advances in fixture and appliance technology. Accordingly, the Town’s planning scenarios applied non-residential indoor water use reductions ranging from 0% to 5% from the baseline water use factors. Therefore, depending on the scenario, a certain percentage reduction is applied to the non-residential indoor baseline water use factor (AFY/unit) based on future indoor efficiency assumptions.
- **Outdoor water conservation:** Future outdoor water use may be reduced due to advances in irrigation system technology as well as more rigorous regulations should they be adopted by the Town. The Town’s recent 2022 WEP focuses on developing outdoor water efficiency programs in the shorter-term and future plan updates were assumed to continue advancing this effort. Actual outdoor water savings will be dependent on the outdoor efficiency programs, the regulations adopted by the Town, and the engagement level of customers. To reflect varying levels of water use reductions through efficiency programs, the Town’s planning scenarios applied outdoor water use reductions ranging from 5% to 20%.
- **Climate adjustment factor:** Future changes in climate are assumed to affect future outdoor water use, with warmer and drier conditions increasing evapotranspiration rates, extending growing seasons, and influencing customers to apply more water to outdoor use for longer periods. Climate drivers were prepared by County in support of the Technical Update for “In Between” and “Hot and Dry” conditions in the year 2050. Based on information prepared for the Technical Update for Weld County, the Town selected a climate adjustment factor of 14% that was applied to increase all outdoor water use in one of the scenarios. Climate change studies typically represent the impacts of climate change at a future point in time relative to current conditions rather than as an annual rate of impact. For illustrative purposes, the analysis assumes that the 14% increase is evenly distributed through 2050 when the full adjustment factor is reached, and no further adjustment is applied beyond 2050.

**Table 1: Scenario Demand Drivers for Potable Demand Projections.**

Scenario	Population Growth (%)	Res Indoor (gpcd)	Adoption Rate (%)	Non-Res Growth (%)	Non-Res Indoor Conservation (%)	Outdoor Conservation (%)	Climate Adjustment Factor (%)**
Low Conservation	2.5%	42.4	40%	2.5%	0.0%	-5%	0%
Moderate Conservation	4.0%*	36.4	55%	2.5%	-2.0%	-10%	0%
High Conservation	2.5%	36.4	75%	2.5%	-5.0%	-20%	0%
Highest Conservation with Climate	2.5%	33.3	75%	2.5%	-5.0%	-20%	14%

\* Population growth is assumed to have an annual growth rate of 2.5% through 2034 and 4% from 2035 through buildout.

\*\* Climate adjustment factor is based on information prepared for the Technical Update for Weld County by 2050.

*4.3.2.3 OUTDOOR WATER USE MANAGEMENT OF TOWN PROPERTIES*

The Town has identified 18 properties that are currently served by potable supplies that can physically and legally be supplied with raw water for irrigation purposes. Conversion of these properties, most of which are parks, will begin in 2022 and are expected to be completed by 2030. Based on historical metered use for these accounts, a reduction in potable water use of about 76.6 AFY is expected. Note that some of these properties are not owned by the Town.

The Town currently maintains a xeriscape demonstration garden at one of its parks. Over the coming years, the Town will install additional xeriscape demonstration gardens throughout its parks with the intent to replace irrigated turf with low water use landscapes and as an educational tool for customers.

Irrigation of the Town's parks is actively managed and current Public Works staff have identified the potential to remove or replace turf in some areas that are not actively used by the public. Staff has also identified opportunities to install smart controllers at public parks. Full development and implementation of a Town parks efficiency program will be managed by the Parks and Open Space Director. It is estimated that up to about 4.9 AFY of water could be saved through these efforts

*4.3.3 ORDINANCES AND REGULATIONS*

Local ordinances and regulations serve to support water efficiency programs through policies and enforcement mechanisms. The Town's Municipal Code currently includes Waste of Water and Water Shortage sections. The Town's Land Use Code includes requirements for landscape design and the Town's Design Standards and Specifications include both landscape and irrigation design standards.

*4.3.3.1 WATER EFFICIENT LANDSCAPING AND IRRIGATION STANDARDS*

The Town currently has a comprehensive set of landscaping and irrigation design standards that support efficient water use. These standards are supported through the Town's Land Use Code with the primary focus of preserving the Town's character and integrating new development into the community by promoting quality landscape design. The Town will audit its current design standards to expand requirements to further target efficient water use focusing on new development with the intent to establish procedures for the design, installation, and maintenance of water efficient landscape and irrigation systems. Integration with HOAs will be evaluated as part of this review process.

A key planned addition to the Town's landscape design standards is the application of a landscape water budget for new development permit applications. Landscape designs would be required to stay within a maximum allowed water budget. The allowable water budget will be calculated based upon the local reference evapotranspiration and adjusted using plant factors for specific types of plant materials and the irrigation efficiency. Areas containing plants with similar water needs and within the same irrigation application type are referred to as "hydrozones". Water needs using a specified irrigation efficiency will be summarized by hydrozone and summed to determine the water demand for the full landscaped area. Introduction of the landscape water budget design requirement for new development will support future efforts by the Town to apply a water budget-based billing system.

Another potential addition to the landscaping and irrigation standards is the requirement for landscape and irrigation designers and installers to obtain and maintain a professional certification through an accepted program. The Town will evaluate potential certification programs such as the Qualified Water Efficient Landscaper (QWEL) and those offered by the Irrigation Association. The

Town will also evaluate opportunities to collaborate with neighboring water providers and Northern Water to develop a regional certification program. Upon implementation, selected Town staff with landscape and irrigation management responsibilities will also likely pursue certification. Contractor certification has unmeasured water saving benefits alone but will support savings estimated through the landscape standard revisions.

The Town will consider requiring landscape irrigation audits to be conducted by a third-party certified landscape irrigation auditor. The irrigation audit may include, but is not limited to: inspection, system tune-up, system test with distribution uniformity, reporting overspray or runoff that causes overland flow, and preparation of an irrigation schedule, including configuring irrigation controllers with application rates, soil types, plant factors, slope, exposure and any other factors necessary for accurate programming. Land Use Code revisions necessary to enforce landscape and irrigation standards will be reviewed and applied as needed. Up to 20 AFY of water savings is estimated by 2030 assuming standards are updated for all new development. Additional savings may be realized if standards also include requirements for redevelopment.

#### 4.3.4 PUBLIC EDUCATION AND INFORMATION

Public education and information are a vital component to many of the Town's conservation programs. An informed and engaged public will more actively participate in adjusting behaviors with efficiency in mind. The Town plans to expand its current education and outreach programs to include additional customer water use workshops and pursue a messaging partnership with Northern Water. The Town will continue to have staff presence at the local Farmers' Market and will expand its printed resources for distribution through that event. The Town will also invite local contractors and businesses to the Farmers' Market to set up booths to provide the public with water use information. This may include landscaping, irrigation, or other professionals that support the efficient use of water. The Town will also organize a separate educational event with contractors and professionals to provide landscaping, irrigation, and water efficiency resources to the public. The planned new low water use and xeriscape gardens throughout the Town will potentially be used as a meeting location for public landscaping and efficient irrigation workshops. The Town sponsors an annual tree sale event, selling around 100 drought-tolerant trees to customers. The Town will consider how to expand this voucher program to include xeric plants. This provides another opportunity for expanded messaging and outreach. The new Conservation Specialist will work closely with the Town's Communications department to advance its conservation and efficiency messaging campaign and formalize an annual messaging schedule. This will include expanding efficiency messaging and resources through the Town's website. While conservation messaging programs help to support a water-wise culture and local stewardship, these programs typically do not result in water savings on their own, but rather support the entire suite of local conservation and efficiency measures.

#### 4.3.5 INTEGRATION OF LAND USE EFFORTS

The Town is fortunate to have land use jurisdiction throughout its water service area. The Town intends to formalize arrangements for sharing data and information between departments that impact its management of water resources including Planning, Engineering, Public Works, and the newly formed Parks department. Regular communication between these departments is foundational to the integration between water and land use planning. These departments will also coordinate on code updates and associated implementation strategies, including the review and revision of the Town's landscape and irrigation standards.

