



Bill No. 22-05

Concerning: Amending Chapter 1-19 of the County Code (Zoning Ordinance) to add Critical Digital Infrastructure as a New Use

Introduced: February 1, 2022

Revised: \_\_\_\_\_ Draft No. \_\_\_\_\_

Enacted: March 15, 2022

Effective: May 14, 2022

Expires: May 2, 2022

Frederick County Code, Chapter 1-19

Section(s) 11.100, 5.310, 6.100, 8.402, 8.403, 2.170

## COUNTY COUNCIL FOR FREDERICK COUNTY, MARYLAND

By: Council President M. C. Keegan-Ayer on behalf of County Executive Jan Gardner

**AN ACT** to: Amend Chapter 1-19 of the Frederick County Code (Zoning Ordinance) to add Critical Digital Infrastructure as a new use.

Date Council Approved: 3/15/2022 Date Transmitted to Executive: 3/17/2022

Executive: Jan H Gardner Date Received: 3/17/2022

Approved: [Signature] Date: 3/17/2022

Vetoed: \_\_\_\_\_ Date: \_\_\_\_\_

Date returned to Council by County Executive with no action: \_\_\_\_\_

By amending:

Frederick County Code, Chapter, 1-19 Section(s) 11.100, 5.310, 6.100, 8.402, 8.403, and 2.170

Other: \_\_\_\_\_

**Boldface**

Underlining

[Single boldface brackets]

\*\*\*

*Heading or defined term.*

*Added to existing law.*

*Deleted from existing law.*


*Existing law unaffected by bill.*

2 The County Council of Frederick County, Maryland, finds it necessary and appropriate to  
3 amend the Frederick County Code to amend Chapter 1-19 of the Frederick County Code (Zoning)  
4 to add Critical Digital Infrastructure as a new use.

5 NOW, THEREFORE, BE IT ENACTED BY THE COUNTY COUNCIL OF  
6 FREDERICK COUNTY, MARYLAND, that Chapter 1-19 of the Frederick County Code be, and  
7 it is hereby, amended as shown on the attached Exhibit 1.

8 AND BE IT FURTHER ENACTED AND ORDAINED that the following transitional  
9 provisions shall apply:

10 The requirements set forth under 1-19-8.402(B)(5) regarding review by the Architectural  
11 Review Committee shall not take effect until the Committee has been appointed by the  
12 County Executive and confirmed by the County Council.  
13

14  
15   
16 M. C. Keegan-Ayer, President OK  
17 County Council of Frederick County,  
18 Maryland  
19

**§ 1-19-11.100. DEFINITIONS.**

\*\*\*\*\*

**Critical Digital Infrastructure Electric Substation:** A high-voltage electric system facility used to switch generators, equipment, and circuits or lines in and out of a system, change AC voltages from one level to another, or change alternating current to direct current or direct current to alternating current. Critical Digital Infrastructure Electric Substations may only be constructed in conjunction with a Critical Digital Infrastructure Facility.

**Critical Digital Infrastructure Facility:** A facility consisting of one or more buildings used primarily for the storage, management, processing, and transmission of digital data, and which houses computer or network equipment, systems, servers, appliances, and other associated components related to digital data operations. The facility may also include customary accessory uses such as an office use, air handlers, power generators and storage, water cooling and storage facilities, and associated utility infrastructure needed to support sustained operations of the digital infrastructure.

\*\*\*\*\*

**§ 1-19-5.310. USE TABLE.**

<i>Uses</i>	<i>RC</i>	<i>A</i>	<i>R1</i>	<i>R3</i>	<i>R5</i>	<i>R8</i>	<i>R12</i>	<i>R16</i>	<i>VC</i>	<i>MX</i>	<i>GC</i>	<i>ORI</i>	<i>LI</i>	<i>GI</i>
Limited manufacturing and assembly use												PS	PS	PS
General manufacturing														PS

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<u>Critical Digital Infrastructure Facility</u>	<u>80,000</u>		<u>200</u>	<u>50<sup>2</sup></u>	<u>50<sup>2</sup></u>	<u>50<sup>2</sup></u>	<u>60</u>
<u>Critical Digital Infrastructure Electric Substation</u>	<u>20,000</u>		<u>200</u>	<u>50</u>	<u>50</u>	<u>50</u>	<u>30</u>

