

**THE CITY OF FREDERICK
MAYOR AND BOARD OF ALDERMEN**

ORDINANCE NO: G-21-06

AN ORDINANCE concerning

Mixed-Use Conditional Uses

FOR the purpose of allowing Mixed-Use Conditional Uses to transfer in ownership

BY repealing and reenacting, with amendments,

Sec. 310

Appendix A, "Land Management Code"

The Code of the City of Frederick, 1966 (as amended)

SECTION I. BE IT ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK, That the Code of the City of Frederick, 1966 (as amended), Appendix A (Land Management Code), Sec. 310, be repealed and reenacted with amendments, as follows:

Sec. 310 MASTER PLANS

- (a) Applicability. *****
- (b) Initiation. *****
- (c) Notice of Application. *****
- (d) Decision. *****
- (e) Withdrawal or Denial of the Application. *****
- (f) Amendment of Master Plan. *****
- (g) Criteria. *****
- (h) Scope. *****
- (i) Mixed-Use Conditional Use Approval. *****
 - (1) Applicability.**
 - A.** This subsection applies to any application for approval of a mixed-use conditional use as designated in the Use Matrix (Section 404).
 - B.** [Mixed-Use conditional uses do not run with the property and are not transferable.]
 - C.** [When the ownership of a lot or building is transferred, the seller has the responsibility to disclose all conditional uses and conditions of that use to the

buyer. The Planning Commission shall not waive any requirements of this Code due to the failure of the seller to disclose the requirements of the Code to the buyer.]

(2) Transfer.

- A. Mixed-use conditional uses run with the land. A mixed- use conditional use applies to the property for which it is granted and is not personal to the property owner who receives initial approval. A mixed-use conditional use is transferable to any future owner of the land, in accordance with this subsection and any other applicable provision of this Code. It cannot be transferred by the applicant to a different site.
- B. When the ownership of a property on which a mixed-use conditional use is located is transferred, the seller shall provide to the buyer a statement of disclosure stating that mixed use conditional use approval has been granted to the property and listing any conditions of such approval.
- C. The Planning Commission shall not waive any requirements of this Code due to the failure of the seller to disclose the requirements of this Code to the buyer.

[(2)](3) Initiation. ***

[(3)](4) Criteria. ***

[(4)](5) Additional Conditions may be Required.

- A. The Planning Commission may attach additional reasonable conditions to a mixed-use conditional use upon a specific finding that there is a unique characteristic of the activity or property which, if not addressed, would have substantial adverse impacts on adjacent properties and necessary to protect adjacent properties and the general neighborhood and to carry out the intent of this Code. Any additional condition imposed shall be related to such unique characteristic and shall be the minimum necessary to deal adequately with it.
- B. Violation of such additional conditions is a violation of this Code and may be grounds for termination of the mixed-use conditional use.
- C. The Planning Commission may require the installation, operation, and maintenance of devices and methods of operation as may, in its opinion, be required to prevent or reduce hazardous or congested traffic conditions, odor, dust, smoke, gas, noise, or similar nuisances. The Commission may impose such other conditions and requirements as may be necessary in its opinion to protect adjacent properties and neighborhoods and prevent conditions which may become obnoxious or offensive.
- D. In authorizing a mixed-use conditional use, subject to compliance with certain conditions, the Commission shall require from the owners, lessees, or tenants of the property for which this conditional use is granted such evidence, written agreement, guarantee, or acceptable surety as it may deem necessary, to

ensure that the conditions stipulated by the Board are being and will be complied with. Any such written agreement may be required by the Commission to be recorded among the land records of Frederick County, at the expense of the applicant.

E. [The Commission shall require the applicant to notify the Zoning Administrator in writing within 14 days of any change in the approved ownership, lease, sublease, or change in Ownership/Occupancy of the premise, which nullifies the conditional use. The Zoning Administrator Director shall prescribe forms for notification pursuant to this section. The failure to notify the Zoning Administrator is considered a violation of this Code.]

[F.] E. The conditions recited in subsections A., B., and C., above, shall be imposed at a public meeting of the Planning Commission. Any applicant at the meeting may request that the Commission clarify the conditions. The Commission may continue the meeting in order to consider such conditions.

[G] E. No use or activity permitted by conditional use shall be enlarged or extended beyond the limits authorized in the grant of mixed-use conditional use.

[F] G. Changes from one mixed-use conditional use to another use permitted by mixed-use conditional use requires approval by the Planning Commission.

SECTION II. BE IT FURTHER ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK, That in the event any provision, section, sentence, clause, or part of this ordinance shall be held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause, or part of this ordinance, it being the intent of the City that such remainder shall be and shall remain in full force and effect.


SECTION III. BE IT FURTHER ENACTED AND ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF FREDERICK, That this ordinance shall take effect on March 28, 2021 and all other ordinances or parts of ordinances inconsistent with the provisions of this ordinance will as of that date be repealed to the extent of such inconsistency.

NOTE: Underlining indicates material added
[Bold brackets] indicate material deleted
*** indicates no change

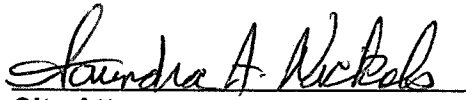
APPROVED: March 18, 2021

PASSED: March 18, 2021


Michael C. O'Connor, Mayor


Michael C. O'Connor, President,
Board of Aldermen

Approved for Legal Sufficiency:


City Attorney