The Town's current Municipal Code allows for a "demand analysis" to be completed when a development project has a dual water system with separate infrastructure that enables potable



Built On What Matters

Erin Fosdick, Commissioner  
Susan Pilon, Commissioner  
Luke Bolinger, Commissioner

## Town of Frederick Parks, Recreation, Open Space, and Trails Commission

Allan Gill, Chairperson  
Mark Lamach, Trustee Liaison to Commission



Kristen Davis, Commissioner  
Lee Schlais, Commissioner  
Matt Hickman, Vice Chairperson

### Approval of Revisions to the Town of Frederick’s Land Use Code Referencing Public Landscapes

**Agenda Date:** August 14, 2024

**Attachments:** Ordinance No. TBD with Updates to Section 1.15

**Submitted by:** Colby Johnson  
Director – Parks and Open Space

**Summary Statement:**

For Commission approval, the final draft of the proposed revision to sections of the Town’s Land Use Code referencing public landscapes, commonly referred to as the “Landscape Code.”

This action is intended to provide support from the Commission to Staff to take this revision forward to the Planning Commission and the Board of Trustees for formal adoption.

**Alternatives/Options:**

The Commission may propose any alternatives to this proposed revision.

**Financial Considerations:**

There are no financial considerations at the current time for this action.

**Staff Recommendation:**

Staff recommends approval of this proposed revision, pending input and changes from our Legal Department, Planning Commission and Board of Trustees.

Allan Gill - Chairperson

Adopted this 14<sup>th</sup> day of August, 2024



# TOWN OF FREDERICK

## Planning Commission

Tracy Moe, Chairperson

Dennis Stark, Alternate Commissioner  
William Mahoney, Alternate Commissioner  
Roger Kelley, Commissioner

Kristin Conroy, Vice-Chairperson  
Nathan Scott, Commissioner  
Joseph Sammartino, Commissioner

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### **Amendments to the Town's Land Use Code Regarding Accessory Dwelling Units, The Keeping of Animals, Residential Protection Standards, Planned Unit Developments, and Minor Subdivisions**

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**Agenda Date:** Planning Commission - August 28, 2024

**Attachments:**  
a. Draft Board of Trustee Ordinance  
b. PCR-2024-06

**Submitted by:** Audem Gonzales  
Senior Planner

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#### **Summary Statement:**

Staff proposes interim Land Use Code amendments to several sections of the Code in response to changing Town priorities, newly enacted State laws and general cleanup of development standards.

#### **Strategic Plan Alignment:**



- 2. Community and Economic Vitality-
- 2.5 Continue work on updating the Land Use Code

#### **Detail of Issue/Request:**

In the summer of 2021, the Board of Trustees adopted a long-term Strategic Plan for the Town of Frederick. This Plan is broken down into specific areas of concentration. One of the concentrations is; 2. Community and Economic Vitality. Under this section is; 2.5 Continue work on updating the Land Use Code. This Code amendment package is directly aligned with these sections of the Plan.

The purpose of these code amendments is to address recent state law changes and changing community needs and preferences. This code amendment package includes amendments to the following sections of the Town of Frederick Land Use Code:

#### **1. Section 1.15, Definitions**

Proposed amendments in this Section are intended to align with the new and modified processes created within this code amendment package

**2. Section 2.11.9, Amount of Open Space Required by Development**

With the creation of new PUD – Planned Unit Development standards in Article 16, current PUD open space requirements need to be amended to reflect the new standards. Open space is currently mandated as a specific acreage percentage within each PUD. New standards require the amount of Open space to be determined by the proposed density of a project.

**3. Section 3.4.11, Agricultural Uses**

Proposed amendments include permitting Commercial Agriculture within the A-Agriculture zone district and not permitting the use within the R-E zone district. Also, it is proposed that Common Equestrian Stabling and Grazing be permitted by right in the A zone versus limited.

**4. Section 3.4.12, Residential Protection Standards**

The amendments to this section include reducing residential protection standards distance requirements for specific uses and creating alternative options such as providing landscape buffers in lieu of providing a set distance buffer. These amendments are in response to several proposed developments within existing I - Industrial and BLI – Business light Industrial zoning districts that are prohibited from developing due to the residential protection standards.

**5. Section 3.4.13, Accessory Uses and Accessory Buildings**

Recent state laws changed, prompting the Town to re-evaluate our Land Use Code provisions in regards to accessory dwelling units. House Bill 24-1152 was passed and includes provisions encouraging greater density through supporting development of accessory dwelling units as well as reducing the number of regulations surrounding design of these structures within residential zoned areas. The Land Use Code currently allows ADU's in our residential zones. These amendments provide more clear parameters around the maximum permitted sf. for ADU's and removes the sf. total of ADU's from the total of accessory structures sf. permitted per lot. Other amendments include allowing ADU's to have a separate address from the principal dwelling as well as being permitted as accessory to Religious Assembly uses and Storage Facilities.

**6. Section 3.4.15, Accessory Dwelling Units**

This section is proposed to be removed as the new ADU standards will move to section 3.4.13.

**7. Section 3.4.20, Backyard Chickens**

The proposed amendments are in response to the Town's changing preferences for keeping backyard chickens. The rules and regulations within this amendment package further define where chickens may be kept and at what rate. Currently, a maximum of six hens are permitted, regardless of lot size. The proposed amendments scale up the number of maximum permitted hens, dependent on lot size and further define where on each lot the hens may be kept and in what type of enclosure.

**8. Section 3.4.21, Apiaries/Beekeeping**

Amendments in this section also provide a scaled approach to the number of hives permitted on each lot and streamline the code language to be more efficient with development direction.

**9. Section 3.4.22, Agricultural Animals**

The Land Use Code update in 2023 removed several previous code provisions for the keeping of animals. This has caused several issues with existing properties containing animals. Staff took a

comprehensive approach for updating animal regulations and proposes a clear set of regulations to that will be incorporated into the overall Land Use Code update. The proposed amendments clearly define how many animal units are permitted per lot and expands the list of permitted animals. Again, a scaled approach is proposed for specific lot sizes as well as introducing a 50-foot setback as a locational requirement.

**10. Section 4.7.5, Preliminary Development Plan**

New code language directs users to the newly proposed Article 16 of the Code which contains the new PUD standards.

**11. Section 4.9.2, Final Development Plan**

New code language directs users to the newly proposed Article 16 of the Code which contains the new PUD standards.

**12. Section 4.9.3, Minor Subdivision**

Proposed changes to this section are in response to impending land use development and the need to streamline processes to make a clearer pathway forward for development.

**13. Article 16, Planned Unit Development**

This new article is the largest proposed code amendment within this package. New PUD – Planned Unit Development standards are proposed to replace the existing standards. Currently, creating a PUD is a three-step process including; zoning the property to PUD, creating a preliminary development plan, and creating a final development plan. Each of these three processes is a separate application and public hearing process. This entire process is lengthy and not efficient to the Town or to developers.

Staff is proposing a one step process when creating a PUD. The PUD zoning will no longer be an overlay over a base zone district and merely amend certain standards and revert to Code for standards not addressed. The new process will make PUD the actual zone district. The PUD zoning document will include the measure boundaries of the land zone to PUD as well as all the development standards for the specific area. Development standards will include dimensional standards, density, landscaping, etc. Architecture and other non-zone-specific regulations may default to the Land Use Code or may be included in the PUD zoning document is elected so by the developer.

This new approach will be easier to track when implementing the rules and regulations for each development. It also requires developers to thoroughly plan each development before any plat is submitted or site plan, as these applications must follow the approved PUD zoning document.

It is intended that the interim updates to the Land Use Code, with adjustments as appropriate, will be incorporated into the revised Land Use Code when it is complete. The anticipated timeline for the complete Code overhaul is Q1 of 2025.

**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;

*Staff Response: Amendments to the Agricultural Animals section of the Code are in response to errors made in the last amendment to this section. Provisions were unintentionally left out which created non-conforming uses and prohibited keeping*

- (2) To provide for changes in administrative practices as may be necessary to accommodate changing needs of the community and the Town staff

*Staff Response: The majority of these proposed amendments are in response to changing development pressures and goals of the Town. Staff aims to provide great customer service which includes a more streamlined set of rules and regulations.*

- (3) To accommodate innovations in land use and development practices that were not contemplated at the adoption of this Code; or

*Staff Response: Several of these proposed amendments are in response to specific land use development projects that will result in a more innovative built landscape within the Town.*

- (4) To further the implementation of the goals and objectives of the Comprehensive Plan.

