

# **Mayor and Council Work Session and Executive Session December 8, 2015 Agenda**

*"A diverse, business-friendly, and sustainable community with clean, safe and strong neighborhoods."  
"Providing the most efficient and highest-quality services as the municipal location of choice for all  
customers."*

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*"A man travels the world over in search of what he needs, and returns home to find it." George  
Moore*

## **4:00 PM WORK SESSION**

- 4:00 PM** 1. Preliminary Agenda Review
- 4:10 PM** 2. Mitsubishi Heavy Industries Energy Storage System Agreement
- 4:25 PM** 3. Grant Approval and Recreation Programs Update
- 4:30 PM** 4. Program Open Space Annual Program
- 4:45 PM** 5. Project Status Update of Phase I Trail: Antietam Street to Park Circle
- 5:05 PM** 6. Local Conversion Overlay – Kreyn, 702 West Washington Street
- 5:20 PM** 7. Trash Codes and Complaints about Trash Storage and Set Outs
- 5:50 PM** 8. Neighborhood Protection - Code Enhancement Recommendations
- 6:20 PM** 9. Discussion of Legislative Priorities

## **CITY ADMINISTRATOR'S COMMENTS**

## **MAYOR AND COUNCIL COMMENTS**

## **ADJOURN**

**REQUIRED MOTION  
MAYOR AND CITY COUNCIL  
HAGERSTOWN, MARYLAND**

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**Topic:**

Preliminary Agenda Review

**Mayor and City Council Action Required:**

**Discussion:**

**Financial Impact:**

**Recommendation:**

**Motion:**

**Action Dates:**

# **REQUIRED MOTION MAYOR AND CITY COUNCIL HAGERSTOWN, MARYLAND**

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## **Topic:**

Mitsubishi Heavy Industries Energy Storage System Agreement

## **Mayor and City Council Action Required:**

Requested approval of a Lease Agreement for a project located at the Hagerstown Light Department's Frederick Street Substation to be used solely for the purpose of the installation of Energy Storage Systems with Customized Energy Solutions, Ltd. Requested approval a limited tax exemption to the applicable City Personal Property Tax due from Customized Energy Solutions, Ltd. in connection with the Project for a period of five (5) years.

## **Discussion:**

HLD Staff, Mark Boyer, FERC Legal Counsel Tom Rudebusch, and the MHI/Customized Energy Solutions team have completed the Lease Agreement negotiations per the provisions contained within the January 27, 2015 MOU between the City, CES and MHI. I have prepared bulleted items for review which contain the background review of the project and the pertinent points of the agreements the HLD Frederick Street.

### **Customized Energy Solutions/MHI Background**

- The HLD has a long standing relationship dating back to 2002 with Customized Energy Solutions (CES) through the Public Power Coalition (PPC), as our liaison with all PJM activities. CES documents and reviews all PJM related information that is crucial to our decision making process related to generation/transmission issues.
- Mitsubishi Heavy Industries (MHI) is a major player in numerous worldwide industries employing 80,000 and receiving \$34 billion of global orders in FY14. HLD staff has spoken with MHI staff through conference calls and met on location with MHI Project Controller Ryosuke Sakai and members of their ESS team.

### **Proposed Project**

- The project will consist of utility scale Energy Storage Systems installed at the HLD owned Frederick Street Substation. The project will operate behind the meter as "demand response" resources participating in the PJM Regulation ancillary service market and provide PJM system grid reliability services, specifically voltage and frequency support. The project has been sized to ensure that they remain behind Hagerstown's meters and do not inject into the Potomac Edison system.
- The proposed 2MW ESS is composed of lithium ion batteries and is housed in a self-contained unit approximately 10' x 40'. If market conditions are favorable, more than one unit could be installed if mutually agreed upon.

Page 1

- An ESS operates by storing electricity that was generated on the system grid and discharging it when system requirements demand it. It is considered a sustainable/renewable resource due to the fact it does not create emissions when called

upon to operate.

### **Lease Agreement Provisions**

- Lease Agreement project located at the Hagerstown Light Department's Frederick Street Substation (2MW) is to be used solely for the purpose of the installation of Energy Storage Systems.
- The initial term of the agreement is 10 years and contains provisions for 2 five year extensions if mutually agreed upon. HLD/Frederick Street Substation site shall receive \$1000 per month in rent.
- The HLD shall provide existing and available utilities to the Project Site in connection with MHI's construction, start-up, maintenance, repair, replacement and operation of the Project, at existing rates or actual cost, as appropriate.
- The agreement contains provisions for a temporary staging area at the west side of the existing substation.
- Easements and rights of entry are granted at the site location. An easement will be granted between the proposed CES/MHI facility and the HLD Fairground Substation specifically for electric connectivity.
- The City possesses the option to request the removal of the equipment at the end of the agreement or for the equipment to remain in place. CES/MHI is permitted to choose one of the two options.
- CES/MHI has the option to transfer the provisions of the agreements after a 60 day notice is supplied to the City. All agreement provisions and payments remain in place.
- CES/MHI is responsible for the leased area and associated equipment maintenance, security, and safe operation. Specifically, the "CES/MHI shall maintain the Facility in a structurally sound and safe condition consistent with all Applicable Laws."
- This Agreement shall be governed by the laws of the State of Maryland, including principles of good faith and fair dealing that will apply to all dealings under this Agreement.
- Commercial general liability insurance, with limits of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate are included. Excess liability insurance, with a limit of not less than \$3,000,000, and Workers' Compensation Insurance of not less than \$1,000,000 for bodily injury per occurrence and \$2,000,000 in the aggregate are provided.
- Summation: The HLD will receive \$12,000 per year in lease agreements, revenue from the sale of electricity for ancillary requirements of the systems, and may supply other maintenance type services for the project during construction and operation. CES/MHI has verbally committed to the utilization of local contractors when applicable during the construction process.

### **Financial Impact:**

The HLD will receive \$12,000 per year in lease agreements, revenue from the sale of electricity for ancillary requirements of the systems, and may supply other maintenance type services for the project during construction and operation. CES/MHI has verbally committed to the utilization of local contractors when applicable during the construction process.

### **Recommendation:**

Staff recommended approvals

### **Motion:**



**REQUIRED MOTION**

**MAYOR AND CITY COUNCIL  
HAGERSTOWN, MARYLAND**

**DATE:** December 15, 2015

**TOPIC: Approval of the attached Resolution and Lease Agreement with Customized Energy Solutions, Ltd. for property located at the Hagerstown Light Department's Frederick Street Substation**

Charter Amendment	?
Code Amendment	?
Ordinance	?
Resolution	!
Other	?

**MOTION:** I hereby move that the Mayor and City Council approve the attached Resolution and Lease Agreement with Customized Energy Solutions, Ltd. for the purpose of the installation of an Energy Storage System located at the Hagerstown Light Department's Frederick Street Substation. The initial term of the agreement is 10 (ten) years and contains provisions for 2 (two) five year extensions if mutually agreed upon. The Hagerstown Light Department shall receive \$1,000.00 (one thousand dollars) per month for the term of the agreement.

DATE OF INTRODUCTION: 12/15/2015

DATE OF PASSAGE: 12/15/2015

EFFECTIVE DATE: 12/15/2015

**REQUIRED MOTION**

**MAYOR AND CITY COUNCIL  
HAGERSTOWN, MARYLAND**

**DATE:** December 15, 2015

**TOPIC: Approval of a Resolution to Approve a Tax Exemption for**

**Customized Energy Solutions, Ltd. in connection with its Construction,  
Maintenance and Operation of an Energy Storage System**

Charter Amendment	?
Code Amendment	?
Ordinance	?
Resolution	!
Other	?

**MOTION:** I hereby move that the Mayor and City Council approve the attached Resolution which will provide a limited tax exemption to the applicable City Personal Property Tax due from Customized Energy Solutions, Ltd. in connection with the Project for a period of five (5) years.

DATE OF INTRODUCTION: 12/15/2015

DATE OF PASSAGE: 12/15/2015

EFFECTIVE DATE: 12/15/2015

**CITY OF HAGERSTOWN**

**RESOLUTION**

**A RESOLUTION TO APPROVE A TAX EXEMPTION  
FOR CUSTOMIZED ENERGY SOLUTIONS, LTD.  
IN CONNECTION WITH ITS  
CONSTRUCTION, MAINTENANCE AND OPERATION  
OF A NEW ENERGY STORAGE SYSTEM**

**RECITALS**

**WHEREAS**, the City of Hagerstown owns property known as the Snook/Frederick Street Substation (the "Property"); and

**WHEREAS**, Customized Energy Solutions, Ltd. desires to lease a portion of said Property and make a significant investment therein by constructing, maintaining and operating a new energy storage system (the "Project"); and

**WHEREAS**, Customized Energy Solutions, Ltd. has applied for and requested that the Mayor and Council grant it an exemption from City Personal Property Taxes for a period of time in connection with the Project; and

**WHEREAS**, pursuant to Article VII, §711 of the City Charter, the Council hereby determines that the Project proposed by Customized Energy Solutions, Ltd. is included within the meaning and purpose of said provision and qualifies for a limited tax exemption at the discretion of the Council; and

**WHEREAS**, the Council is willing to provide a limited tax exemption to the applicable City

Personal Property Tax due from Customized Energy Solutions, Ltd. in connection with the Project for a period of five (5) years; and

**WHEREAS**, the Mayor and Council find it to be in the best interests of the citizens of the City of Hagerstown to do so;

**NOW THEREFORE**, be it resolved by the Mayor and Council of the City of Hagerstown, as its duly constituted legislative body as follows:

1. That the foregoing recitals be and are hereby incorporated herein as if restated verbatim.

2. That the Council does hereby exempt Customized Energy Solutions, Ltd. from City Personal Property Taxes due in connection with the Project for a period of five (5) years.

3. That City Staff be and are hereby authorized to provide the required notice of this Resolution and take whatever action is necessary in order to effectuate the purposes hereof.

**BE IT FURTHER RESOLVED** that this Resolution shall become effective immediately upon its passage.

WITNESS AND ATTEST  
AS TO CORPORATE SEAL

MAYOR AND COUNCIL OF THE  
CITY OF HAGERSTOWN, MARYLAND

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\_\_\_\_\_  
Donna K. Spickler, City Clerk

David S. Gysberts, Mayor

Date of Introduction: December 15, 2015

Date of Approval: December 15, 2015

Effective Date: December 15, 2015

PREPARED BY:

SALVATORE & BOYER, LLC

CITY ATTORNEYS

**CITY OF HAGERSTOWN**

### **RESOLUTION**

### **A RESOLUTION TO APPROVE A LEASE AGREEMENT WITH CUSTOMIZED ENERGY SOLUTIONS, LTD. TO LEASE PROPERTY OWNED BY THE CITY FOR THE CONSTRUCTION, MAINTENANCE AND OPERATION OF AN ENERGY STORAGE SYSTEM**

### **RECITALS**

**WHEREAS**, the City of Hagerstown owns property known as the Snook/Frederick Street Substation (the "Property"); and

**WHEREAS**, Customized Energy Solutions, Ltd. desires to lease a portion of said Property for the purpose of constructing, maintaining and operating an energy storage system; and

**WHEREAS**, the Mayor and Council find it to be in the best interests of the citizens of the City of Hagerstown to do so;

**NOW THEREFORE**, be it resolved by the Mayor and Council of the City of Hagerstown, as its duly constituted legislative body as follows:

1. That the foregoing recitals be and are hereby incorporated herein.
2. That the Lease Agreement, a copy of which is attached hereto and incorporated herein be and is hereby approved; and that the Mayor be and is hereby authorized to execute and deliver said Agreement.
3. That the Mayor, City Administrator and/or City Staff be and are hereby authorized to execute any further documentation and take whatever action is necessary in order to effectuate the purposes of this Resolution.