1

2

<i>Use Classification</i>	<i>Minimum Lot Area</i>	<i>Minimum Lot Area per Unit</i>	<i>Lot Width</i>	<i>Front Yard</i>	<i>Side Yard</i>	<i>Rear Yard</i>	<i>Height</i>
<b><i>General Industrial District GI</i></b>							
All permitted uses	1 acre	-	150	25	15	40	60'
Open space uses	No minimum	-	-	-	-	-	-
Governmental and public utility	1 acre	-	200	40	40	40	30'
Nongovernmental utility, nongovernmental electric substation	1 acre	-	200	50	50	50	30'
Self-storage units	20,000	-	100	25	10 ****	25 *****	60' ****
Solar facility, commercial	1 acre		200	50	50	50	30'
<u>Critical Digital Infrastructure Facility</u>	<u>80,000</u>		<u>200</u>	<u>50<sup>2</sup></u>	<u>50<sup>2</sup></u>	<u>50<sup>2</sup></u>	<u>60</u>
<u>Critical Digital Infrastructure Electric Substation</u>	<u>20,000</u>		<u>200</u>	<u>50</u>	<u>50</u>	<u>50</u>	<u>30</u>

4

5

6 \* Equal to the height of structure.

7 \*\* Minimum 10' green area no parking within area

8 \*\*\* For development within the Village Center Zoning District see also §§ 1-19-  
9 7.500(B)(2) and (3)

10 \*\*\*\* Or as determined under §§ 1-19-7.500(B)(3), whichever is greater

11 \*\*\*\*\* Except as provided in § 1-19-8.450(B)(2) and § 1-19-8.450(D)(1).

12 1 Any proposed addition would have to meet setbacks required for new structures.

13 Parking requirements of §§ 1-19-6.200 through 1-19-6.240.

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1 2. As shown or equal to height of structure, whichever is greater.  
2 3. Development within the VC zoning district may not exceed the density as specified  
3 within §§ 1-19-7.500(B)(1).

4 \*\*\*\*\*

5 **§ 1-19-7.600. INDUSTRIAL DISTRICTS**

6 \*\*\*\*\*

7 (F) The requirements of 1-19-8.402 apply to a Critical Digital Infrastructure Facility.

9 \*\*\*\*\*

10 **1-19-8.402 Critical Digital Infrastructure Facilities in the LI and GI Districts.**

11 The following provisions apply to Critical Digital Infrastructure Facility in the LI and GI  
12 Districts.

13 (A) Bulk Regulations

14 (1) The Planning Commission may approve a reduction to, but not elimination  
15 of, the required yard setbacks in § 1-19-6.100 between adjoining Critical  
16 Digital Infrastructure Facilities in the LI and GI Districts during the site plan  
17 review process, if the Planning Commission finds that reducing the  
18 setbacks:

- 19 a. increases the size and usability of open space areas;
- 20 b. increases the landscape buffer areas along other adjacent property  
21 lines with different land uses;
- 22 c. provides additional buffer areas for environmentally sensitive areas  
23 or resources; or
- 24 d. facilitates compliance with the design criteria listed under §1-19-  
25 8.402(B).

26 Notwithstanding any reduction approved by the Planning Commission, the  
27 distance between structures must comply with applicable building code  
28 requirements.