*Staff Response: The Town of Frederick Comprehensive Plan is currently undergoing an update. Some of the proposed amendments reflect the vision and goals of most current draft of the Comprehensive Plan update.*

**Public Notice:** This project was properly noticed according to the requirements found in C.R.S. §24-6-402(2)(c).

**Legal/Political Considerations:** The application has been reviewed by the Town Attorney, whose comments have been incorporated accordingly.

**Staff Recommendation:** Staff recommends the Planning Commission recommend approval of the Land Use Code amendments to the Board of Trustees.

**Alternatives/Options:**

**Approval:** I move to approve PCR-2024-06, which recommends approval of the Land Use Code amendments to the Board of Trustees.

**Approval with Conditions:** I move to approve PCR-2024-06, which recommends approval of the Land Use Code amendments to the Board of Trustees with the following conditions; 1. (list conditions)

**Denial:** I move to approve PCR-2024-06, which recommends denial of the Land Use Code amendments to the Board of Trustees.

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE OF THE TOWN OF FREDERICK, COLORADO, AMENDING THE TOWN'S LAND USE CODE REGARDING ACCESSORY DWELLING UNITS, THE KEEPING OF ANIMALS, RESIDENTIAL PROTECTION STANDARDS, PLANNED UNIT DEVELOPMENTS, AND MINOR SUBDIVISIONS**

**WHEREAS**, the Town of Frederick is in the process of updating its Comprehensive Plan and revising its Land Use Code; and

**WHEREAS**, House Bill 24-1152 amended state law to encourage greater density through supporting development of accessory dwelling units, and placed requirements and restrictions on local government regulation of accessory dwelling units; and

**WHEREAS**, statutory amendments made by the House Bill thus require a number of minor amendments to the Town's Land Use Code in order to conform to state law; and

**WHEREAS**, the Town's Code provisions governing the keeping of animals, including chickens, bees, and larger livestock, are no longer reflective of the community's needs and preferences and require updating; and

**WHEREAS**, the Board of Trustees determined that interim amendments to the existing Land Use Code to update and modernize the subdivision and planned unit development provisions would provide immediate public benefits; and

**WHEREAS**, the Board intends that the interim updates to the subdivision and planned unit development provisions, with adjustments as appropriate, will be incorporated into the revised Land Use Code when it is complete; and

**WHEREAS**, on August 28, 2024, the Town of Frederick Planning Commission reviewed the proposed amendments to the Land Use Code and upon such review, recommended that the Board adopt same.

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

**Section 1.** Strikethrough represents deleted text, underline means added text, and \* \* \* means large blocks of unmodified text.

**Section 2.** Section 1.15, Town of Frederick Land Use Code, "Definitions," is amended to modify the definitions for "common open space," "plan," "planned unit development," "planning area boundary," and add the definitions for "director," "engineering design standards," "planning area," "provisions of the plan," and "PUD zoning document," as follows:  
\* \* \*

*Common open space* means a parcel of land, an area of water, or a combination of land and water within the site designated for a subdivision or planned unit development, and

intended primarily for the use or enjoyment of residents, occupants, and owners of the subdivision or planned unit development.

\* \* \*

Director means the Planning Director, or in the absence of a Director, an employee of the Planning Department who is designated by the Town Manager to make such decisions and take such actions as are authorized or required of the Planning Director under this Code, or the designee of either.

\* \* \*

Engineering Design Standards means the Design Standards and Construction Specifications of the Town of Frederick, Colorado, adopted and amended from time to time pursuant to Section 18-91, Frederick Municipal Code.

\* \* \*

*Plan*, in general, means the map and supporting documentation for a development, which includes but is not limited to lots, blocks, easements, rights-of-way, pedestrian ways, park and school sites, open space areas, and conservation areas ~~in accordance with the requirements of this Code~~. With regard to planned unit developments, “plan” means the provisions for development of a planned unit development, which may include, and need not be limited to, easements, covenants, and restrictions relating to use, location, and bulk of buildings and other structures, intensity of use or density of development, utilities, private and public streets, ways, roads, pedestrian areas, and parking facilities, common open space, and other public facilities.

*Planned unit development (PUD)* means an area of land, controlled by one or more landowners, to be developed under unified control or unified plan of development for a number of dwelling units, commercial, educational, recreational, or industrial uses, or any combination of the foregoing, the plan for which does not correspond in lot size, bulk, or type of use, density, lot coverage, open space, or other restriction to the existing land use regulations, a project of a single owner or a group of owners acting jointly, involving a related group of residences, businesses or industries, and associated uses. Planned as a single entity, the project is subject to development and regulations as one (1) land-use unit rather than as an aggregation of individual buildings located on separate lots. The planned unit development includes usable, functional open space for the mutual benefit of the entire tract; and is designed to provide variety and diversity through the variation of normal zoning and subdivision standards so that maximum long-range benefits can be gained and the unique features of the development or site preserved and enhanced while still being in harmony with the surrounding neighborhood. Approval of a planned unit development does not eliminate the requirements of subdividing and recording a plat.

PUD zoning document means a planned unit development approval document containing maps, figures, graphics, tables, and / or narrative, that establishes standards for the development of property zoned PUD, including allowable land uses, housing formats (if residential uses are included), bulk standards, and other standards for the use and development of land within the PUD.

Planning area, with reference to annexation, means the area delineated on the Town of Frederick Comprehensive Plan Land Use Map, within which the Town will consider the annexation of property. With reference to planned unit development, planning area means an individual area within a planned unit development within which use or development standards may be applied that are not generally applicable to the planned unit development as a whole.

Planning area boundary, with reference to annexation, means the outer boundary of the area surrounding the Town that the Town will consider annexing and developing. The planning area boundary is as delineated on the Town of Frederick Comprehensive Plan Land Use Map. With reference to planned unit development, planning area boundary means the boundary between planning areas, or the shared boundary of a planning area and the outer boundary of the planned unit development.

Provisions of the plan means the written and graphic materials referred to in the definition of the term "plan."

**Section 3.** Section 2.11.9, Town of Frederick Land Use Code, is amended as follows:

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.

\* \* \*

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%).~~

**Section 4.** Section 3.4., Town Land Use Code, “Permitted, Conditional, Special, and Limited Uses by Zoning District – Use-Specific Standards – Residential Protection Standards – Accessory Use and Structure Standards (Including ADUs and Home Occupations)” is hereby amended as follows:

Table 3-11. Agricultural Uses

Land Use	Zoning District															
	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
Agritainment	C	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Commercial Agriculture	<u>PP</u> ‡	p‡	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Common Equestrian Stabling and Grazing	<u>P</u> <u>L</u>	L	-	-	-	-	-	-	-	-	-	-	-	-	-	-

Table Note:

~~1 If the commercial agriculture use involves the keeping of animals (including bees), limited use review ("L") applies.~~

- a. *Use-Specific Standards for Agricultural Uses.* Agritainment, commercial agriculture ~~(when reviewed as a limited use)~~, and common equestrian stabling and grazing may be approved if it is demonstrated that:
  - (i) Backyard Chickens, if any, comply with the requirements set out in Subsection (20) of this Section.
  - (ii) Apiaries, if any, comply with the requirements set out in Subsection (21) of this Section.
  - (iii) The keeping of agricultural animals, if any, comply with the requirements set out in Subsection (22) of this Section.
  - ~~(i) If the use involves the keeping of horses, cattle, llamas, buffalo, beefalo, or sheep, the subject property must have been used for grazing of such animals for a period of not less than two years immediately prior to annexation, and animal density is limited to:
    - ~~(1) Two per acre for horses, cattle, llamas, buffalo, and beefalo, and at least one-half (1/2) acre of pasture is required for each such animal.~~
    - ~~(2) Three per acre for sheep.~~~~
  - ~~(ii) Corrals, if any, are spaced at least 100 feet from any existing residence or retail sales building (if a residence or retail sales building is constructed or relocated on the subject property, the corral must be relocated to maintain the 100-foot spacing).~~
  - ~~(iii) Apiaries, if any, comply with the requirements set out in Subsection (22) of this Section.~~