**BE IT FURTHER RESOLVED** that this Resolution shall become effective immediately upon its passage.

WITNESS AND ATTEST  
AS TO CORPORATE SEAL

MAYOR AND COUNCIL OF THE  
CITY OF HAGERSTOWN, MARYLAND

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\_\_\_\_\_  
Donna K. Spickler, City Clerk

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David S. Gysberts, Mayor

Date of Introduction: December 15, 2015  
Date of Approval: December 15, 2015  
Effective Date: December 15, 2015

PREPARED BY:  
SALVATORE & BOYER, LLC  
CITY ATTORNEYS

**Action Dates:**

12/15/15 Regular Session

**ATTACHMENTS:**

**File Name**

Memo\_for\_CES\_MHI\_Lease\_Agreement\_120815.doc

**Description**

Memo for CES MHI Lease  
Agreement 120815

## City of Hagerstown



### Department of Utilities

425 East Baltimore Street  
Hagerstown, MD 21740-6105

1 Clean Water Circle  
Hagerstown, MD 21740-6848

51 West Memorial Blvd  
Hagerstown, MD 21740-6848

December 8, 2015

TO: Valerie Means, City Administrator

FROM: Michael S. Spiker, Director of Utilities

*MSSpiker*

Nathan Fridinger, Electric Operations Manager

*Nathan Fridinger*

SUBJECT: Customized Energy Solutions(CES)/MHI Energy Storage System project

ACTION: Requested Approval of Lease Agreement at Frederick Street Substation

HLD Staff, Mark Boyer, FERC Legal Counsel Tom Rudebusch, and the MHI/Customized Energy Solutions team have completed the Lease Agreement negotiations per the provisions contained within the January 27, 2015 MOU between the City, CES and MHI. I have prepared bulleted items for review which contain the background review of the project and the pertinent points of the agreements the HLD Frederick Street.

#### Customized Energy Solutions/MHI Background

- The HLD has a long standing relationship dating back to 2002 with Customized Energy Solutions (CES) through the Public Power Coalition (PPC), as our liaison with all PJM activities. CES documents and reviews all PJM related information that is crucial to our decision making process related to generation/transmission issues.
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#### Proposed Project

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**REQUIRED MOTION  
MAYOR AND CITY COUNCIL  
HAGERSTOWN, MARYLAND**

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**Topic:**

Grant Approval and Recreation Programs Update

**Mayor and City Council Action Required:**

**Discussion:**

**Financial Impact:**

**Recommendation:**

**Motion:**

**Action Dates:**

**ATTACHMENTS:**

**File Name**

Parks\_Grant.pdf

**Description**

Memo





# CITY OF HAGERSTOWN, MARYLAND

Department of Parks and Engineering

December 2, 2015

TO: Valerie Means, City Administrator  
FROM: Amy Riley, Recreation Coordinator  
SUBJECT: Grant Approval and Recreation Programs Update

The Parks & Recreation Division continues to create programs and initiatives to champion efforts in the development of a more active and healthier community. Staff is working to identify funding opportunities and community partnerships to advance these efforts and we would like to provide the following update:

### ***Grant Received from The Washington County Health Department***

Recreation is once again the recipient of a \$10,000 grant from The Washington County Health Department to be used in the promotion of healthy lifestyles and to help expand the Healthiest Maryland initiative. Grant monies will be used to promote programs like the Hub City 100 Miler that increase physical activity, to create new signage within our parks to encourage walking and exercise, and to develop a spring/summer and a fall/winter Recreation Guide to promote our parks and fitness programs. We request Mayor and Council approve this grant agreement at the December 15 Regular Session.

### ***2016 Hub City 100 Miler***

Registration for the 3rd Annual Hub City 100 Miler is now open! 650 participants registered in 2014 and 800 in 2015 with the goal of 1 mile a day for 100 days. Partnerships are being created with Merits Health, Washington County Government as well as the Board of Education for their employees to take the challenge. Staff is also working with the City's Wellness Committee to include the program in employee wellness initiatives. Sponsors and prizes are being recruited and the program kicks-off on Thursday, January 7<sup>th</sup>!

### ***Golf Course Closing for Season & Planning Programs for 2016***

As we prepare to close the golf course on Sunday, December 13 for the season, the clubhouse will once again serve as an indoor recreation location during the months of December, January and February. Drop-in Yoga classes will take place in the month of December on Mondays and Wednesdays. Yoga for Weight Loss, Fun Flow and Partners Yoga will take place on various evenings in January and February.

We are seeking instructors in the community to help us expand our recreation programming in 2016! With a focus on fitness and wellness, we are hoping to partner with instructors who are willing to teach in an indoor and/or an outdoor setting, i.e. the clubhouse, Fairgrounds Park recreation room (new) and at various park locations. We will manage registration and promotions for all new classes. Contact us!

*Attachments: Health Dept. Grant Agreement, Hub City 100 Miler Event Flyer, Yoga for Weight Loss Flyer*

Cc: Junior Mason, Rodney Tissue

#### **Parks and Recreation Division**

351 North Cleveland Avenue • Hagerstown, MD 21740  
Ph: 301.739.8577 Ext. 169 • Fax: 301.790.0171

#### **Engineering Division**

1 East Franklin Street • Hagerstown, MD 21740-4817  
Ph: 301.739.8577 Ext. 125 • Fax: 301-733.2214







**MARYLAND DEPARTMENT OF HEALTH AND MENTAL HYGIENE  
STANDARD MEMORANDUM OF UNDERSTANDING (MOU)  
INTRA-AGENCY/INTERGOVERNMENTAL AGREEMENT  
State and Local Public Health Actions to Prevent Obesity, Diabetes and Heart Disease  
(Grant Number F682N)**

This Memorandum of Understanding/Agreement, dated October 1, 2015, and entitled

is hereby entered into between the Washington County Health Department,  
a unit of the Maryland Department of Health and Mental Hygiene, hereafter known as "the Department", and  
The City of Hagerstown,  
a system city government hereafter known as "the City of Hagerstown."

The services, which are the subject of this Memorandum of Understanding/Agreement, are to commence on  
or about October 1, 2015, and terminate September 30, 2016.

The total cost to the Department for the provision of the described services shall not exceed

\$ \$10,000.00 . This amount shall be payable to the City of Hagerstown at this  
frequency  
monthly, upon receipt of a specific invoice  
and in accordance with Section I of this Memorandum of Understanding/Agreement.

## SECTION I. BILLING AND BUDGET

This Agreement is for provision of: *(Please make the appropriate selection.)*

- ☐ A. Services Controlled by the DHMH Human Services Agreements Manual

If this Agreement is for the provision of human services using a cost reimbursement methodology, the Government must submit payment requests in the manner prescribed in the Department's Human Services Agreements Manual, using the DHMH 437 billing forms package. For such human services agreements, the Government must also complete a DHMH 432 Budget package and enclose it with this Agreement. This completed 432 Budget package is deemed to be an incorporated part of this Agreement, as indicated by its reference in Section VII. Payment shall be limited to reimbursement of actual costs as identified by the Government on form DHMH 440 End of Year Reconciliation.

- ☒ B. Other Services Billing and Budget

If this is a cost reimbursement Agreement, for the provision of services not controlled by the Human Services Agreements Manual, the submission of a detailed budget, in which indirect cost is specifically identified, is required. This completed budget will be deemed to be an incorporated part of this Agreement, as indicated by its reference in Section VII.

- ☐ C. Services Provided by Another State Agency

If this agreement is with another agency of the State of Maryland, both parties agree to comply with the directives of the Comptroller of the State of Maryland concerning payment for inter-agency agreements. Payment to the other State agency under this agreement will be made via the Financial Management Information System (FMIS) of the State Comptroller's Office, using an Interagency Transfer. The other State agency shall include the following information on all invoices:

- 1.) Amount of invoice
- 2.) Services rendered
- 3.) Agency's Control Number (or ADPICS #)
- 4.) DHMH Control Number (or ADPICS #)
- 5.) Financial Agency Code
- 6.) PCA and Agency Object Codes
- 7.) Transaction Code

- ☐ D. Other

If A, B or C do not apply, please insert appropriate text/language here.

If this agreement is not with another agency of the State of Maryland, invoices are to be sent to this address:

**Washington County Health Department 1302 Pennsylvania Avenue**

(DHMH CONTRACT MONITOR STREET AND ROOM ADDRESS)

**Hagerstown, Maryland 21742**

(DHMH CONTRACT MONITOR CITY, STATE, AND ZIP CODE)

If also identified below, a copy (which shall be marked "copy") shall also be sent to:

(INDIVIDUAL NAME and TITLE)

(STREET AND ROOM ADDRESS)

(CITY, STATE, AND ZIP CODE)

## SECTION II. MANDATORY PROVISIONS

### A. Nondiscrimination in Employment

The Government agrees:

1. Not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, marital status, national origin, ancestry, or physical or mental handicap unrelated in nature and extent so as reasonably to preclude the performance of such employment;
2. To include a provision similar to that contained in subsection (1), above, in any subcontract except a subcontract for standard commercial supplies or raw materials; and
3. To post and to cause subcontractors to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.

### B. Federal Funding Acknowledgement

1. There ( \_\_\_\_ are / ☒ X are not) programmatic conditions that apply to this contract, regardless of the type of funding. If applied, these conditions are contained in Section VII.
2. The total amount of federal funds allocated for the \_\_\_\_\_ is \$ \_\_\_\_\_ in Maryland State fiscal year \_\_\_\_\_. This represents \_\_\_\_\_ % of all funds budgeted for the unit in that fiscal year. This does not necessarily represent the amount of funding available for any particular grant, contract, or Invitation for Bid.
3. This contract ( \_\_\_\_ does/ ☒ X does not) contain federal funds.



4. If contained, the source of these federal funds is:

The CFDA number is \_\_\_\_\_. The conditions that apply to all federal funds awarded by the Department are contained in Section VII. Any additional conditions that apply to this federally funded contract are contained in Section VII.

5. Acceptance of this agreement indicates your intent to comply with all conditions that are a part of this agreement.

C. Debarment

1. If Federal funds support the activities of this agreement (see paragraph B herein), the Government acknowledges, per the United States Office of Management & Budget's Grants and Cooperative Agreement with State and Local Governments, Circular A-102 (d) Debarment & Suspension, the following obligations of Federal granting agencies regarding debarment and suspension:

"Federal agencies shall not award assistance to applicants that are debarred or suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549. Agencies shall establish procedures for the effective use of the List of Parties Excluded from Federal Procurement or Nonprocurement programs to assure that they do not award assistance to listed parties in violation of the Executive Order. Agencies shall also establish procedures to provide for effective use and/or dissemination of the list to assure that their grantees and subgrantees (including contractors) at any tier do not make awards in violation of the nonprocurement debarment and suspension common rule."

These requirements are incorporated in grantee and sub-grantee funding arrangements, and reflected in the Affidavit executed by the Government and appended to this Memorandum of Understanding/Agreement.

2. The Government also acknowledges the requirements of Sections 16-101 et seq., of the State Finance and Procurement Article of the Annotated Code of Maryland reflected in the Affidavit executed by the Government and appended to this Memorandum of Understanding/Agreement.