29 (B) Design Requirements

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- 1           (1) Buildings must be predominantly designed and constructed to include  
2           finishes and materials of consistent quality and design on all sides. All  
3           building facades that are in public view must avoid the use of  
4           undifferentiated facades and long, plain wall sections by including a  
5           combination of the following design elements: change in building height,  
6           building step-backs or recesses, windows, doors, changes in building  
7           material, patterns, textures, colors, or use of accent materials.  
8           Architectural renderings or plans must be submitted as part of the Site  
9           Development Plan application for approval by Staff and the Planning  
10           Commission to assure that the appearance, type of building materials, or  
11           other aspects of the building are consistent with the purposes and intent of  
12           the Critical Digital Infrastructure design requirements.
- 13           (2) Building entrances must be designed and oriented in terms of their  
14           relationship to the human scale and must reflect this relationship through  
15           the inclusion of human-scaled architectural elements.
- 16           (3) Refuse and recycling dumpsters, service doors, and mechanical  
17           equipment must face away from roadways, pedestrian routes, and public  
18           areas.
- 19           (4) In order to minimize visibility from adjacent roads and adjacent properties,  
20           ground level and roof top mechanical equipment, power generators, water  
21           cooling and storage facilities, utility substations, and other associated  
22           utility infrastructure to support sustained operations of the infrastructure  
23           must be screened. This screening may be provided by a principal building.  
24           Mechanical equipment not screened by a principal building must be  
25           screened by a visually opaque fence, screen wall or panel, parapet wall,  
26           or other visually opaque screen that must be constructed of materials  
27           compatible with those used in the exterior architectural finishes of the  
28           principal building.
- 29           (5) Staff shall refer site plans to the Architectural Review Committee for  
30           review prior to the site plan being scheduled for Planning Commission.

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1           The recommendations of the Architectural Review Committee may be  
2           considered by the Planning Commission.

3           (6) In addition to §1-19.6.400 the following landscaping, screening, and  
4           buffering requirements must be met.

- 5           a. Front yard(s) abutting a roadway must include a landscaped buffer.  
6           b. Except where adjoining a Critical Digital Infrastructure use, side  
7           and rear yards must include a landscaped buffer.  
8           c. A landscaped buffer must include a four-season visual screen  
9           resulting in multi-layered, staggered rows of overstory and  
10           understory trees and shrubs that are a mix of evergreen and  
11           deciduous vegetation, with an emphasis on species that are native  
12           to Frederick County.  
13           d. The minimum height of overstory trees within a landscape screen  
14           or buffer at planting must be a minimum of 6 feet with a minimum  
15           caliper of 2 inches. The minimum height of understory trees and  
16           shrubs at the time of planting must be 3 gallon or larger. Trees and  
17           shrubs larger than the minimum sizes listed above will be required  
18           where the minimum planting sizes will not provide adequate  
19           screening or buffering within 2 years. Vegetation used to establish  
20           a visual screen shall not be trimmed so as to stunt upward and  
21           outward growth or to otherwise limit the effectiveness of the visual  
22           screen.  
23           e. A berm, wall, or fence may be used in combination with vegetation  
24           to satisfy the screening requirement where deemed appropriate by  
25           County Staff and the Planning Commission. Walls and fences  
26           must be made of quality materials and enhance rather than detract  
27           from the beautification of the site. Walls and fences that are in  
28           public view must avoid long, undifferentiated facades and long,  
29           plain sections by including a combination of the following design

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- 1 elements: variations in height, step-backs or recesses, changes in  
2 material, patterns, textures, colors, or use of accent materials.
- 3 f. If security fencing is proposed, vegetative screening must be  
4 placed between the fence and the public view. Fencing must be  
5 made of high quality materials. Chain-link and similar woven metal  
6 or plastic fencing shall not be used.
- 7 g. If forest or hedgerows exist where screening or buffering is  
8 required, it must be preserved to the maximum extent practicable  
9 and supplemented with new plantings where necessary to provide  
10 the desired screening or buffering.
- 11 h. All landscaping, screening, and buffering must be maintained in  
12 living condition.
- 13 i. Applicant must submit a landscape, buffering, and screening plan  
14 as part of the site plan application addressing the requirements and  
15 timing of plantings. Screening and buffering must be installed as  
16 early in the development process as possible. Occupancy shall not  
17 be granted if screening and buffering requirements are not installed  
18 in accordance with the approved site plan.
- 19 j. The Planning Commission may approve a modification to the  
20 landscaping, buffering, and screening standards where an alternate  
21 landscaping, buffering, and screening plan is provided that meets  
22 the purpose and intent of these design requirements.
- 23 (7) Parking, loading, and signage must be provided in accordance with §1-19-  
24 6.200 through §1-19-6.340.
- 25 (8) Lighting must comply with §1-19-6.500, but light poles must not exceed a  
26 height of 18 feet. The Planning Commission may require more restrictive  
27 lighting heights where deemed appropriate by the Planning Commission.
- 28 (9) Bicycle rack requirements shall be in accordance with industrial parks in  
29 table §1-19-6.220 (H) (1).