**Table 3-12. Residential Protection Spacing Standards**

Land Use Category/Land Use	Required Spacing From...		
	R-E, R-1, R-2, R-3, R-MH1, and R-MH2 zoning district boundaries	Existing or approved residential uses in...	
		C-E zoning district	All Other Zoning Districts
<b>Hospitality, Recreation, and Entertainment Uses</b>			
Adult-Oriented Use	1,000 ft.	1,000 ft.	1,000 ft.
Bar, Tavern, or Nightclub	250 ft.	250 ft.	N/A
Indoor Firing or Gun Range	250 ft.	250 ft.	250 ft.
Outdoor Commercial Amusement	500 ft.	500 ft.	N/A
Outdoor Firing or Gun Range	1,000 ft.	1,000 ft.	1,000 ft.
Outdoor Stadium, Arena, Amphitheater, or Drive-In Theater	1,000 ft.	N/A	N/A
Race Track	1,000 ft.	1,000 ft.	1,000 ft.

Restaurant With Drive-In or Drive-Through Facilities	250 ft.	250 ft.	N/A
Zoo	1,000 ft.	1,000 ft.	1,000 ft.
<b>General Commercial Uses</b>			
Convenience Lending	250 ft.	250 ft.	N/A
Pawnbroker	250 ft.	250 ft.	N/A
Retail Sales and Services – Liquor Stores	250 ft.	250 ft.	N/A
Retail Sales and Services – Outdoor Sales	250 ft.	250 ft.	N/A
<b>Veterinary and Domestic Animal Uses</b>			
Kennel, Indoor	125 ft.	125 ft.	N/A
Kennel, Outdoor	250 ft.	250 ft.	N/A
Veterinary Facilities, Large Animal Clinic	250 ft.	250 ft.	N/A
<b>Community, Civic, Educational, and Institutional Uses</b>			
Prison or Jail	1,000 ft.	1,000 ft.	1,000 ft.
<b>Industrial, Processing, Recycling, Storage, and Disposal Uses</b>			
Composting Facility	1,000 ft.	1,000 ft.	1,000 ft.

Disposal Facility	1,000 ft.	1,000 ft.	1,000 ft.
Heavy Industry	500 ft. (or separated by arterial street)	500 ft. (or separated by arterial street)	500 ft.
Heavy Logistics Center	500 ft.	500 ft.	N/A
Resource Extraction (Minerals)			
Resource Extraction (Oil and Gas)			
Salvage Yard	1,000 ft.	1,000 ft.	1,000 ft.
Storage Yard	500 ft. <u>1.2.3</u>	500 ft. <u>1.2.3</u>	500 ft. <u>1.2.3</u>
Waste Transfer Station	1,000 ft.	1,000 ft.	1,000 ft.
<b>Motor Vehicle and Transportation Uses</b>			
Fueling, Fast-Charging, or Service Station	250 ft.	250 ft.	N/A
Light Motor Vehicle Repairs and Service	<del>250 ft.</del> 60 ft. <sup>1</sup> <sub>2</sub>	<del>250 ft.</del> 60 ft. <sup>1</sup> <sub>2</sub>	N/A
Heavy Motor Vehicle Repairs and Service	500 ft.	500 ft.	500 ft.
Truck Stop	500 ft.	500 ft.	500 ft.

Heliport	1,000 ft.	1,000 ft.	1,000 ft.
Helistop	1,000 ft.	1,000 ft.	1,000 ft.
Motor Vehicle Wash	<del>250 ft.</del> 60 ft. <sup>1</sup> <sub>2</sub>	<del>250 ft.</del> 60 ft. <sub>1,2</sub>	N/A
Passenger Motor Vehicle Sales or Rental	<del>250 ft.</del> 60 ft./500 ft. from any outdoor repair or maintenance activities <sup>1,2</sup>	<del>250 ft.</del> 60 ft./500 ft. from any outdoor repair or maintenance activities <sup>1,2</sup>	N/A
Heavy Motor Vehicle Sales or Rental	250 ft./500 ft. from any outdoor repair or maintenance activities	250 ft./500 ft. from any outdoor repair or maintenance activities	N/A
Bus or Taxi Terminal, On-Demand Transportation Dispatch	250 ft.	N/A	N/A
RV Storage	500 ft.	500 ft.	N/A

Table Note:

1. The distance requirement shall be met OR the non-residential use shall be separated from the residential zone by an outlot or tract at least 30-feet in width. The outlot or tract shall include appropriate landscaping to buffer and screen the non-residential use per approval by the Director. This standard is in addition to any screen fencing standard applied on the property.
2. The distance requirement shall be met OR a landscape buffer of at least 30-feet shall be located on the non-residential use property along the property boundary by which the distance standard is applied. This 30-foot buffer shall include appropriate

landscaping to buffer and screen the non-residential use per approval by the Director. This standard is in addition to any screen fencing standard applied on the property.

3. The distance requirement may be reduced to 60-feet when outdoor storage is accessory to a principal use and fully screened by the standards provided within this Code.

3.4.13. *Accessory Uses and Accessory Buildings. (Except Accessory Dwelling Units and Home Occupations).*

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. This does not apply to dwelling units accessory to a religious place of assembly or a storage facility.
- (vi) Must meet the restrictions on pervious surfaces as outlined in Article 2.

b. *Accessory Uses.* Accessory uses must be subordinate in the area of the footprint, size, and purpose to the principal use.

c. *Accessory Buildings.*

(i) In the A zoning district:

- (1) Accessory buildings are those buildings not related to the primary agricultural use such as barns or storage buildings for agricultural products. Garages for nonagricultural vehicles and other similar nonagricultural buildings are required to meet these standards.
- (2) Accessory buildings shall have a maximum footprint of 5,000 square feet.
- (3) Accessory buildings shall have a maximum footprint of 5,000 square feet.

- (ii) In all other zoning districts, the maximum total footprint of all accessory buildings is 90 percent 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.
- (iii) In all other zoning districts:
  - (1) The sum of all accessory building footprints, excluding livable accessory dwelling unit space, shall be subordinate in footprint to the principal structure.
  - (2) The maximum height of accessory buildings shall not exceed the maximum height permitted for principal buildings in the underlying zoning district.
- d. Accessory Dwelling Units. One ADU is allowed as an accessory to the following:
  - (i) *A single-family detached principal dwelling subject to the following floor area limitations:*
    - (1) Min. floor area: 500 sf.
    - (2) Max. floor area: 800 sf or 50 percent of the total floor area of the principal building, not to exceed 1,000 square feet, whichever is greater.
  - (ii) *A religious place of assembly building subject to the following floor area limitations:*
    - (1) Min. floor area: 500 sf.
    - (2) Max. floor area: 1,000 sf.
  - (iii) *A storage facility where the occupant of the ADU is employed by the business and charged with the security of the associated business subject to the following floor area limitations:*
    - (1) Min. floor area: 500 sf.
    - (2) Max. floor area: 800 sf.
  - (iv) For lots smaller than 1 acre in size, accessory building must be located behind the principal building's front building line.
  - (v) Where alley access to the ADU is available, such access shall be utilized unless the Town Engineer determines that alley access creates a safety hazard.
  - (vi) Accessory Dwelling Units may have a separate address than the principal building.