### SECTION III. MONITORS

The Agreement Monitor for the Department shall be:

Trina Barr
Name (Typed)
Administrator
Title (Typed)
1302 Pennsylvania Avenue
Business Address (Typed)
240-313-3218, trina.barr@maryland.gov
Business Telephone Number & Email Address (Typed)

The Department's Agreement Monitor is the primary point of contact within the Department for matters relating to this Agreement. The Department's Agreement Monitor shall contact the City of Hagerstown's Agreement Monitor immediately if the Department is unable to fulfill any of the requirements of, or has any questions regarding the interpretation of the provisions of the Agreement.

The Agreement Monitor for the City of Hagerstown shall be:

Rodney Tissue
Name (Typed)
City Engineer
Title (Typed)
One East Franklin Street   Hagerstown, MD 21740
Business Address (Typed)
(301) 739-8577 ext. 125 rtissue@hagerstownmd.org
Business Telephone Number & Email Address (Typed)

The Government's Agreement Monitor is the primary point of contact within the Government for matters relating to this Agreement. The Government's Agreement Monitor shall contact the Department's Agreement Monitor immediately if the Government is unable to fulfill any of the requirements of, or has any questions regarding the interpretation of the provisions of the Agreement.

#### SECTION IV. BACKGROUND INFORMATION OF AGREEMENT

This document formalizes an agreement between DHMH/Washington County Health Department and the City of Hagerstown.

The Washington County Health Department was awarded a Centers for Disease Control and Prevention (CDC) State and Local Public Health Actions to Prevent Obesity, Diabetes, and Heart Disease (1422) grant to expand the Healthiest Maryland initiative through:

- Environmental strategies to promote health and reinforce healthful behaviors,
- Strategies to build support for lifestyle change, particularly for those at high risk, to support diabetes and heart disease and stroke prevention efforts.
- Health systems interventions to improve the quality of health care delivery to populations with the highest hypertension and prediabetes disparities
- Community clinical linkage strategies to support heart disease and stroke and diabetes prevention efforts

The Washington County Health Department and the City of Hagerstown will work in partnership to achieve these goals through marketing, promoting and conducting physical activities to improve the physical health of city and county residents.

#### SECTION V. DUTIES OF THE GOVERNMENT

The specific services to be provided by the Government under this Memorandum of Understanding are as follows:

- a. The City of Hagerstown will conduct activities as described in Attachment 1. b.
- b. Submit an invoice for actual expenditures along with original receipts for these expenditures. Total reimbursement for the project should not exceed \$10,000. **Of the 10,000, 75% (\$7,500) must be spent and the invoice received by the Washington County Health Department by May 15, 2016 and the remainder 25% (\$2,500) must be spent and the invoice received by the Washington County Health Department by September 15, 2016 All funds not spent or accounted for by the end of the contract period MUST be returned payable to the Washington County Health Department.**
- c. Semi-annual and annual report #DHMH 438 to include data reports and performance measures
- d. Adhere to all state and federal regulations regarding privacy and confidentiality of participants.

#### SECTION VI. DUTIES OF THE DEPARTMENT

In addition to the payment of funds as previously described, the Department also agrees to provide or do the following:

Provide technical assistance to City of Hagerstown staff working directly with the grant.



## SECTION VII. INCORPORATION BY REFERENCE

Both parties hereby agree that the documents described below, if any, are hereby incorporated into and made an integral part of this Agreement: (Type "None", if none)

Exact Title of Document(s)	Number of Pages
Attachment 1	1

## SECTION VIII. SIGNATURES

In acknowledgement of the foregoing description of the services and requirements of this Agreement, these authorized signatories of the Department and the Government do hereby attest to their acceptance of the terms and conditions of this Agreement.

<u>For the City of Hagerstown</u>	<u>For the Department</u>
BY: _____	BY: _____
Signature	Earl Stoner, Health Officer
_____	Washington County Health Department
Name (Type or Print)	_____
_____	Signature
Title (Type or Print)	Earl Stoner
_____	Name (Type or Print)
Date of Signing	Health Officer
_____	Title (Type or Print)
FEIN	_____
	Date of Signing

DHMH Control Number (for internal use only) \_\_\_\_\_



### **DEBARMENT AFFIRMATIONS**

In accordance with the requirements of United States Office of Management and Budget's Grants and Cooperative Agreements with State and Local Governments Circular A-102(d), Debarment and Suspension:

A. **AUTHORIZED REPRESENTATIVE**

I HEREBY AFFIRM THAT:

I am the \_\_\_\_\_  
(title)

and the duly authorized representative of

\_\_\_\_\_  
(name of government entity)

and that I possess the legal authority to make this Affidavit on behalf of myself and the entity for which I am acting.

B. **AFFIRMATION REGARDING DEBARMENT**

I HEREBY AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above entitys, or any of its officers, directors, partners, or any of its employees directly involved in obtaining or performing contracts with public bodies, has ever been suspended or debarred (including being issued a limited denial of participation) by any public entity, except as follows [list each debarment or suspension providing the dates of the suspension or debarment, the name of the public entity and the status of the proceedings, the name(s) of the person(s) involved and their current positions and responsibilities with the entity, the grounds for the debarment or suspension, and the details of each person's involvement in any activity that formed the grounds for the debarment or suspension]:

--

C. **AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES**

I FURTHER AFFIRM THAT:

1. The entity was not established and it does not operate in a manner designed to evade the application of or defeat the purpose of debarment pursuant to Sections 16-101, et seq., of the State Finance and Procurement Article of the Annotated Code of Maryland; and
2. The entity is not a successor, assignee, subsidiary, or affiliate of a suspended or debarred entity, except as follows [indicate the reason(s) why the affirmations cannot be given without qualification]:

--

D. SUB-CONTRACT AFFIRMATION

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above entity, has knowingly entered into a contract with a public body under which a person debarred or suspended under Title 16 of the State Finance and Procurement Article of the Annotated Code of Maryland will provide, directly or indirectly, supplies, services, architectural services, construction related services, leases of real property, or construction.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

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

By: \_\_\_\_\_  
(Authorized Representative and Affiant)

## Attachment 1

### State and Local Public Health Actions to Prevent Obesity, Diabetes and Heart Disease

#### Grant Proposal - City of Hagerstown

#### Goals / Outcomes

Create and distribute Recreation Brochure and Fitness Program flyers

Create and display Banners

Assign Staff to implement new Fitness Programs

Collect data (attendance at programming, effectiveness of marketing, )

Total Budget: \$10,000

Of the 10,000, 75% (\$7,500) must be spent and the invoice received by the Washington County Health Department by May 15, 2016 and the remainder 25% (\$2,500) must be spent and the invoice received by the Washington County Health Department by September 15, 2016. All funds not spent or accounted for by the end of the contract period MUST be returned payable to the Washington County Health Department.

Budget	
Fitness/Wellness Contractor to develop, execute walking programs, assist with Miler Newsletter, program new fitness classes - 10 hrs week/14weeks/\$15/hr	\$2,000
Create and Display Program Banners	\$1,000
Design and Printing Spring/Summer Brochure	\$4,000
Park Signage – for new fitness challenges/promotions throughout the parks	\$3,000
<b>Total</b>	<b>\$10,000</b>



# Hub City 100 Miler

100 MILES IN 100 DAYS

WALK, RUN,  
BIKE, YOGA,  
SPIN, HIKE

CHALLENGE RUNS FROM JANUARY 7 – APRIL 15

# 2016

## HOW IT WORKS:

- Make it your New Year's Resolution – register for the challenge by January 7.
- Track your own miles — the goal is one mile a day for 100 days.
- Generate an ACTIVE and HEALTHY lifestyle while having FUN!
- 20 minutes of physical activity counts as one mile or simply walk or run a mile. It all counts!

### — WEEKLY PRIZES —

Fitness Gear & Accessories, Gift Cards, Recreation Passes and more!

### — GRAND PRIZES —

Specialized Fitness Bikes, GoPro Camera,  
Fitness Trackers and more!



\$10 without t-shirt; \$20 with t-shirt

\$15 with my dog; \$25 with my dog w/t-shirt & bandana



[hagerstownmd.org/hubcity100](http://hagerstownmd.org/hubcity100)

[parks&rec@hagerstownmd.org](mailto:parks&rec@hagerstownmd.org)

301-739-8577 x 169



PARKS & RECREATION  
CITY OF HAGERSTOWN







# YOGA FOR WEIGHT LOSS

## Activity # 5251

**Mondays & Wednesdays | 5:45pm – 6:45pm**

**January 11 – March 2, 2016**

\$105 for Series

\$85 Meritus Employees/Former Students/100 Milers

Yoga focuses on a strong mind-body connection, while toning the body. Learn how Yoga speeds up the metabolism, makes you aware of the self, and helps you to make healthier food choices.

Recommended age 15 & older

All levels welcome

\*class max of 40



### GENERAL INFO:

Classes taught by Certified Yoga Instructor Michelle Grimes

Please bring a yoga mat and water

All classes will be held at: **The Greens at Hamilton Run Clubhouse**

*For more information and to register, visit: [www.hagerstownmd.org/yoga](http://www.hagerstownmd.org/yoga)*

5/ 2 1 1

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100

**REQUIRED MOTION  
MAYOR AND CITY COUNCIL  
HAGERSTOWN, MARYLAND**

---

**Topic:**

Program Open Space Annual Program

**Mayor and City Council Action Required:**

**Discussion:**

**Financial Impact:**

**Recommendation:**

**Motion:**

**Action Dates:**

**ATTACHMENTS:**

**File Name**

POS.pdf

**Description**

Memo





# CITY OF HAGERSTOWN, MARYLAND

Department of Parks and Engineering

December 4, 2015

TO: Valerie Means, City Administrator

FROM: Rodney Tissue, City Engineer *RT*  
Junior Mason, Parks Superintendent

RE: Program Open Space (POS)  
Annual Program

=====

Attached you will find our recommendation for the Program Open Space funds for FY 2017 and beyond. We request that Council review the list, especially the FY 2017 portion, and provide comments. At the December 15<sup>th</sup> Regular Session, staff will request that Mayor & Council approve the priority list for FY 2017. We need to send our list to Washington County in mid-December.

Staff will be present to review the proposal with Mayor & Council.