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1 (10) Critical Digital Infrastructure Facilities must meet all criteria found in  
2 §§1-19-7.600 and 1-19-7.610.

3 (C) Subdivision and Street Frontage

4 (1) Subdivision of lot(s) for Critical Digital Infrastructure uses shall comply with  
5 Chapter 1-16 of the County Code.

6 (2) Where two or more lots are proposed for Critical Digital Infrastructure  
7 uses, the lot frontage requirement of §1-19-4.520 may be met by  
8 construction of a private street subject to Planning Commission approval  
9 and the following:

- 10 a. The lot or parcel from which the new lot is being created has fee-  
11 simple frontage on a public street.
- 12 b. The private street connects directly to a public road.
- 13 c. The private street will not serve any uses that would be frequented  
14 by the general public.
- 15 d. For the purposes of establishing bulk regulations (setbacks, lot  
16 width, etc.), the measurements along the portion of the lot(s)  
17 fronting a private street must be the same as established for public  
18 streets.
- 19 e. The design of the private street must comply with Chapter 1-16 of  
20 the County Code.
- 21 f. Private streets may not create long, dead-end street networks and  
22 must serve a limited number of lots and sites, as determined by the  
23 Planning Commission.
- 24 g. Private streets must be maintained by a property owner association  
25 or similar organization.
- 26 h. Easements, maintenance agreements, and covenants must be  
27 provided to the County for review with the submission of a Final  
28 Plat, and must be recorded by the applicant prior to lot recordation  
29 and the recording reference noted on the final plat.

30 (D) Performance Standards

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1 These performance standards for Critical Digital Infrastructure Facilities are  
 2 intended to mitigate potential detrimental effects on adjacent properties and the  
 3 neighborhood. All applications for site plan approval must be accompanied by a  
 4 registered engineer's certification that the use complies with all of the  
 5 performance standards. If, after occupancy of the structures, continuous or  
 6 frequent (even if intermittent) violations of the performance standards occur, and  
 7 after notice is given, bona fide and immediate corrective work is not performed  
 8 which successfully prevents the violation(s) from reoccurring, the Zoning  
 9 Administrator may suspend or revoke the Zoning Certificate and the Certificate of  
 10 Occupancy and require the operations and occupancy to immediately cease.  
 11 The Zoning Certificate and Certificate of Occupancy will be reinstated after the  
 12 property owner demonstrates to the Zoning Administrator's satisfaction, that  
 13 operation of the facilities is able to conform to these requirements.

14 (1) Noise:

- 15 a. Noise must be measured with a sound level meter.  
 16 b. The maximum sound pressure levels permitted from any source,  
 17 measured within an adjacent property line, are set forth below:

18

<u>Sound Measured to:</u>	<u>Decibels Continuous Slow Meter Responses</u>
<u>Industrial Uses</u>	<u>70</u>
<u>Commercial Uses</u>	<u>64</u>
<u>Residential Uses in any Zoning District</u>	<u>55</u>
<u>Institutional Uses</u>	<u>55</u>
<u>All Other Uses</u>	<u>55</u>

19 c. The provisions of this section do not apply to:

- 20  
 21 1. Transportation vehicles not under the control of the use.  
 22 2. Occasionally used safety signals, warning devices, and  
 23 emergency pressure relief valves.

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1                   3. Temporary construction activity between 7:00 a.m. and 7:00  
2                                   p.m.

3                   4. Other exemptions identified in §1-11-6- (F).

4                   d. Air handlers, generators, and other mechanical devices must  
5                                   comply with subsection (1)(b) above.

6                   (2) Vibration: No vibration may be produced which is transmitted through the  
7                                   ground and is discernible without the aid of instruments at any point  
8                                   beyond the property line; nor may any vibration produce a particle velocity  
9                                   of 2 inches per second measured at or beyond the property line. This  
10                                  provision does not apply between adjoining Critical Digital Infrastructure  
11                                  Facilities uses.