Sec. 3.4.15. Accessory Dwelling Units. Accessory dwelling units ("ADUs") are subject to the following standards:

- a. A, R-E, R-1, and R-2 zoning districts: One ADU is allowed as an accessory to each single family detached principal use in an A, R-E, R-1, or R-2 zoning

~~district; provided, that it is located on the same lot as the principal use, and subject to the following limitations on floor area:~~

~~(i) In the A and R-E Zoning Districts —.~~

~~1. Min. floor area: 500 sf.~~

~~2. Max. floor area: 50 percent of the total floor area of the principal building.~~

~~(ii) In the R-1 and R-2 Zoning Districts —.~~

~~1. Min. floor area: 500 sf.~~

~~2. Max. floor area: 1,000 sf.~~

~~b. BLI and I zoning districts: One ADU may be allowed as an accessory use; provided, that it is located on the same lot as the principal use, and the applicant demonstrates the need for the ADU in order to provide for security or ensure safe operation of the use.~~

3.4.15. Outdoor Storage.

3.4.16. Use of Storage Containers.

3.4.17. Stacking and Design Standards for Drive-In and Drive-Through Facilities.

3.4.18. Design and Performance Standards for Nonresidential Uses in the C-E Zoning District.

3.4.19. Seasonal Sales.

3.4.20. Backyard Chickens. Backyard chickens may be kept in conjunction with an established single-family dwelling with the following conditions:

- a. The lot shall be a minimum of 5,000 square feet in size.
- b. Roosters are not permitted
- c. Maximum Chickens Permitted.
  - (i) Property up to one acre in size, up to six (6) hens may be kept.
  - (ii) Property one (1) to ten (10) acres in size, up to twelve (12) hens may be kept.
  - (iii) Property greater than ten (10) acres in size, up to twenty-four (24) hens may be kept.
- d. Chickens shall be sufficiently contained within the lot by use of fencing or a chicken coop with a chicken run.
- e. For lots smaller than one (1) acre in size, neither chickens, nor the coop, nor the run, nor any part thereof, shall be located between the front of the principal structure and the front yard lot line.
- f. Any chicken coop greater than 120 square feet in size requires a building permit.

g. No on-site slaughtering is allowed.

~~Sec. 3.4.21. *Backyard Chickens.* Backyard chickens may be kept in conjunction with an established single-family residence with the following conditions:~~

- ~~a. Up to six hens may be kept. Roosters are not permitted.~~
- ~~b. Backyard chickens shall 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 foot setback from any side or rear property line.~~
  - ~~(iv) Coops shall be predator-resistant, incorporating 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 100 square feet.~~
  - ~~(ix) A minimum of four 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 feet at the highest point of the roof.~~~~
- ~~c. 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.~~
- ~~d. No on-site slaughtering is allowed.~~
- ~~e. Chicken feed shall be stored in a resealable, airtight, predator-proof container or indoors.~~
- ~~f. Chicken waste shall be stored in a resealable, airtight, predator-proof container.~~
- ~~g. A license is required for the keeping of backyard chickens. The license is issued once. Renewal is not required.~~
- ~~h. Many homeowner association covenants do not allow poultry of any kind. The Town of Frederick encourages residents to research their individual homeowner association regulations.~~

3.4.21. Apiaries/Beekeeping. Apiaries/beekeeping is permissible in conjunction with an established single-family dwelling with the following conditions:

- a. The lot shall be a minimum of 5,000 square feet in size.
- b. Maximum Hives Permitted.
  - (i) Property less than one (1) acre in size, 2 hives.
  - (ii) Property one (1) to two (2) acres in size, 4 hives.
  - (iii) Property more than two (2) and less than five (5) acres in size, 12 hives.
  - (iv) Property five (5) or more acres in size, 24 hives.
- c. Africanized bees or hybrids of Africanized bees are prohibited.

~~Sec. 3.4.22. — Apiaries/Beekeeping. Apiaries/beekeeping is permissible as an accessory use to a single-family detached use. A Town-issued license is required. License applications shall be granted upon demonstration that the standards of this subsection will be met. Once issued, licenses are perpetual, but may not be transferred. Licenses may be revoked upon noncompliance with the standards of this subsection.~~

- ~~a. — Maximum Hives Permitted.
  - (i) A zoning district:
    1. Property less than five acres in size, 12 hives.
    2. Property five or more acres in size, no maximum.
  - (ii) R-E zoning district: 4 hives.
  - (iii) R-1 zoning district: 2 hives.
  - (iv) R-2, D-A, and D-B zoning districts: 2 hives; provided, that the lot area is at least 5,000 square feet and the primary use is single-family detached.~~
- ~~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, at least five feet from a property line.~~
- ~~d. — A fresh supply of water shall be provided for all hives.~~
- ~~e. — Africanized bees and hybrids of Africanized bees are prohibited.~~

3.4.22. Agricultural Animals. The keeping of agricultural animals, as defined by the Animal Unit Table below, or determined through special review, is permissible in the Agriculture (A) and Residential Estate (R-E) zone district if or in conjunction with an established single-family dwelling with the following conditions:

- a. The lot shall be a minimum of one-half (1/2) acre in size.
- b. A minimum of fifty (50) feet shall be maintained between agricultural animals and the front, rear, and side-yard property lines unless this requirement is waived by the Director.
- c. Maximum Agricultural Animals Permitted. Permitted animal density is established by use of an animal unit table where a specified number of each

animal is equivalent to one (1) animal unit. A variety of animals may be kept so long as the allowed animal units for the lot is not exceeded.

(i) Animal Unit Table:

<u>Animal</u>	<u>Animals per Animal Unit</u>
<u>Cattle</u>	<u>1</u>
<u>Bison</u>	<u>1</u>
<u>Horse</u>	<u>2</u>
<u>Mule</u>	<u>2</u>
<u>Llama</u>	<u>2</u>
<u>Alpaca</u>	<u>2</u>
<u>Ostrich</u>	<u>2</u>
<u>Swine</u>	<u>4</u>
<u>Sheep</u>	<u>4</u>
<u>Goat</u>	<u>4</u>

1. Any animal not listed in Table 3-15 is subject to special review by the Director.

(ii) Animal Density Allowed:

1. Property less than one (1) acre in size, a maximum of one (1) animal units.
  2. Property one (1) to two (2) acres in size, a maximum of two (2) animal units.
  3. Property more than two (2) and less than five (5) acres in size, a maximum of five (5) animal units.
  4. Property five (5) to ten (10) acres in size, a maximum of eight (8) animal units.
  5. Property more than ten (10) acres in size, a maximum of ten (10) animal units.
- d. No on-site slaughtering is allowed.
- e. The sale of any products related to or produced by the keeping of agricultural animals is considered a Home Occupation and is subject to subsection (14) of this section.
- f. If the lot is operating as a commercial agriculture use, these conditions do not apply.

**Section 5.** Section 4.7.5, Town of Frederick Land Use Code, is amended as follows:

5. *Preliminary development plan.*

a. *Preliminary development plan purpose and application.* The purpose of a preliminary development plan is to outline the proposed standards associated with a specific planned unit development overlay district. The standards of this subsection 4.7.5 shall be applied only as provided in Division 16.2 of this Code.

**Section 6.** Section 4.9.2, Town of Frederick Land Use Code, is amended as follows:

2. *Final development plan.*

a. *Final development plan purpose and application.* The purpose of a final development plan is to define the standards associated with a specific planned unit development overlay district. The standards of this subsection 4.9.2 shall be applied only as provided in Division 16.2 of this Code.

**Section 7.** Section 4.9.3, Town of Frederick Land Use Code, is amended as follows:

3. *Minor subdivision.*

a. *Generally.* The minor subdivision process may be used in lieu of the preliminary and final plat processes (See 4.7.4 and Section 4.9.1 above) if ~~the following conditions apply and the Planning Director determines that the subdivision is compatible with and will not have adverse impacts on surrounding properties, and not more than ten new lots, outlots, or blocks (in any combination) are created.:~~

~~(1) Ten (10) or fewer new lots or blocks are created;~~

~~(2) Variances or subdivision exceptions are not required or requested;~~

~~(3) There is no public right-of-way dedication required or requested; and~~

~~(4) The property for which the minor subdivision is requested was not the subject of a minor subdivision approval during the prior one (1) year.~~

b. *Minor subdivision purpose.* The purpose of a minor subdivision is to complete the subdivision of land consistent with the Town's technical standards.

c. *Minor subdivision review criteria.* ~~The Town shall use the following criteria to evaluate the Applicant's request:~~

~~(1) A minor subdivision shall meet the review criteria applicable to preliminary plat stated in Section 4.7.4.~~

d. *Limitations.* Plats approved using the minor subdivision process shall include the phrase "Minor Subdivision" in their titles, and property encompassed within a minor subdivision plat shall not be eligible for further minor subdivision if the cumulative effect of minor subdivisions including the property would be the creation of more than ten lots.