Attachment

c: Cathy Beach  
Junior Mason

**CITY OF HAGERSTOWN**  
**5-YR POS PROPOSED PLAN FY17-22 (Listed By Priority)**  
*Last Revised 12/01/15*

<b>FY</b>	<b>CIP #</b>	<b>Project</b>	<b>Location/Description</b>	<b>Total Project Cost</b>	<b>POS Fund Request</b>	<b>In-Kind Match</b>
2017	C0237	Park Play Equip	Park Benches, Picnic Tables, Trash Cans	\$40,000	\$36,000	\$4,000
2017	C0439	Train Amenities	City Park Train Museum – for a new pavilion, purchase train themed amenities such as benches, tables, trash cans, etc	\$10,000	\$9,000	\$1,000
2017	C0822	Spray Amenities and Climbing Wall	Potterfield Pool – Add spray amenities to existing sprayground; add climbing wall	\$25,000	\$22,500	\$2,500
2017	C0335 ??	Outdoor Exercise Equipment	Pangborn Park – outdoor exercise equipment station	\$15,000	\$13,500	\$1,500
2017	C0825	Golf Cart Storage/Pavilion	The Greens at Hamilton Run - Golf Cart Storage/Pavilion	\$30,000	\$27,000	\$3,000
		<b>FY 2017 Priority</b>		\$120,000	\$108,000	\$12,000
2018	C0522	Lake Fountain	City Park – purchase fountain for lower lake	\$10,000	\$9,000	\$1,000
2018	C0140	Triangle Park	A&E Trail – develop triangle park near Park Circle	\$160,000	\$144,000	\$16,000
2018	C0822	Whitecoat Pool	Potterfield Pool – replace balance of whitecoat in main pool	\$50,000	\$45,000	\$5,000
2018	C0812	Lake Reconstruction	Pangborn Park - dredge lake, install “natural” lake edge, construct fishing pier, improve lake inflow/outflow, restore adjacent Hamilton Run with natural techniques	\$500,000	\$450,000	\$50,000
2018	C0???	BMX Lights	Fairgrounds Park: Lights around perimeter of track for night races	\$40,000	\$36,000	\$4,000

**CITY OF HAGERSTOWN**  
**5-YR POS PROPOSED PLAN FY17-22 (Listed By Priority)**  
*Last Revised 12/01/15*

<b>FY</b>	<b>CIP #</b>	<b>Project</b>	<b>Location/Description</b>	<b>Total Project Cost</b>	<b>POS Fund Request</b>	<b>In-Kind Match</b>
2019	C0626	Soccer Field Lights	Fairgrounds Park – add lights to soccer field for evening use	\$70,000	\$63,000	\$7,000
2019	C0047	Lake Dredging	City Park - Lower Lake	\$500,000	\$450,000	\$50,000
2020	C0522	Parking Improvements	City Park - upper lot by tennis court and pavilion	\$250,000	\$225,000	\$25,000
2021	C0522	Parking Improvements.	City Park at Mansion House	\$250,000	\$225,000	\$25,000
2021	C0548	Gatekeeper's House Renovation	Fairgrounds Park	\$500,000	\$450,000	\$50,000
2022	C0624	Sport/Event Center	Fairgrounds Park Grandstand	\$8,500,000	\$7,650,000	\$850,000

H:\parksrec\Grants\POS\POS 5-yr list FY17.wpd

**REQUIRED MOTION  
MAYOR AND CITY COUNCIL  
HAGERSTOWN, MARYLAND**

---

**Topic:**

Project Status Update of Phase I Trail: Antietam Street to Park Circle

**Mayor and City Council Action Required:**

**Discussion:**

**Financial Impact:**

**Recommendation:**

**Motion:**

**Action Dates:**

**ATTACHMENTS:**

**File Name**

Trail.pdf

**Description**

Memo





# CITY OF HAGERSTOWN, MARYLAND

Department of Parks and Engineering

December 4, 2015

TO: Valerie Means, City Administrator

FROM: Rodney Tissue, City Engineer *RT*

RE: **Project Status Update of Phase I Trail: Antietam Street to Park Circle  
Catalytic Project # 5: Linking Trail from AE District to City Park**

---

1. **Background**

We continue to work on the trail design, meet with several stakeholders, developed plats and contracts for land acquisitions, and designed lighting, security and other trail amenities. We have also begun our work with the art consultant who also met with stakeholders and interested parties and they are developing a very exciting master plan of art and interactive attractions along the trail.

2. **Mayor & Council Action Requested**

With the Mayor and Council's endorsement, we are prepared to advertise the construction contract. This is the best time of year to bid work and receiving the bids in late January would allow us to make a final presentation to Mayor and Council in February that hopefully results in the project moving to construction.

3. **Discussion**

We will discuss the following at the work session:

- **Bidding the Project:** Our staff has completed the design and we feel we could advertise the contract in the next two weeks. Obtaining bids will allow us to determine if the project is within our budget.
- **February Council Meeting:** This project is complex as it will require as many as 10 to 15 different actions by City Council to move the project forward. At a work session in February, we will present the following:
  - Construction contract bids for award
  - Purchase agreements: We will save roughly 10% by buying direct from manufacturers, at least \$30,000. This includes items such as pavers, signs, trash cans, benches, dog stations, shade structure, and crosswalk materials.
  - Approve contract with HPD's vendor for security system
  - Authorize City Light to purchase and install lighting system
  - Review the master plan for art and authorize call for artists
  - Land agreements (see below)
  - Grant agreements
  - Final naming of the trail

- **Land Acquisition:** I have scheduled meetings with all the land holders again this week to finalize any last details and answer any concerns they may have. The attorneys for the owners of the Herald Mail property and Mark Boyer are finalizing a donation agreement and the owners have verbally agreed to donate the land to the City.
- **Art Master Plan:** The consultant will host a public meeting on Monday January 11, 2016 at 6:00 PM at the downtown library. The goal of this meeting is to obtain public reaction to the ideas put forth for art along the trail. The art consultant is doing an exceptional job with coming up with ideas that will add character to the trail and add interactive attractions. We look forward to them publicly sharing these ideas in the near future.
- **Funding Plan:** The current plan includes the following funds:
  - \$1,782,948 in bond funds per CIP account
  - \$280,000 in general fund transfers per CIP account
  - \$49,500 from Maryland Heritage Area Authority for signs
  - \$45,000 in Program Open Space grant funds
  - \$10,000 donation from the Hagerstown Housing Authority
  - We are very pleased to report that we now have a written commitment from the State Highway Administration to upgrade the railroad crossings at Summit Ave (and also Walnut Street). This will be fully funded by the SHA and completed in 2017. This will involve new lights and upgraded crossing surface.
  - We are investigating possible sources of grants for public art and have a scheduled meeting with the Public Art Program Director from the Maryland State Arts Council.

Staff will be available at the work session to discuss any questions the Mayor and Council may have.

c: Michelle Hepburn  
 Kathy Maher  
 Jill Frick  
 Jim Bender  
 Greg Deike  
 William & Teresa Cochran  
 Alex Rorhbaugh  
 Junior Mason

**REQUIRED MOTION  
MAYOR AND CITY COUNCIL  
HAGERSTOWN, MARYLAND**

---

**Topic:**

Local Conversion Overlay – Kreyn, 702 West Washington Street

**Mayor and City Council Action Required:**

A Public Hearing has been scheduled for the December 15th Regular Session for the proposed local conversion overlay rezoning of 702 West Washington Street. Following the Hearing, Staff request the Mayor & City Council keep the record open for 10 days and introduce the ordinance for rezoning.

**Discussion:**

**Financial Impact:**

The Local Conversion Overlay district allows for some commercial uses, which could positively affect the property's value and tax assessment.

**Recommendation:**

Staff agrees with the Planning Commission's recommendation for approval of the rezoning with the two conditions - opening up both former storefronts and restricting window signage to no more than 50% of the window area. At the December 15th Regular Session, following the Public Hearing, Staff recommends holding the record open for 10 days and introducing the Ordinance for the rezoning. This would expedite the rezoning process by one (1) month while still allowing for public review and comment.

**Motion:**

**Action Dates:**

December 15th – Public Hearing

December 15th – Introduction of Ordinance for Local Conversion Overlay Rezoning

January 5, 12, or 19 – Follow-up Discussion with Staff in Work Session

January 26 – Approve or Deny ordinance for Local Conversion Overlay Rezoning

**ATTACHMENTS:**

**File Name**

MCC\_Memo\_12-3-15.pdf

ZM201501\_Staff\_Report\_Photos\_Map.pdf

ZM201501Ordinance\_Introduction\_Materials.pdf

**Description**

Cover Memo

Staff Report, Map, Photos

Introduction of Ordinance  
Materials



# CITY OF HAGERSTOWN, MARYLAND

Planning and Code Administration Department

## MEMORANDUM

TO: Valerie Means, City Administrator

FROM: Alex W. Rohrbaugh, AICP, Planner *AWR*

DATE: December 3, 2015

SUBJECT: ZM-2015-01: Local Conversion Overlay – Kreyn, 702 West Washington Street

### **Mayor and City Council Action Requested**

A Public Hearing has been scheduled for the December 15<sup>th</sup> Regular Session for the proposed local conversion overlay rezoning of 702 West Washington Street. Following the Hearing, Staff request the Mayor & City Council keep the record open for 10 days and introduce the ordinance for rezoning.

### **Discussion**

#### *Overview of Local Conversion Overlay Zoning*

Adopted in 2010, the purposes of this Local Conversion Overlay District are to stimulate the adaptive reuse of existing, nonresidential and mixed-use structures embedded within densely developed residential districts and communities, to maintain and increase the city's assessable tax base, and to expand business and employment opportunities. The uses permitted in Local Conversion are similar to that of Commercial Local (CL) district, including, but not limited to, offices, restaurants under 3,000 square feet, retail stores, dry cleaners, artist live/work space, etc. Allowing such uses to fit into existing commercial and mixed use structures re-establishes the historically mixed use nature of the City's 19<sup>th</sup> and early 20<sup>th</sup> Century residential communities.

The Local Conversion Overlay is also designed to be a “quid pro quo” – in exchange for approval of non-residential activity in a residential zone, the property owner will enhance the property to be a good neighbor to the surrounding residential properties.

#### *Zoning Proposal*

The property at 702 West Washington Street / 5 Winter Street (corner of Washington and Winter Streets) currently contains two (2) former storefronts and four (4) residential units on the second floor. The property owner, Alex Kreyn (t/a Kreyn Technology Inc.), has filed for a rezoning for Local Conversion Overlay to retain the existing four apartment units, and reuse the commercial space for artist live/work space, ambulatory health care services, business offices, catering kitchen, restaurant, or retail/wholesale. Staff has been advised by the City Attorney that an applicant for local conversion rezoning can propose a select list of commercial uses for the space.

The Planning Commission held a Public Review Meeting on October 28<sup>th</sup> on the proposal. At the Meeting, the applicant indicated that he is most favorable to reusing the storefront for either an organic produce store (retail) or general convenience store (retail). If either were not viable, he indicated that his other top choices include a restaurant, artist live/work space, or an urgent care clinic. The Commission did not receive any public input at either the Meeting or in the 10-day period following.



At its November 18<sup>th</sup> meeting, the Planning Commission recommended to the Mayor & City Council approval of the rezoning proposal, subject to two (2) conditions:

- 1) Both storefronts shall be rehabilitated to reintroduce a storefront window display design; however, the storefront along West Washington Street will not be required to include a door.
- 2) No more than 50% of the area of the storefronts shall be used for windows graphics.

### **Financial Impact**

The Local Conversion Overlay district allows for some commercial uses, which could positively affect the property's value and tax assessment.

### **Staff Recommendation**

Staff agrees with the Planning Commission's recommendation for approval of the rezoning with the two conditions listed above.

At the December 15<sup>th</sup> Regular Session, following the Public Hearing, Staff recommends holding the record open for 10 days and introduce the Ordinance for the rezoning. This would expedite the rezoning process by one (1) month while still allowing for public review and comment.

### **Motion**

No motion is needed at this time.

### **Action Dates**

December 15<sup>th</sup> – Public Hearing

December 15<sup>th</sup> – Introduction of Rezoning

January 5, 12, or 19 – Follow-up Discussion with Staff in Work Session

January 26 – Approve or Deny Rezoning

### **Attachments:**

Staff Report

Vicinity Map

Photos of Exterior

Motion Sheet, Ordinance, and Findings of Fact

C: Kathleen Maher, Director, PCAD

Jill Frick, Director, DCED

**City of Hagerstown**  
**Local Conversion District Overlay Zoning Request**  
**ZM-2015-01: 702 W Washington St (Corner of W Washington St & Winter St)**  
**Staff Report**

<b>Applicant/Owner:</b>	Alex Kreyn (t/a Kreyn Technology Inc.) PO Box 778 Funkstown, MD 21734
<b>Request:</b>	Retain the existing four apartment units and reuse the commercial storefront for artist live/work space, ambulatory health care services, business offices, catering kitchen, restaurant, or retail/wholesale (Staff has been advised by the City Attorney that an applicant for local conversion rezoning can propose a select list of commercial uses for the space).
<b>Location:</b>	702 West Washington Street & 5 Winter Street
<b>Existing Use:</b>	Multi-Family Residential (4 units)
<b>Area:</b>	Approximately 7,541 square feet
<b>Existing Zoning:</b>	RMED (Residential – Medium Density)

### Analysis

The purposes of this district are to stimulate the adaptive reuse of existing, nonresidential and mixed-use structures embedded within densely developed residential districts and communities, to maintain and increase the city's assessable tax base, and to expand business and employment opportunities. The Local Conversion Overlay District allows for alternate forms of use and development for buildings and/or spaces that are part of or very close to residential uses in residential districts. Allowing such uses to fit into existing commercial and mixed use structures re-establishes the historically mixed use nature of the City's 19<sup>th</sup> and early 20<sup>th</sup> Century residential communities.