12  
13 **1-19-8.403 Critical Digital Infrastructure Electric Substation in the LI and GI**  
14 **Districts.**

15 The following provisions apply to Critical Digital Infrastructure Electric Substations in the  
16 LI and GI Districts:

17                   (A) A Critical Digital Infrastructure Electric Substation may only be constructed for  
18                                   the purpose of providing power to Critical Digital Infrastructure Facilities, and  
19                                   when a Critical Digital Infrastructure Facility has received site plan approval from  
20                                   the Planning Commission. An application for a Critical Digital Infrastructure  
21                                   Electric Substation may be processed concurrently with an application for a  
22                                   Critical Digital Infrastructure Facility.

23                   (B) A Critical Digital Infrastructure Electric Substation may be connected to another  
24                                   electrical system within the region. Any expansion of a Critical Digital  
25                                   Infrastructure Electric Substation for the purpose of supporting other uses or  
26                                   users must follow the rules, regulations, and procedures applicable to  
27                                   Nongovernmental Electric Substation use.

28                   (C) An application for a Critical Digital Infrastructure Electric Substation must include  
29                                   the following:  
30

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- 1 (1) Information indicating the general conditions of use and existing  
2 improvements on adjoining properties within a 1,000-foot radius surrounding  
3 the subject property.  
4  
5 (2) A description of the potential environmental and ecological (including water,  
6 air, wildlife, and vegetation) effects of the proposed Critical Digital  
7 Infrastructure Electric Substation on properties in the vicinity of the proposed  
8 development.  
9  
10 (3) An assessment of the impact on nearby properties from electromagnetic  
11 fields to be generated by the Critical Digital Infrastructure Electric Substation.  
12  
13 (4) An assessment of safety and reliability, including provisions for emergency  
14 operations and shutdowns.  
15  
16 (5) Information as to how the applicant proposes to address the visual impact of  
17 the Critical Digital Infrastructure Electric Substation on designated  
18 preservation areas, such as rural legacy areas, agricultural preservation  
19 areas, critical farms, Monocacy scenic river, designated heritage areas,  
20 historic sites and sites eligible for historic designation.  
21  
22 (6) A description of methods to be utilized to mitigate any waste disposal, air  
23 quality, visual or noise impacts associated with the development or operation  
24 of the Critical Digital Infrastructure Electric Substation.  
25

26 (D) Design Requirements

27 (1) Landscaping, Screening, and Buffering

- 28 a. A landscaped buffer must include a four-season visual screen  
29 resulting in multi-layered, staggered rows of overstory and  
30 understory trees and shrubs that are a mix of evergreen and  
31 deciduous vegetation, with an emphasis on species that are native  
32 to Frederick County.  
33 b. The minimum height of overstory trees within a landscape screen  
34 or buffer at planting must be a minimum of 6 feet with a minimum  
35 caliper of 2 inches. The minimum height of understory trees and  
36 shrubs at the time of planting must be 3 gallon or larger. Trees and  
37 shrubs larger than the minimum sizes listed above will be required

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1                    where the minimum planting sizes will not provide adequate  
2                    screening or buffering within 2 years. Vegetation used to establish  
3                    a visual screen shall not be trimmed so as to stunt upward and  
4                    outward growth or to otherwise limit the effectiveness of the visual  
5                    screen.

- 6                    c. A berm, wall, or fence may be used in combination with vegetation  
7                    to satisfy the screening requirement where deemed appropriate by  
8                    County Staff and the Planning Commission. Walls and fences must  
9                    be made of quality materials and enhance rather than detract from  
10                   the beautification of the site. Walls and fences that are in public  
11                   view must avoid long, undifferentiated facades and long, plain  
12                   sections by including a combination of the following design  
13                   elements: variations in height, step-backs or recesses, changes in  
14                   material, patterns, textures, colors, or use of accent materials.
- 15                   d. If security fencing is proposed, vegetative screening must be  
16                   placed between the fence and the public view. Fencing must be  
17                   made of high quality materials. Chain-link and similar woven metal  
18                   or plastic fencing shall not be used.
- 19                   e. If existing forest or hedgerows exist where screening or buffering is  
20                   required, it must be preserved to the maximum extent practicable  
21                   and supplemented with new plantings where necessary to provide  
22                   the desired screening or buffering.
- 23                   f. All landscaping, screening, and buffering must be maintained in  
24                   living condition.
- 25                   g. The Planning Commission may approve a modification to the  
26                   landscaping, buffering, and screening standards where an alternate  
27                   landscaping, buffering, and screening plan is provided that meets  
28                   the purpose and intent of this section.
- 29                   h. Applicant must submit a landscape, buffering, and screening plan  
30                   as part of the site plan application addressing the requirements and