**Section 8.** Article 16 is added to the Town of Frederick Land Use Code, as follows (all text is new):

## Article 16. Planned Unit Development

### Division 16.1. Authority, purpose, objective, and intent.

#### 16.1.1. Authority.

The authority for this Article is conferred by the Planned Unit Development Act of 1972 (C.R.S. § 24-67-101, *et seq.*).

#### 16.1.2. Purpose.

The planned unit development (“PUD”) standards and procedures that are set out in this Article are intended to provide for the creation of a new zoning district (a “PUD Zoning Document”) that allows for a mix of land uses and development parameters that are not otherwise permitted or permissible within the other zoning districts that are established by this Code. Once approved by the Board of Trustees, the PUD Zoning Document establishes the land use and development standards for the subject property as a separate and unique zoning district.

#### 16.1.3. Objective and Intent.

a. *Objective.* The objective of this Article is to permit greater flexibility regarding land use and facilitate creative and imaginative design for development, particularly (but not exclusively) regarding the implementation of special area plans that are adopted by the Board of Trustees, and the development of “qualified projects” as that phrase is defined by the Town of Frederick, Colorado Water Reservation and Allocation Policy.

#### b. *Intent.*

(1) The standards and procedures of this Article are intended primarily for large-scale projects with multiple lots, a mix of land uses, and an extended build-out period; however, smaller-scale (even single lot) development that requires comparable flexibility to accommodate unique circumstances or allow for unique, high-quality design may also be processed and approved under this Article.

(2) This Article is also intended to implement all of the purposes set out in C.R.S. § 24-67-102(1).

### Division 16.2. Applicability, Required Consents, and Transition

16.2.1. Applicability.

This Article applies to all existing and proposed PUDs. PUDs that were approved prior to the effective date of this Article, or that were in process on the effective date of this Article, are subject to the transition provisions of Section 16.2.3., below.

16.2.2. Required Consents.

No property shall be rezoned to PUD without the written consent of the property owners within the PUD and the written subordination all lienholder interests. Amendments to PUDs do not require written consent of property owners whose properties are not included within the area of the amendment. PUDs may be abandoned or repealed in accordance with the Planned Unit Development Act of 1972, C.R.S. § 24-67-101, *et seq.*

16.2.3. Transition.

a. *Prior PUD Zoning Overlays without Further Approvals.* The owner of property that was zoned with a PUD overlay prior to the effective date of this Article, but is not subject to an approved preliminary development plan (“PDP”) may proceed with development review by way of one of the following three alternatives:

(1) An application for PDP approval pursuant to the Land Use Code provisions that were in effect immediately prior to the effective date of this Article, unless such application is filed more than 18 months after the effective date of this Article, in which case this alternative shall not be available unless the subject property is located within the 25-52 East Subarea Plan boundary; or

(2) An application for PUD Zoning Document approval; or

(3) An application to rezone to a non-PUD zoning district.

b. *Prior PDP Approvals without FDP Approvals.* Property that is the subject of a PDP that was approved prior to the effective date of this Article, has not lapsed, and is not subject to an approved final development plan (“FDP”) may proceed with development review by way of one of the following three alternatives:

(1) An application for FDP approval pursuant to the Land Use Code provisions that were in effect immediately prior to the effective date of this Article, provided that such application is filed within 18 months after the effective date of this Article and is not within the 25-52 East Subarea Plan boundary; or

(2) If the PDP includes all of the information required for a PUD Zoning Document (*see* Sec. 16.4.4., *infra*), an application for approval of a site plan, preliminary plat, or final plat pursuant to this Article; or

(3) If the PDP does not include all of the information required for a PUD Zoning Document (*see* Sec. 16.4.4., *infra*), an application for amendment to the PDP to include such information, which amended PDP shall thereafter be considered a PUD Zoning Document.

c. *Prior FDP Approvals in General.*

(1) An approved FDP may be implemented using a final plat, site plan, or building permit, as applicable.

(2) In the event that an FDP and the PDP to which it relates fail to address a standard of this Code, the standard of this Code at the time of application for the final plat, site plan, or building permit, as applicable, shall be applied.

d. *Amendment of Prior FDP Approvals.* Amendments to prior FDP approvals may be approved by the Director if:

(1) The amendments qualify as minor modifications pursuant to Section 4.11.4; or

(2) The amendments eliminate or reduce the degree of subdivision regulation exceptions; or

(3) The amendments eliminate or reduce the degree of modifications to the underlying zoning district upon which the FDP was based.

(4) Amendments to prior FDP approvals may be approved by the Planning Commission if:

(a) The FDP is substantially consistent with the approved PDP;

(b) All PDP standards and conditions of approval have been adequately addressed on the FDP; and

(c) Road cross-sections for local streets with attached sidewalks are not modified, street trees are provided at a density of at least one two-inch caliper tree per 40 feet of street frontage (except for alleys and rural roads), the full width of street rights-of-way is provided, and disabled parking spaces are compliant with Americans with Disabilities Act Accessibility Guidelines (“ADAAG”).

e. *Revocation of Prior FDP Approval.* The Board of Trustees may initiate the process to repeal the prior FDP approval if:

(1) The project for which the FDP was established is not carried out pursuant to the approved FDP; or

- (2) Building activity for the area affected by the FDP has not commenced within a period of one year after the effective date of the FDP approval, unless otherwise approved by the Board of Trustees.

## Division 16.3. Optional Concept Plans

### 16.3.1. Generally.

A PUD concept plan is a generalized land use and physical plan for an area that is proposed to be included within a PUD zoning district. It is the first step in the PUD process, intended to allow for early, informal evaluation of a proposed PUD at a conceptual stage. The PUD concept plan allows for the initial evaluation of the potential development's relationship to the Comprehensive Plan and the requirements of this Code, and helps to guide the preparation of a Zoning Document (*see* Division 16.4, Zoning Documents). The PUD concept plan is optional, but is recommended for PUDs that encompass more than 40 acres or are within an area that is the subject of a sub-area plan.

### 16.3.2. Contents.

The PUD Concept Plan shall include such information as required in the application checklist approved by the Director, which shall at a minimum, include the following:

- (1) Perimeter property lines with measurements;
- (2) Existing and platted streets within or adjacent to the proposed PUD, with right-of-way dimensions, street classifications, and street names;
- (3) Proposed collector and arterial streets within or adjacent to the proposed PUD, with right-of-way dimensions, street classifications, and street names;
- (4) Land use and zoning district designations for adjacent properties;
- (5) Narrative describing the intent of the PUD, detailing why a PUD is necessary to accomplish the design or land use objectives, and a proposal regarding new standards or deviations to standards in the Code that are likely to be requested with the zoning document;
- (6) Planning areas, if any, labeled with the proposed land uses, total acres and square feet, development density and intensity by dwelling units per acre and / or floor area ratio of non-residential uses, as applicable;
- (7) Location and type of existing and proposed vehicular access points to the PUD and across planning area boundaries;

- (8) General location of known environmentally sensitive areas, drainage courses, parks, trails, amenity areas, storm water facilities, easements, underground utilities, and existing buildings to remain;
- (9) Locations of proposed storm detention and / or retention facilities; and
- (10) Topography of site.

16.3.3. Concept Plan Review.

- a. *Generally.* The Director will review the PUD concept plan and provide comments that are generally be focused on assisting the applicant with the development of the zoning document.
- b. *Optional Referral.* The Director may refer the PUD concept plan to the Planning Commission for further review and comment at a public meeting.
- c. *Review is Informational Only.* Any comments provided to the applicant by the Director or the Planning Commission are informational only and shall not represent a commitment on behalf of the Town regarding the approval of a zoning document.

Division 16.4. Zoning Documents

16.4.1. Purpose.

A zoning document establishes standards for the development of property zoned PUD, including allowable land uses, housing formats, bulk standards, and design standards. The zoning document shall address all of the land area that is proposed to be included in the PUD.