The Local Conversion Overlay District provides an alternative development concept for underutilized structures while protecting the general health, safety, welfare, and aesthetics in the vicinity of the site through the commitment to an approved development concept plan. It is acknowledged that such uses will be outwardly commercial in nature and operation, but are reviewed individually to ensure the proposed use or uses and improvements are not an undue burden on the surrounding area.

Staff comments are in bold italics.

The Land Management Code lists four general requirements for the establishment of a Conversion Overlay District (Article IV, Section J.3.e. Page 4-61):

1. The area proposed for a conversion district shall be in one (1) ownership, or, if in several ownerships, the proposal shall be filed jointly by all the owners of property included in the development plan. ***The application has been filed by Alex Kreyn (t/a Kreyn Technology Inc), the sole owner of the property.***
2. The development shall be for an existing, nonresidential or mixed use structure, constructed before October 1, 1956..., ***According to the State Assessment Database does not identify a construction date; however, the building does appear on a 1909 USGS topography map of Hagerstown and the surrounding area. Staff has found proof in the Polk Directory that the building had two business/storefront space since at least October 1, 1956, one on Winter Street and another on West Washington Street.***  
...in which all proposed uses will be contained, except:
  - (a) outdoor dining areas and outdoor merchandise display, as regulated elsewhere in this provision; ***See below***
  - (b) additions, as permitted in Subsection i. below. ***See below***
3. The owners or developers must indicate that they plan to begin construction of the development within one (1) year after final approval. If construction does not begin within one (1) year, the zoning of the site shall revert to its previous classification unless a time extension is requested by the developer and agreed to by the Planning Commission. ***If no development occurs within one (1) year of final approval, and the applicant fails to request an extension, the local conversion overlay is no longer valid.***
4. This overlay district shall only be used for buildings or parts of buildings that are oriented in appearance and access to a public street. ***The structure is oriented toward both West Washington Street and Winter Street.***

Special Design Requirements (Section J.3.i. Pages 4-62 & 4-63)

1. Additions shall be designed consistent with the architectural theme of the structure and shall be located in the space least visible to the general public. ***No additions are proposed for the site at this time.***
2. No outdoor vending machines shall be permitted. ***None proposed.***
3. No outdoor storage of any kind is permitted except display of merchandise at convenience and grocery stores if historically part of a use on the subject property. ***Not applicable. No outdoor storage area shall be permitted.***
4. No outdoor dining or seating area for a restaurant shall be permitted in any of the rear yard area between the building and rear property line or within ten (10) feet of a side property line unless historically part of the on-site use. ***A restaurant has been identified as a potential use for this property. If a property is used for a restaurant, it will be subject to the restrictions listed above.***
5. Buildings of an industrial, warehouse or automotive service design shall be enhanced via architectural or cosmetic enhancement, site amenities, landscaping, and other strategies to

achieve suitability for their new use(s) within a residential district and compatibility with the neighborhood. **Not applicable.**

6. Storefronts previously modified or enclosed shall be rehabilitated to reintroduce a storefront window display design. ***This is a requirement of the Land Management Code. The applicant proposed to rehabilitate the storefront along Winter Street (as shown in the application), and to either rehabilitate the corner storefront or to replace the wood infill with brick. The applicant is not sure at this time whether the corner storefront use will be customer accessible or a “back room” for the Winter Street storefront.***

#### OTHER CONSIDERATIONS AND REQUIREMENTS:

##### Lot Area Requirements and Off-Street Parking (Section J.3.h – Page 4-62)

1. The maximum lot area for a Local Conversion District shall be 20,000 square feet. ***The property is approximately 7,541 square feet in area.***
2. Minimum parking requirements and lot size requirements shall not apply to this overlay district, however existing on-site parking shall not be reduced unless the remaining parking meets current Ordinance requirements. The Board of Zoning Appeals shall not grant a variance to this requirement. However, upon illustration in a rezoning exhibit, the Mayor and Council, as part of the petition for rezoning, may approve a site design that reduces the amount of existing parking if it finds that to do so is an acceptable step to ensure the adequate landscaping and screening of the use from adjacent properties. ***There is a driveway with room for about two off-street parking spaces.***

##### Suitability of the Proposed Zoning District.

A Local Conservation Overlay District is permitted use in the RMED zoning district. ***The principal structure was built prior to October 1, 1956, and the principal structure has been used as a business prior to October 1, 1956.***

##### Compatibility of Existing and Proposed Development.

***This proposal is to retain the existing four apartment units and to reuse the commercial storefront for artist live/work space, ambulatory health care services, business offices, catering kitchen, restaurant, or retail/wholesale. Staff has been advised by the City Attorney that an applicant for local conversion rezoning can propose a select list of uses for the commercial space.***

##### Population Change

***Not applicable.***

##### Can the site be adequately served with public water and wastewater facilities?

***Water and wastewater service currently exist.***

The site shall be located adjacent to adequate highway facilities, capable of serving existing and anticipated traffic.

***There are on-street parking spaces on West Washington Street and Winter Street, with the primary vehicular access for the storefront being Winter Street. West Washington Street is classified as an arterial with an estimated Average Daily Traffic (ADT) count of 7,100 vehicles/day. Winter Street is classified as a local street and has an ADT count of less than 2,500 vehicles/day.***

#### Relationship to the Comprehensive Plan.

***The property is located in the Inner West End an area characterized by older, denser housing. The 2008 Comprehensive Plan recommended maintaining Medium Density Residential land uses in this neighborhood. However, this local conversion zoning overlay require would implement the Plan's recommendation to making buildings more attractive for adaptive reuse (Action 8-7) and creating more flexibility to the Conversion District overlay zone (Action 8-2).***

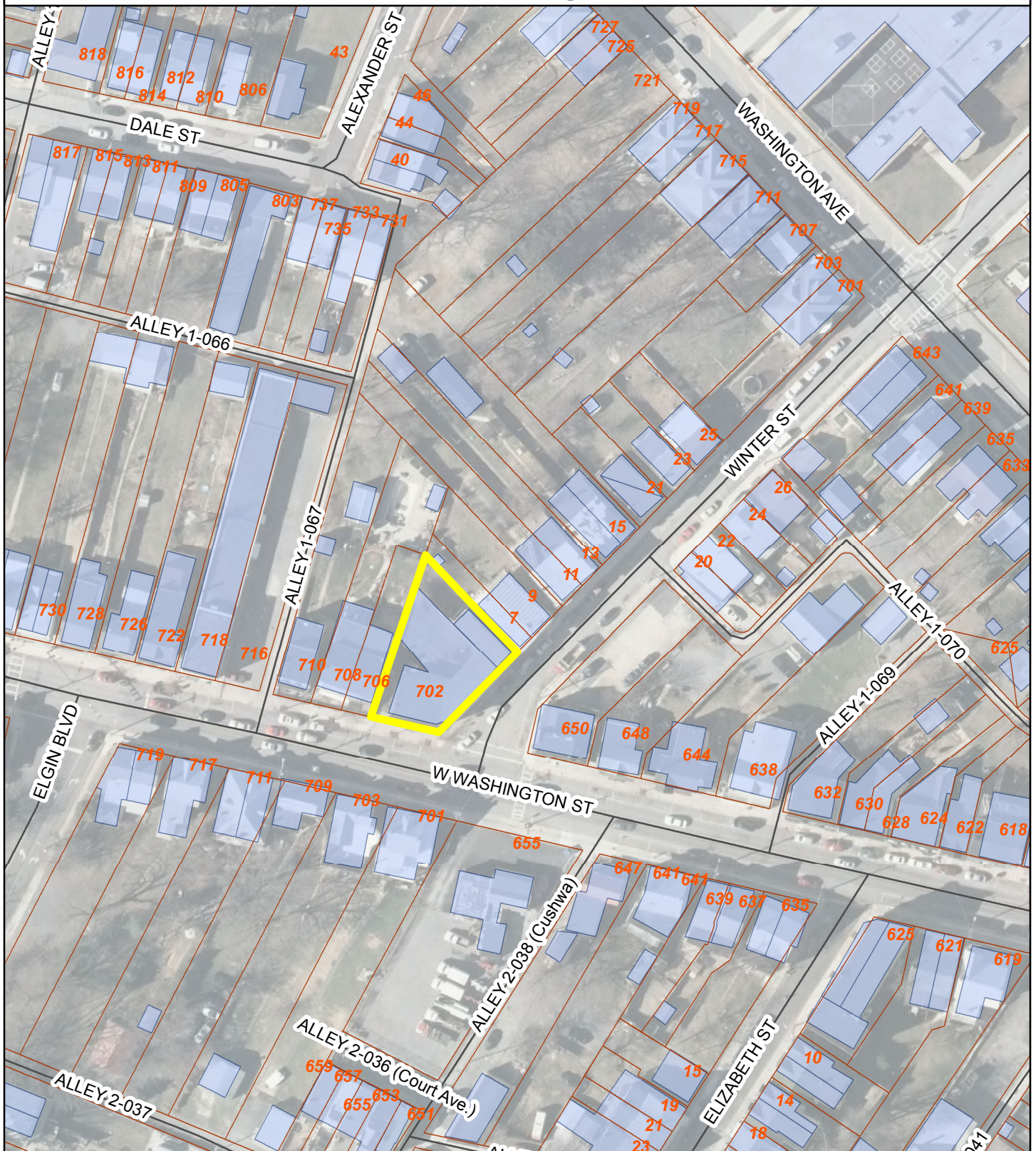
#### Site Plan Conditions Recommended by the Planning Commission, 11/18/2015

- 1. Both storefronts shall be rehabilitated to reintroduce a storefront window display design; however, the storefront along West Washington Street will not be required to include a door.***
- 2. No more than 50% of the area of the storefronts shall be used for windows graphics.***



# ZM-2015-01: Local Conversion Overlay

## 702 W Washington St



0 30 60 90 120 Feet

1 inch = 100 feet



Subject Property

City Tax Parcel

City Street

Building

Map Projection: NAD83 State Plane Maryland FIPS (feet)