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1 timing of plantings. Screening and buffering must be installed as  
2 early in the development process as possible. Occupancy shall not  
3 be granted if screening and buffering requirements are not installed  
4 in accordance with the approved site plan.

5 (2) Lighting, if provided, must comply with §1-19-6.500, and light poles shall  
6 not exceed a height of 18 feet. The Planning Commission may reduce lighting  
7 height(s) where deemed appropriate by the Planning Commission.

8 (3) Noise:

9 a. Noise will be measured with a sound level meter.

10 b. The following table describes the maximum sound pressure level  
11 permitted from any source and measured at any adjacent property  
12 line.

13

<u>Sound Measured to:</u>	<u>Decibels Continuous Slow Meter Responses</u>
<u>Industrial Uses</u>	<u>70</u>
<u>Commercial Uses</u>	<u>64</u>
<u>Residential Uses in any Zoning District</u>	<u>55</u>
<u>Institutional Uses</u>	<u>55</u>
<u>All Other Uses</u>	<u>55</u>

14 c. The following sources of noise are exempt:

15 1. Transportation vehicles not under the control of the use.

16 2. Occasionally used safety signals, warning devices, and  
17 emergency pressure relief valves.

18 3. Temporary construction activity between 7:00 a.m. and 7:00  
19 p.m.

20  
21 (4) Vibration: No vibration may be produced which is transmitted through the  
22 ground and is discernible without the aid of instruments at any point  
23 beyond the property line; nor may any vibration produce a particle velocity

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1 of 2 inches per second measured at any point beyond the property line.  
2 This provision does not apply between adjoining Critical Digital  
3 Infrastructure uses.

4 (5) Height: The Planning Commission may approve an increase in the  
5 maximum height established in §1-19-6.100, if it finds the increased height  
6 would not have an adverse impact on properties in the vicinity of the  
7 proposed Critical Digital Infrastructure Electric Substation. For each 3 foot  
8 increase in the height above the maximum height established in 1-19-  
9 6.100, , the required front, side, and rear yards set back measurements  
10 must be increased by one additional foot.

11 \*\*\*\*\*

12  
13 **§1-19-2.170. ARCHITECTURAL REVIEW COMMITTEE.**

14  
15 **A. ESTABLISHED.**

16 There is hereby established an Architectural Review Committee.

17  
18 **B. MEMBERS.**

19 (1) The Architectural Review Committee shall consist of 5 members appointed by the  
20 County Executive, subject to confirmation by the County Council. The Committee  
21 members shall be appointed for staggered 5 year terms of office. At the end of a term,  
22 a member continues to serve until a successor qualifies and is appointed. A member  
23 who is appointed after a term has begun will serve only for the remainder of the term  
24 and until a successor qualifies and is appointed.

25 (2) Members may not be related to, either by blood or marriage, or associated with  
26 any person or corporation who is currently working on or is invested in a Critical Digital  
27 Infrastructure project in the county, or who has had such relations or interests in a  
28 Critical Digital Infrastructure project in the county within a year prior to the member's  
29 date of appointment.

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1 (3) Members should have a license, certificate, degree, training or work experience  
2 in architecture, landscape architecture, experience in related commercial/industrial  
3 construction and development, or other areas of experience or interest as  
4 determined to be relevant by the appointing official.

5  
6 **C. FUNCTIONS.**

7 (1) The Architectural Review Committee will meet as needed to review site  
8 development plans for proposed Critical Digital Infrastructure Facilities. The Committee  
9 will provide recommendations to the Planning Commission regarding an application's  
10 compliance with §1-19-8.402(B)(1-5). The Committee may also perform other related  
11 functions as delegated from time to time by the county.

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