16.4.2. Effect of Zoning Document.

- a. *Generally.* Once adopted, the zoning document establishes the zoning standards for the property that is the subject of the PUD. A zoning document approved under this Article establishes a PUD that is considered an individual “zoning district” for the purposes of this Code.
- b. *Further PUD Approvals.* Further approvals under this Article are not required (the development contemplated by the zoning document may be carried out by way of subdivision plats, site plans, building permits, or other appropriate permits or approvals that apply generally within the Town).

c. *Provisions of the Plan to Run in Favor of the Town.* All provisions of the plan shall run in favor of the Town, unless the Town specifically approves otherwise on the face of the zoning document.

d. *Provisions of the Plan may Run in Favor of Residents, Occupants, or Owners.* Provisions of the plan may run in favor of residents, occupants, or owners within the PUD, but only to the extent specifically provided in the zoning document and approved by the Town.

#### 16.4.3. Relationship of Zoning Document to Other Code Standards.

a. *Town of Frederick Land Use Code.* The PUD zoning document may include design and use standards that are different from those set out in this Code. However, where the PUD zoning document is silent with respect to any particular standard, development within the PUD shall conform to the design and use standards in this Code.

b. *Engineering Design Standards.*

(1) Development within the PUD shall conform to the Engineering Design Standards. However, the PUD zoning document may include alternative standards with respect to:

- (a) Street and alley cross-sections;
- (b) Intersection spacing (review is about safety);
- (c) Driveway spacing (review is about safety); and
- (d) Trails.

(2) Alternatives to the standards set out in the Engineering Design Standards may be approved only if they are supported by a study by a qualified engineer that demonstrates to the Town Engineer's satisfaction, after consultation with the Public Works Director, that the modification:

- (a) Will not compromise community mobility, accessibility, and public safety; and
- (b) Will not result in an increase in long-term costs to the Town with regard to operations, maintenance, and replacement.

c. *CDOT Standards.* Modifications to CDOT standards on CDOT-controlled rights-of-way may be approved according to the standards set out in subsection 16.4.3.b.(2), above, provided that CDOT also authorizes the modification in writing.

d. *Reconciliation of Indirect Conflicts.* In the event that a PUD Zoning Document does not address an otherwise applicable standard that is set out in this Code or the Engineering Design Standards, the Code standard or the Engineering

Design Standard, as applicable, shall be applied unless the Director (with regard to Code Standards), or the Town Engineer after consultation with the Public Works Director (with regard to Engineering Design Standards), determines that such application would lead to a result that is: (1) obviously contrary to the approved design intent of the PUD Zoning Document; (2) technically infeasible; or (3) absurd. Upon such a finding, Director or Town Engineer, as applicable, may approve deviations from the Code or Engineering Design Standards to the extent necessary to harmonize the Code or Engineering Design Standards with the PUD Zoning Document, favoring full application of the standards of the PUD Zoning Document, unless such application would create a hazardous condition.

16.4.4. Contents of PUD Zoning Document.

a. *Generally.* The PUD Zoning Document shall identify, using maps, graphics, tables, and narrative, as appropriate:

(1) One or more planning areas, each of which may be subject to different standards articulated in the PUD Zoning Document;

(2) Standards regarding the land uses to be allowed within the PUD, or each planning area within the PUD, using the vocabulary for land use that is set out in Section 3.4 of this Code, except that the Director may authorize the creation of new land uses, provided that the Director determines that they are defined in a manner that does not materially overlap with any of the defined land uses of this Code;

(3) Total development potential of the PUD (maximum number of dwelling units by housing format, maximum overall density, and maximum number of square feet of nonresidential land use or area by general category), and, optionally (*e.g.*, as appropriate to show how a particular plan or planning objective will be implemented), total minimum development (minimum number of dwelling units by housing format, minimum overall density, and minimum number of square feet of nonresidential land use or area by general category), and total development potential (and as appropriate, minimum development) within each planning area of the PUD, expressed in the same manner;

(4) The proposed conceptual plan for the primary pedestrian and vehicular circulation system within the PUD, including the general locations of connections to adjacent streets and connections among planning areas, whether existing or approved and not yet constructed;

(5) Bulk standards for development within the PUD or each planning area of the PUD, to include, at a minimum, building height and setbacks, and if appropriate to achieve the design intent of the PUD, other measures, such as building coverage, floor area ratio, bulk plane standards, building form standards, or architectural theme or design standards;

(6) Standards for buffering or transitions along the boundaries of the PUD zone, and between planning areas, as appropriate;

(7) Conceptual landscape and streetscape improvements that provide for a consistent identity within the PUD, which may include typical lots, typical right-of-way cross-sections or plan views, concept plans for parks and open spaces, and / or an overall concept plan;

(8) Standards for signage within the PUD, if different from those set out in Article 7, Sign Code;

(9) Standards for parking within the PUD, if different from those set out in Section 2.8, Parking;

(10) Standards for parks and open space, in terms of land area, general locations, and amenities, as appropriate to the type of development proposed within the PUD; and

(11) Cross-sections of typical streets (whether public or private), alleys, and trails, with any modifications to the Engineering Design Standards regarding same indicated, and the reasons for the modifications, including the design intent, articulated.

b. *Other Proposed Standards.* The PUD Zoning Document may include proposed standards or deviations from standards addressing any other topic as appropriate to the design intent of the PUD.

c. *Design Guidelines.* The PUD Zoning Document may include design guidelines for development within the PUD.

#### 16.4.5. Standards for Approval of PUD Zoning Document.

a. *Generally.* Standards for approval of a PUD Zoning Document are different for properties that are within the boundaries of an adopted sub-area plan than for properties that are not within the boundaries of an adopted sub-area plan.

b. *Properties within Adopted Sub-Area Plan Boundaries (Except Downtown).* For properties within an area that is subject to an adopted sub-area plan (except Downtown), the PUD Zoning Document may be approved if the Board of Trustees finds that it:

(1) Implements the sub-area plan with regard to the land that is the subject of the PUD Zoning Document application; and

(2) The approval of the PUD Zoning Document to implement the sub-area plan creates a net public benefit when compared to the development that is possible under non-PUD zoning districts, considering:

(a) The character, design, and use objectives of the sub-area plan;

(b) The location, quality, character, and function of common open space or recreational amenities;

(c) The stewardship of natural resources and the mitigation of flood risks;

(d) The affordability of housing and the creation of new or expanded economic opportunities;

(e) The development quality and design aesthetics; and

(f) The efficiency in layout and provision of roads, utilities and other infrastructure; and

(3) Where the boundaries of the PUD are shared with existing or approved residential development, or when existing or approved residential development is across a street that is 60 feet or less in right-of-way width, the PUD Zoning Document provides for buffers and / or transitions in land use, density, intensity, and building patterns along the boundaries of the PUD zoning district to appropriately address the impacts of noise, dust, light, and shadows created by development within the PUD on the existing or approved residential development.

c. *Properties not within Adopted Sub-Area Plan Boundaries.* For properties that are not within an area that is subject to an adopted sub-area plan, the PUD Zoning Document may be approved if the Board of Trustees finds that development pursuant to the PUD Zoning Document:

(1) Will be in general conformity with the Comprehensive Plan, provided that:

(a) If a Comprehensive Plan update has not occurred in the five (5) years preceding the application date, the Board of Trustees must specifically also find that the public health, safety, and welfare will be advanced by adopting the PUD Zoning Document to conform to the Comprehensive Plan; or

(b) If a Comprehensive Plan update is underway on the date of the application, the Board of Trustees must specifically also find that the PUD Zoning Document, on balance, will not undermine the implementation of the updated Comprehensive Plan.

(2) Will provide a net public benefit when compared to the development that is possible under non-PUD zoning districts, considering:

(a) For all planning areas:

i) The stewardship of natural resources and the mitigation of flood risks;

ii) The development quality and design aesthetics; and

iii) The efficiency in layout and provision of roads, utilities and other infrastructure; and

(b) For planning areas that include residential uses:

i) The quantity or quality of common open space or recreational amenities;

ii) The affordability of housing; and

(c) For planning areas that include nonresidential uses, the creation of new or expanded economic opportunities that will have a positive impact on the fiscal health of the Town or the lifestyle of its residents.