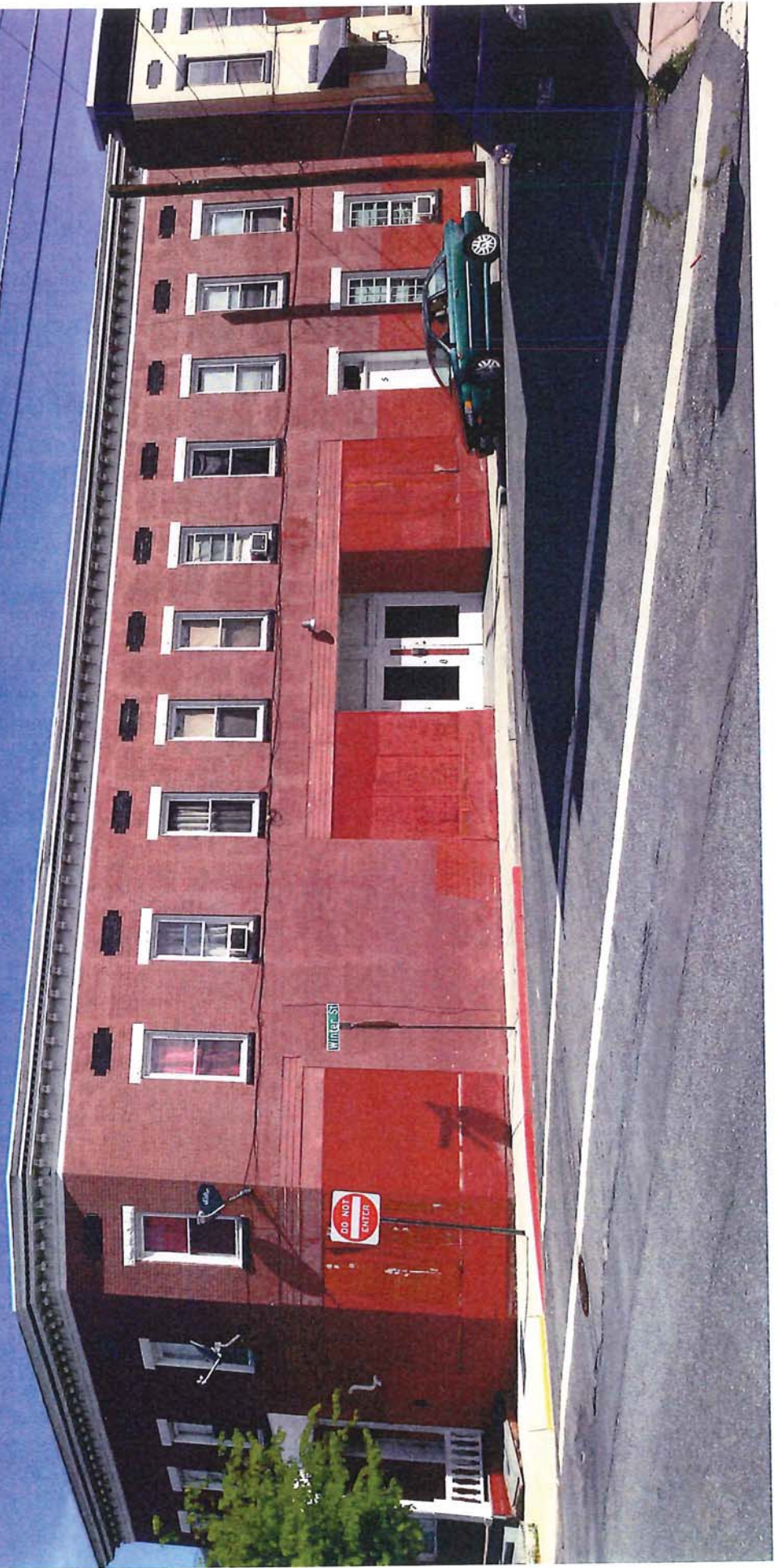
Data Sources:  
City of Hagerstown, 2015; State of Maryland Image, 2014  
Washington County, 2014

Prepared By: Hagerstown Planning & Code Admin. Div.9/24/15





Existing





Proposed





## REQUIRED MOTION

### MAYOR AND CITY COUNCIL HAGERSTOWN, MARYLAND

**DATE:** December 15, 2015

**TOPIC:** **Introduction of an Ordinance: Kreyn Local Conversion District Overlay (ZM-2015-01)**

Charter Amendment	_____
Code Amendment	_____
Ordinance	<u>  X  </u>
Resolution	_____
Other	_____

**MOTION:** I hereby move that the Mayor and City Council Introduce an Ordinance for a Local Conversion District Overlay, including the two conditions endorsed by the Planning Commission, on property located at 702 West Washington Street

DATE OF INTRODUCTION: 12/15/2015  
DATE OF PASSAGE: 01/26/2016  
EFFECTIVE DATE: 02/25/2016

**AN ORDINANCE AMENDING THE ZONING ORDINANCE  
AND ZONING MAP OF THE CITY OF HAGERSTOWN**

WHEREAS; pursuant to the provisions of Article 4, Zoning, of the Land Management Code of the City of Hagerstown, Maryland, an application for rezoning and zoning map reclassification was made by **ALEX KREYN (T/A KREYN ENTERPRISES INC.)**;

WHEREAS; said application for zoning classification and amendment to the Zoning Map and Zoning Ordinance is known and designated as Case No. ZM-2015-01;

WHEREAS; the Mayor and City Council, as the duly constituted legislative body for the City held a Public Hearing in compliance with said Ordinance on December 15, 2015, wherein the Applicants and the general public were given an opportunity to fully present evidence and information pertinent to the request for zoning classification amendment and amendment to the Zoning Ordinance;

WHEREAS; the Mayor and City Council, prior to and subsequent thereto, have complied with all of the provisions of the General Laws of the State of Maryland and the Zoning Ordinance for the City of Hagerstown;

WHEREAS; said Mayor and City Council do find and determine in this case, based on said Public Hearing and the evidence presented therein, and having considered all of the criteria as set forth by the laws of the State of Maryland and the Zoning Ordinance, did on January 26, 2016, take formal action to approve the Local Conversion District Overlay for the property designated as **702 WEST WASHINGTON STREET**, Hagerstown, Maryland.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council for Hagerstown, Maryland, that the Zoning Reclassification and Zoning Map Amendment requesting Case No. ZM-2015-01 for a Local Conversion District Overlay and is hereby granted.

WITNESS:

MAYOR AND CITY COUNCIL OF THE  
CITY OF HAGERSTOWN, MARYLAND

\_\_\_\_\_  
Donna K. Spickler, City Clerk

By: \_\_\_\_\_  
David S. Gysberts, Mayor

PUBLIC HEARING: 12/15/2015  
DATE OF INTRODUCTION: 12/15/2015  
DATE OF PASSAGE: 01/26/2016  
EFFECTIVE DATE: 02/25/2016

**ATTACHMENT "A" ZONING  
RECLASSIFICATION APPLICATION NO. ZM-2015-01**

Applicant: Alex Kreyn (t/a Kreyn Technology Inc.)  
Location: 702 West Washington Street / 5 Winter Street  
Hagerstown, Maryland 21740

**OPINION AND FINDINGS OF FACTS**

The foregoing matter was heard at Public Hearing by the Mayor and City Council on December 15, 2015, in accordance with the provisions of the Zoning Ordinance for the City of Hagerstown, Maryland.

**FINDINGS OF FACT**

The property which is the subject of the proposed map amendment is located at 702 West Washington Street / 5 Winter Street. The property is under one (1) ownership. The tract consists of 0.16 acres, more or less. The property is currently contains four (4) dwelling units on the second floor with a former storefront commercial space on the first floor which was constructed prior to October 1, 1956. The owner represented to the Mayor and City Council that it is his intent to reopen the first floor storefront space for one of the following uses: retail/wholesale, a restaurant, an artist live/work space, an ambulatory health care service, a business office, or a catering kitchen. It is also to owner's intent to retain the four (4) existing dwelling units on the second floor. The proposal is in accordance with the provisions for a Local Conversion District as set forth in the Hagerstown Zoning Ordinance, including the following:

1. A Local Conversion District Overlay is permitted in the underlying zoning district of RMED (Residential-Medium Density);
2. Retail/wholesale establishments, restaurants, artist live/work spaces, ambulatory health care services, offices, and catering kitchens, are permitted uses in the Local Conversion District Overlay;
3. The building was constructed prior to October, 1956;

4. The front of the building is oriented toward West Washington Street and Winter Street, both public streets;
5. The total land area of the subject parcel is approximately 7,169 square feet, which is below the maximum square footage allowed of 20,000 square feet of land area.
6. No additions to the building are proposed;
7. Outdoor vending machines are prohibited and none are proposed;
8. Outdoor storage is not allowed, with the exception of display of merchandise at convenience and grocery stores if historically a part of a use on the subject property which is not applicable in this case;
10. Storefronts previously modified or enclosed shall be rehabilitated to reintroduce a storefront window display design.

The Local Conversion District Overlay was designed to allow the adaptive reuse of pre-1956 commercial and mixed-use buildings embedded in residential districts on small lots, provided they are reviewed individually so that the proposal is complimentary to the residential nature of the area in which it is located. This site was analyzed for this application and the following conditions were approved and endorsed by the Planning Commission:

1. Both storefronts shall be rehabilitated to reintroduce a storefront window display design; however, the storefront along West Washington Street will not be required to include a door.
2. No more than 50% of the area of the storefronts shall be used for windows graphics.



## **CONCLUSION**

Therefore, the Mayor and City Council find that those matters contained in the staff analysis and presented by the applicants at the Public Hearing on December 15, 2015, to be true and accurate, and that all procedural requirements prerequisite to approval of the Local Conversion District Overlay by this Body have been met. The Mayor and City Council find as a matter of fact that the proposal generally does not violate the spirit and intent of the Zoning Ordinance. We further find that the approval of the proposed Local Conversion District Overlay modification will not materially or adversely affect adjoining properties provided the two (2) enumerated conditions are adhered to.

**MAYOR AND COUNCIL FOR THE  
CITY OF HAGERSTOWN, MARYLAND**

By: \_\_\_\_\_  
David S. Gysberts, Mayor

# REQUIRED MOTION MAYOR AND CITY COUNCIL HAGERSTOWN, MARYLAND

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## **Topic:**

Trash Codes and Complaints about Trash Storage and Set Outs

## **Mayor and City Council Action Required:**

Review of staff proposal to address conflict in City Code related to visibility of trash containers and to improve storage of trash between collection dates.

## **Discussion:**

### **Code Conflict**

There are two chapters of the City Code that address trash storage between collection dates and the language between the two conflicts:

- ***Chapter 117, Recycling and Refuse Collection, Section 117-5c – Receptacles for collection and refuse storage.*** It shall be the duty of the residential property owners and their tenants to provide approved receptacles (as defined herein) to contain all refuse generated from residences in accordance with the provisions herein. It shall further be the duty of the residential property owner(s) to provide receptacles to store recycling and refuse (until the appropriate set-out time for collection) that are not visible from the public right-of-way or street. Recyclable materials shall be placed in City-issued bins or other containers consistent with City policy.

- ***Chapter 64, Property Maintenance Code, Section 307, Rubbish and Garbage, Section 307.3.2 – Container Placement.*** Every occupant of a structure shall not store residential garbage containers on public ways. Exception: where permitted by the code official.

### **Trash in View Challenges**

In recent years, the City has received periodic complaints from around the city and frequent complaints from the S. Prospect Street neighborhood regarding the “trash in view” issue. In these cases, property owners or tenants are storing trash containers on the front porch, in the front yard, or in other locations that are visible from the street. We receive few complaints about storage of trash containers in public ways (e.g., on the sidewalk in areas where houses abut the sidewalk). In response to such complaints, staff investigate the situation and discuss the issue with the building occupant or property owner. If after this research, staff determines that there is no other reasonable option to the location within public view then no violation is issued. There are many circumstances that can lead staff to reach this decision:

1. The house does not have a side yard to allow access to the rear of the property or to allow storage in the side yard. In many cases, such houses do not even have a front yard.
2. The topography of the lot makes it difficult to access or create storage in the side or rear yard.
3. The building occupant is elderly or disabled and remote storage is not feasible.

4. The side yard and/or rear yard of the property fronts on another street.

There are many areas of the City where trash storage is routinely placed within public view. This phenomenon occurs on rental as well as owner-occupied properties. Attached are photographs illustrating this “trash in view” issue.

On August 27, Engineering and DCED staff had a meeting with representatives of Neighborhoods First groups to discuss the issue of trash to learn their concerns and ideas about this issue. Five reps attended – two from S. Prospect Street, two from the North End, and one from the South End. The desire for out of public view was strong. Suggestions for improvements included storage in the rear yard, building a gate to hide storage containers in the side yard, and use of smaller storage containers so they could be stored indoors.

Staff contacted 12 other communities in our region and around the state to learn how trash is dealt with in their communities. We are waiting to hear back from four. Of the eight we reached, we found only two prohibit placement of trash containers in public view. Most prohibit location in the public right-of-way and two allow in public right-of-way provided the containers do not block a walking path. See attached report.

### **Other Challenges**

Set Out Times: Even though we have the earliest set out time for collection of any jurisdiction surveyed, we address many complaints about trash set out too early or on the wrong day. Frequent turnover of tenants in rental properties could contribute to this problem.

Container: Periodically, we receive complaints related to storage container, or lack thereof. In addition to traditional trash cans and bins, Chapter 117 of the City Code allows “a secured, leakproof plastic bag” to serve as a trash container. As we observe, such containers are susceptible to damage and spillage between collection dates which adds to the unsightly view, odor, and litter problems. We have also observed or responded to complaints of loose trash set out for collection.

Volume at High Unit Buildings: Occasional complaints are related to the volume of trash waiting for collection at multi-unit properties. This is a particular problem in neighborhoods where buildings are set close to one another and include large buildings broken into many apartments—such as S. Prospect Street. Large piles of trash bags or long rows of bins can lead to complaints about unsightliness or odor.

### **Enforcement Data**

Below is data on PCAD enforcement activity related to trash storage and set outs from January 2014-August 2015:

<b>Violation Type</b>	<b>Tagged</b>	<b>Notice Issued</b>	<b>Fines Issued</b>
Set out wrong day or time	1,555	234	10
Trash in Public View	46	94	8
Wrong type of Container or No	22	4	2

**Financial Impact:****Recommendation:**

Staff recommend the following actions for the Mayor and City Council's consideration:

1. **Public View Issue** - Amend Chapter 117 to remove the public view prohibition and to replace it as follows: It shall further be the duty of the residential property owner(s) to provide receptacles to store recycling and refuse (until the appropriate set-out time for collection) that are located in side or rear yards and not within the public right-of-way. If special circumstances exist that make compliance with this provision infeasible, Code staff may approve alternative locations. In addition, amend Chapter 64 to have similar language.
  - a. Adopt a new policy regarding acceptable "special circumstances" for #1 above that would permit location of trash containers in front yards, on front porches, or within the public right-of-way.
2. **Public Education** – Continue existing efforts on public education about trash requirements and consider additional efforts to help educate a transient population about these requirements. At present, Engineering sends out flyers (see attached) in City Light bills once per year on code requirements for trash and PCAD sends out neighborhood flyers when complaints increase. The Communications Manager is working on a 'Welcome to the City' package which could include info on trash code requirements.
3. **Container Issue** – Consider amending Chapter 117 to remove the provision that allows use of plastic bags as storage containers for trash, require cans/bins to have secured lids, and prohibit placement of loose trash within the cans/bins. This change would require property owners to provide their building occupants with trash cans or bins for storage of trash and would require building occupants to place trash within plastic bags prior to placement within the can/bin. Pros of this idea are possible reduction in odor and litter from burst bags. A con being that cans/bins don't go away when the trash is collected, as bags do.
4. **Volume at High Unit Buildings** – When the City gets a lot of complaints about high volume of trash at apartment buildings, we discuss the situation with the property owner and at times have allowed such properties to opt out of City Trash Collection to enable private trash hauling. The requirement for this opt-out is the storage of trash in a trash room or dumpster and the collection of trash directly from those locations. We would suggest continuing this practice.

**Motion:****Action Dates:**

August 27, 2015 - Trash Meeting with Neighborhoods First Reps  
December 8, 2015 - Discussion

**ATTACHMENTS:****File Name**

Trash\_memo\_12\_2\_15.pdf

Trash\_in\_View\_Pictures.pdf

Trash\_in\_Public\_View\_survey.pdf

Trash\_Rules\_Flyers.pdf

**Description**Trash Codes and  
ComplaintsTrash Codes and  
Complaints - PicturesTrash Codes and  
Complaints - SurveyTrash Codes and  
Complaints - Flyer





# CITY OF HAGERSTOWN, MARYLAND

Planning and Code Administration Department

## MEMORANDUM

TO: Valerie Means, City Administrator

FROM: Kathleen A. Maher, Director of Planning & Code Administration  
Paul Fulk, Inspections Manager  
Rodney Tissue, City Engineer

DATE: December 2, 2015

SUBJECT: Trash Codes and Complaints about Trash Storage and Set Outs

### Mayor and City Council Action Requested

Review of staff proposal to address conflict in City Code related to visibility of trash containers and to improve storage of trash between collection dates.

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## Staff Recommendation

Staff recommend the following actions for the Mayor and City Council's consideration:

- Public View Issue** - Amend Chapter 117 to remove the public view prohibition and to replace it as follows: It shall further be the duty of the residential property owner(s) to provide receptacles to store recycling and refuse (until the appropriate set-out time for collection) that are located in side or rear yards and not within the public right-of-way. If special circumstances exist that make compliance with this provision infeasible, Code staff may approve alternative locations. In addition, amend Chapter 64 to have similar language.
  - Adopt a new policy regarding acceptable "special circumstances" for #1 above that would permit location of trash containers in front yards, on front porches, or within the public right-of-way.
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Attachments

c: Blaine Mowen, Chief Code Official  
Gary Lambert, Programs Manager  
Jon Kerns, Community Development Manager  
Erin Wolfe, Communications Manager

## Trash in View



December 2015



Jurisdictions	Population (2010 Census)	Provide Trash cans	Required receptacle	Set-out time	Allow receptacle in Public Right-of-way	Allow receptacle viewable from public right-of-way	Color of recycling bin
Baltimore City	620,961	Yes	Trash can	6:30pm	Rear collection	Yes	Gray,green - Trash Yellow - Recycling
Frederick City	65,239	Yes, to some areas	Trash can with tight fitting lid, must be metal or plastic	5pm	Yes as long as don't block walking path	Yes	
Rockville City	61,209	Yes	Trash bag or trash can	6pm	No	Yes	
Gaithersburg City	59,933	LM (Emilio)					
Bowie City	54,727	No	Trash bag or trash can	5pm	No	Yes and No. Cannot be viewable if standing front center of the house on the sidewalk	Blue - Recycling
Hagerstown	39,662	No	Trash bag or trash can	4pm	No	No	Blue - Recycling
Annapolis	38,394	LM (John Manasa)					
College Park city	30,413	LM (Jeannie Ripley)					
Salisbury city	30,343	Yes	Trash can	5pm	No	No, must be out public view	Brown - trash, Blue- Recycling
Laurel city	25,115	No one answers at PW					
Ocean City	7,102	No	Single house - Roll trash can, Condo - Dumpster, Apartment - Dumpster, Smaller condos - Round black trash cans	No required time	No	Yes	Green - trash (90-95 gallon)
Cumberland city	20,859		Trash bag or trash can	6pm	No	Yes	
Winchester, VA	26,203	No	Trash bag or trash can	6pm	Yes as long as don't block walking path	Yes	

Printed on Recycled Paper



# OUT of Sight!

Help us **KEEP OUR CITY Beautiful!**

Please Keep Your Trash & **BLUE RECYCLING TOTES** **OUT OF VIEW FROM THE PUBLIC STREET UNTIL AFTER 4PM on your set out day.**

After your trash/recycling is collected, please promptly return all containers to a location that is "out of sight."

If you are unsure of your collection day, check the trash and recycling collection schedule on the City's website.



**Questions?** Contact the Department of Parks & Engineering at 301.739.8577 ext. 106 or visit [www.hagerstownmd.org](http://www.hagerstownmd.org)

**Choose 2 Please**  
**HAGERSTOWN RECYCLES**

# 2016 HOLIDAY Recycling & Trash COLLECTION SCHEDULE CHANGES

**POST THE 2016 HOLIDAY  
COLLECTION SCHEDULE**  
(see back side) on your refrigerator  
for easy future reference.

No one wants to set-out their trash and recycling items only to find out that they didn't get picked up because the collection schedule changed due to a holiday. The **2016 HOLIDAY COLLECTION SCHEDULE** (on back side) has been prepared to let you know about these changes in advance—post it on your refrigerator for easy future reference.

## New Program Features!

- \* Yard Waste Collection will start February 28, 2016 and will run through December 23, 2016.
- \* Earn coupons, discounts & more... simply by recycling! Register now at: [www.recyclebank.com/wm](http://www.recyclebank.com/wm)



Printed on Recycled Paper





# 2016 HOLIDAY COLLECTION SCHEDULE

HOLIDAY	DATE	IMPACT ON COLLECTION SERVICE
NEW YEAR'S DAY	Friday, January 1, 2016	No collection on the 1st. Normal Friday collection is delayed one day.
MARTIN LUTHER KING, JR. DAY	Monday, January 18, 2016	NO CHANGE in normal collection service.
PRESIDENT'S DAY	Monday, February 15, 2016	NO CHANGE in normal collection service.
GOOD FRIDAY	Friday, March 25, 2016	NO CHANGE in normal collection service.
MEMORIAL DAY	Monday, May 30, 2016	ALL collections this week are delayed one day.
INDEPENDENCE DAY	Monday, July 4, 2016	ALL collections this week are delayed one day.
LABOR DAY	Monday, September 5, 2016	ALL collections this week are delayed one day.
COLUMBUS DAY	Monday, October 10, 2016	NO CHANGE in normal collection service.
VETERANS DAY	Friday, November 11, 2016	NO CHANGE in normal collection service.
THANKSGIVING DAY	Thursday, November 24, 2016	No collection on the 24th. Normal Thursday and Friday collections are delayed one day.
CHRISTMAS DAY	Sunday, December 25, 2016	NO CHANGE in normal collection service.

As always, set-out trash and recycling at curbside after 4pm on set-out days. If you have any questions, or would like a collection calendar for your specific collection zone, please contact The Department of Parks and Engineering at 301-739-8577 ext. 106 or visit us at [www.hagerstownmd.org](http://www.hagerstownmd.org)

**REQUIRED MOTION  
MAYOR AND CITY COUNCIL  
HAGERSTOWN, MARYLAND**

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**Topic:**

Neighborhood Protection - Code Enhancement Recommendations

**Mayor and City Council Action Required:**

Staff will be present at the December 8<sup>th</sup> Mayor and City Council work session to make a presentation on recommended enhancements to Code Administration to provide better protection for our neighborhoods. These recommendations include code amendments for nuisance properties and property owners, an alternative plan for undertaking abatement of high weeds and rubbish, and funding for abatements related to repairs and demolition.