(3) Where the boundaries of the PUD are shared with existing or approved residential development, or when existing or approved residential development is across a street that is 60 feet or less in right-of-way width, the PUD Zoning Document provides for buffers and / or transitions in land use, density, intensity, and building patterns along the boundaries of the PUD zoning district to appropriately address the impacts of noise, dust, light, and shadows created by development within the PUD on the existing or approved residential development.

d. *Private Streets and Modification of Sidewalk Requirements.*

(1) Private streets within PUDs may be approved only if:

(a) Their location and connections to the public street system does not interfere or conflict with the existing, planned, or prioritized street or trail network set out in the adopted Comprehensive Plan, Transportation Master Plan, and Parks, Open Space, and Trails Master Plan;

(b) Their geometry is supported by a traffic study, and they are designed in a manner that the Town Engineer confirms is durable (in consideration of the proposed use of the streets), appropriate to accommodate safe circulation and travel, and snow removal and / or storage;

(c) Access easements are provided for public safety, public utility, and emergency services purposes, and if secured with gates, on-demand access is provided for emergency service providers.

(2) Requirements for sidewalks (whether public or private) shall not be waived or modified by PUD Zoning Documents unless the waiver or modification applies only in residential areas with very low residential density and / or in areas where pedestrian connectivity is provided in an alternative location so that it is safer and more efficient.

## Division 16.5. Review Procedures

### 16.5.1. Review and Approval Procedures for PUD Zoning Documents.

a. *Generally.* PUD Zoning Documents are processed as provided in Section 4.6., Major Application Review Procedure, except as modified by this Division.

b. *Expeditious Hearings Required; Continuances.*

(1) Any required public hearing on a PUD Zoning Document shall be conducted expeditiously and concluded when all those present and wishing to testify have done so.

(2) Unless the applicant waives such limitation (or limitations), no public hearing shall continue for more than 40 days from the date of commencement without the written consent of the applicant, and any continuation of a public hearing shall be to a date certain.

c. *Approval by Ordinance Required.* The approval of a PUD Zoning Document shall be in the form of an ordinance.

d. *Conditions of Approval.*

(1) The Board of Trustees may impose conditions on the approval of a PUD Zoning Document to ensure compliance with the standards for approval set out in Section 16.4.5., above. Such conditions shall have a rational nexus to the anticipated impacts of the proposed development and shall be roughly proportional to the degree of said impacts.

(2) All PUD Zoning Documents that provide for or anticipate common open space that is not dedicated to the Town shall specify that a property owners' association or Title 32 metropolitan district will maintain the common open space.

### 16.5.2. Amendments to, Modifications of, and Release of PUD Zoning Documents.

a. *Generally.* PUD Zoning Documents shall be amended, modified, or released using the standards and procedures that are used for their initial approval, and the additional standards of subsection b., below.

b. *Additional Standards.* Except in the limited circumstances set out in C.R.S. 24-67-106(3)(b.5), no substantial modification, removal, or release of the provisions of the PUD Zoning Document by the Town shall be permitted except upon a finding by the Board of Trustees, that the modification, removal, or release is consistent with the efficient development and preservation of the entire PUD, does not affect in a substantially adverse manner either the enjoyment of land abutting upon or across a street from the PUD, or the public interest, and is not granted solely to confer a special benefit upon any person.

c. *Effect on Private Rights.* No modification, removal, or release of the provisions of the PUD Zoning Document by the Town shall affect the rights of the residents, occupants, and owners of the PUD to maintain and enforce certain provisions of the plan, but only to the extent permitted by state law. Residents and owners of the planned unit development may, to the extent and in the manner expressly authorized by the provisions of the plan, modify, remove, or release their rights to enforce the provisions of the plan, but no such action shall affect the right of the Town to enforce the provisions of the plan.

#### 16.5.3. Administrative Adjustments when Implementing PUD Zoning Documents.

a. *Generally.* Applicants for site plan or building permit approvals pursuant to adopted PUD Zoning Documents may seek administrative relief from the strict application of the terms of the PUD Zoning Document without amending the PUD Zoning Document. An application for an administrative adjustment from a PUD Zoning Document may be filed for all or a portion of the land area within a PUD zoning district.

b. *De Minimus Adjustments.* Adjustments to the requirements set out in a PUD Zoning Document may be administratively approved if the Director determines that the adjustments represent a *de minimus* departure from the requirements of the approved PUD Zoning Document.

c. *Minor Adjustments.* Minor adjustments to the requirements set out in a PUD Zoning Document may be administratively approved if the Director determines that the minor adjustment will allow for the applicant to overcome a practical difficulty that was not anticipated by the PUD Zoning Document, will not compromise the design intent of the PUD Zoning Document, will not create noticeable impacts on adjacent landowners, and:

- (1) The minor adjustment does not exceed a 20 percent increase or decrease in lot width, lot depth, lot area, or building setbacks; and

(2) The minor adjustment does not exceed a 10 percent increase in building coverage or building height; and

(3) The minor adjustment does not reallocate more than 20 percent of the approved dwelling units or nonresidential floor area (as may be applicable) from one planning area to another, and the reallocation of dwelling units or floor area does not increase impacts on existing or approved residential uses outside of the PUD zoning district.

**Section 9.**       **Codification Amendments.** The codifier of the Frederick Land Use Code is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of this ordinance into the Frederick Land Use Code.

**Section 10.**       **Severability.** If any part, section, subsection, 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, regardless of the fact that any one part or parts may be declared invalid or unconstitutional.

**Section 11.**       **Repealer.** All ordinances or resolutions, or parts thereof, in conflict with this Ordinance are hereby repealed, provided that such repealer shall not repeal the repealer clauses of such ordinance nor revive any ordinance thereby.

**Section 12.**       **Effective date.** This Ordinance shall take effect on according to law.

**Section 13.**       **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 14.**       **Certification.** The Town Clerk shall certify the passage of this Ordinance and make not less than one copy of the adopted Code available for inspection by the public during regular business hours.

**INTRODUCED, PASSED, ADOPTED, AND ORDERED PUBLISHED IN FULL BY THE BOARD OF TRUSTEES OF THE TOWN OF FREDERICK THIS \_\_\_\_ DAY OF \_\_\_\_, 2024.**

**ATTEST:**

**TOWN OF FREDERICK**

By \_\_\_\_\_  
Tricia David, Town Clerk

By \_\_\_\_\_  
Tracie Crites, Mayor

**PCR-2024-06**

**A Resolution of the Planning Commission**

**Recommending Approval of Amendments to the Town of Frederick Land Use Code Amending Section 1.15, Definitions; Amending Section 2.11.9, Amount Of Open Space Required By Development; Amending Section 3.4.11, Agricultural Uses; Amending Section 3.4.12, Residential Protection Standards, Amending Section 3.4.13, Accessory Uses And Accessory Buildings; Removing Section 3.4.15, Accessory Dwelling Units; Amending Section 3.4.21, Backyard Chickens; Amending Section 3.4.22, Apiaries/Beekeeping; Creating Section 3.4.22, Agricultural Animals; Amending Section 4.7.5, Preliminary Development Plan; Amending Section 4.9.2, Final Development Plan; Amending Section 4.9.3, Minor Subdivision; and Creating Article 16, Planned Unit Development**

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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 the Frederick Land Use Code are need to meet recent changes to Colorado State Law and changes to community needs and preferences.
  - 1.2 Said amendments generally conform with the applicable requirements of Section 4.7.9.b f the Frederick Land Use Code.
  - 1.3 Said amendments were considered during a public meeting held August 28th, 2024 at which time the public was able to provide testimony.
  - 1.4 Proper notice was given according to Section 4.5 of the Frederick Land Use Code.
- Section 2. The Planning Commission recommendation is based on competent, substantial evidence in the written record and the testimony provided at the public hearing.
- Section 3. On the basis of the above, the Town of Frederick Planning Commission recommends that the Board of Trustees approve the Land Use Code amendments.

This resolution approved this 28th day of August, 2024 by a vote of \_\_\_ to \_\_\_.

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Tracy Moe, Chairperson, Planning Commission