**Discussion:**

**Code Amendments**

In order to improve the City's ability to address nuisance properties and property owners, staff are recommending two amendments to the City Code:

1. **Demolition of Nuisance Properties** - Adopt a new chapter of the City Code entitled "Nuisance and Abandoned Property Abatement" intended to improve our process for gaining authority to demolish properties in situations where the value of required improvements would far exceed the value of the property. The proposed amendment is modeled on the City of Cumberland's code. In the proposed process, the City would file a declaratory judgement action in Circuit Court which leads to declaration of the property as a nuisance and grants the City the authority to demolish the property. The cost of the demolition would be liened on the tax bill. See attached draft ordinance.
2. **Habitual Offenders** - Amend Chapter 65, Habitual Offenders, to improve the City's ability to gain the attention of habitual offenders of our codes and hopefully improve their property management practices. It is recommended to allow offenses to come from additional chapters of the code (currently only the Property Maintenance Code applies) and to have payment of fines constitute a 'strike' and not just a guilty-in-court determination. If a property owner reaches Habitual Offender status (three strikes in 24 months), violations become misdemeanor offenses and the offender has to show up in court when cited (rather than just pay the fine). Punishment is a fine up to \$1,000 or imprisonment not exceeding 90 days. See attached draft ordinance.

**Abatement of High Weeds and Rubbish**

**Problem** - The City currently has a contract with a private company to undertake abatements of high weeds and rubbish, as required to gain compliance with the property maintenance code. We have a contract with a second company for snow abatement work. The response time, quality of work, and billing by the high weeds and rubbish contractor are frequently the cause of complaint by neighborhood residents, the property owners, and City staff. In the past, we have had issues with abatements occurring 10-45 days after City direction to abate (the contract says 24 hours), work being unsatisfactory and needing a second trip by the contractor, bills being rather high for the work performed (although compliant with the contract), and bills being submitted weeks or months after the work was done and sometimes after the property has changed hands. We have not had any luck attracting bids from other contractors who might provide improved service on these issues on the high weeds and rubbish abatement work.

**Recommendation** - Staff recommend that we move the abatement of high weeds and rubbish to an in-

house crew in Public Works starting in April (current contract ends in March). We recommend keeping abatement of snow to the second private contractor, since Public Works will be busy with snow removal in the tight timeframe when these issues arise. This change would improve response time on complaints regarding high weeds and rubbish, would give us direct control over the quality of the work performed, and would improve the speed with which billing occurs. The cost of the work would be billed to the property owner, but in some cases would likely end up as a lien on the tax bill.

**Budgetary Impact** - Currently, our department budgets \$120,000/year for private contractors to abate high weeds, rubbish, and snow. The recommended in-house plan for high weeds and rubbish would require hiring one full-time maintenance worker in Public Works (annual outlay starting at \$33,173, including benefits), 1-3 seasonal workers in the spring and summer (annual outlay of approximately \$16,800-\$50,400), and purchasing one truck (initial outlay of \$25,000). Public Works already has the necessary equipment to undertake the work.

### **Abatements Related to Repairs and Demolitions**

**Problem** - Deteriorating or dilapidated structures are the frequent cause of complaint by property owners in our neighborhoods. The City currently does not have funds budgeted to address abatement for required repairs or demolitions and so does not undertake this work unless there is a life safety threat. When faced with complaints that are not a threat to public safety, the City works to gain compliance through notices and fines. This process is not only time consuming – can involve court action – but it can be unsuccessful in gaining compliance if the owner only pays the fine. Our recourse in these situations is to start the citation process all over again.

**Recommendation** – Allocate funds to set up a new Abatements account to undertake repairs or demolitions on priority properties in our neighborhoods. In order to undertake the work, the City would need to go through the process to gain a court order. The cost of the work would be billed to the property owner, but in many cases would likely end up as a lien on the tax bill.

**Budgetary Impact** - It is anticipated that by the end of this fiscal year, our department will have billed approximately \$50,000 on the vacant structures program which had not been anticipated in the FY 2016 budget. We would recommend allocating those funds towards abatements for the balance of the fiscal year. The City's Community Development Manager believes \$50,000 of CDBG funds could be allocated in future budget years for this type of abatement work, although this is still being explored with HUD. For FY 2017, staff recommend allocating \$50,000 of CDBG funds, if permissible, and a matching amount of General Fund dollars for the new Abatement account.

### **Next Steps**

**Non-Traditional Housing** - Staff plan to return to the Mayor and City Council in January or February with a report on how non-traditional housing (e.g., homeless shelters, residential care facilities, etc.) in the city is currently handled in terms of inspections by the City, State or other regulatory agencies for compliance with life safety and property maintenance codes. If our research reveals situations where improvement would be advisable, our presentation will include recommendations on any code amendments that may be required.

### **Financial Impact:**

### **Recommendation:**

### **Motion:**



**Action Dates:**

Discussion - December 8th

**ATTACHMENTS:****File Name****Description**

MCC\_Memo\_Neighborhood\_Protection\_-\_Code\_Enhancement\_Recommendations\_12\_3\_15.pdf

Neighborhood  
Protection - Code  
Enhancement  
Recommendations

Ordinance\_Nuisance\_and\_Abandoned\_Property\_Abatement\_Chapter\_187\_120315.pdf

Chapter 187 -  
Nuisance and  
Abandoned  
Property  
Abatement

Ordinance\_Habitual\_Off\_Amend\_Chapter\_65\_120315\_(003).pdf

Chapter 65 -  
Habitual Offender




# CITY OF HAGERSTOWN, MARYLAND

Department of Community and Economic Development  
Planning and Code Administration Division

## MEMORANDUM

TO: Valerie Means, City Administrator

FROM: Kathleen A. Maher, Planning Director   
Paul Fulk, Inspections Manager

DATE: December 3, 2015

SUBJECT: Neighborhood Protection - Code Enhancement Recommendations

Staff will be present at the December 8<sup>th</sup> Mayor and City Council work session to make a presentation on recommended enhancements to Code Administration to provide better protection for our neighborhoods. These recommendations include code amendments for nuisance properties and property owners, an alternative plan for undertaking abatement of high weeds and rubbish, and funding for abatements related to repairs and demolition.

### Code Amendments

In order to improve the City's ability to address nuisance properties and property owners, staff are recommending two amendments to the City Code:

1. **Demolition of Nuisance Properties** - Adopt a new chapter of the City Code entitled "Nuisance and Abandoned Property Abatement" intended to improve our process for gaining authority to demolish properties in situations where the value of required improvements would far exceed the value of the property. The proposed amendment is modeled on the City of Cumberland's code. In the proposed process, the City would file a declaratory judgement action in Circuit Court which leads to declaration of the property as a nuisance and grants the City the authority to demolish the property. The cost of the demolition would be liened on the tax bill. See attached draft ordinance.
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determination. If a property owner reaches Habitual Offender status (three strikes in 24 months), violations become misdemeanor offenses and the offender has to show up in court when cited (rather than just pay the fine). Punishment is a fine up to \$1,000 or imprisonment not exceeding 90 days. See attached draft ordinance.

## **Abatement of High Weeds and Rubbish**

**Problem** - The City currently has a contract with a private company to undertake abatements of high weeds and rubbish, as required to gain compliance with the property maintenance code. We have a contract with a second company for snow abatement work. The response time, quality of work, and billing by the high weeds and rubbish contractor are frequently the cause of complaint by neighborhood residents, the property owners, and City staff. In the past, we have had issues with abatements occurring 10-45 days after City direction to abate (the contract says 24 hours), work being unsatisfactory and needing a second trip by the contractor, bills being rather high for the work performed (although compliant with the contract), and bills being submitted weeks or months after the work was done and sometimes after the property has changed hands. We have not had any luck attracting bids from other contractors who might provide improved service on these issues on the high weeds and rubbish abatement work.

**Recommendation** - Staff recommend that we move the abatement of high weeds and rubbish to an in-house crew in Public Works starting in April (current contract ends in March). We recommend keeping abatement of snow to the second private contractor, since Public Works will be busy with snow removal in the tight timeframe when these issues arise. This change would improve response time on complaints regarding high weeds and rubbish, would give us direct control over the quality of the work performed, and would improve the speed with which billing occurs. The cost of the work would be billed to the property owner, but in some cases would likely end up as a lien on the tax bill.

**Budgetary Impact** - Currently, our department budgets \$120,000/year for private contractors to abate high weeds, rubbish, and snow. The recommended in-house plan for high weeds and rubbish would require hiring one full-time maintenance worker in Public Works (annual outlay starting at \$33,173, including benefits), 1-3 seasonal workers in the spring and summer (annual outlay of approximately \$16,800-\$50,400), and purchasing one truck (initial outlay of \$25,000). Public Works already has the necessary equipment to undertake the work.

## **Abatements Related to Repairs and Demolitions**

**Problem** - Deteriorating or dilapidated structures are the frequent cause of complaint by property owners in our neighborhoods. The City currently does not have funds budgeted to address abatement for required repairs or demolitions and so does not undertake this work unless there is a life safety threat. When faced with complaints that are not a threat to public safety, the City works to gain compliance through notices and fines. This process is not only time consuming – can involve court action – but it can be unsuccessful in gaining compliance if

the owner only pays the fine. Our recourse in these situations is to start the citation process all over again.

**Recommendation** – Allocate funds to set up a new Abatements account to undertake repairs or demolitions on priority properties in our neighborhoods. In order to undertake the work, the City would need to go through the process to gain a court order. The cost of the work would be billed to the property owner, but in many cases would likely end up as a lien on the tax bill.

**Budgetary Impact** - It is anticipated that by the end of this fiscal year, our department will have billed approximately \$50,000 on the vacant structures program which had not been anticipated in the FY 2016 budget. We would recommend allocating those funds towards abatements for the balance of the fiscal year. The City's Community Development Manager believes \$50,000 of CDBG funds could be allocated in future budget years for this type of abatement work, although this is still being explored with HUD. For FY 2017, staff recommend allocating \$50,000 of CDBG funds, if permissible, and a matching amount of General Fund dollars for the new Abatement account.

## Next Steps

**Non-Traditional Housing** - Staff plan to return to the Mayor and City Council in January or February with a report on how non-traditional housing (e.g., homeless shelters, residential care facilities, etc.) in the city is currently handled in terms of inspections by the City, State or other regulatory agencies for compliance with life safety and property maintenance codes. If our research reveals situations where improvement would be advisable, our presentation will include recommendations on any code amendments that may be required.

## Attachments

c: Eric Deike, Public Works Director  
Karen Paulson, Human Resources Director  
Michelle Hepburn, Finance Director  
Jill Frick, Director of DCED  
Jon Kerns, Community Development Manager  
Blaine Mowen, Chief Code Official  
Gary Lambert, Programs Manager  
Mark Boyer, City Attorney

**CITY OF HAGERSTOWN, MARYLAND**

**AN ORDINANCE TO AMEND THE CODE  
OF THE CITY OF HAGERSTOWN TO ADOPT A NEW  
CHAPTER 187, ENTITLED *NUISANCE AND ABANDONED PROPERTY*  
*ABATEMENT* WHICH ESTABLISHES PROCEDURES FOR ABATEMENT OF  
NUISANCE PROPERTIES IN THE CITY**

**RECITALS**

WHEREAS, by virtue of State Law and the City Charter, the City of Hagerstown regulates property conditions within the City; and

WHEREAS, the Mayor and Council have a responsibility to prevent nuisances, reduce blight, and maintain a safe environment within the City; and

WHEREAS, it has come to the attention of the Mayor and Council that nuisance properties and abandoned properties are present within the city; and

WHEREAS, the Mayor and Council find that certain nuisance properties and abandoned properties cause blight and nuisance conditions, and have a negative impact on the neighborhoods within the City and the overall quality of life in the City of Hagerstown; and

WHEREAS, the Mayor and Council recognize the need to focus on rehabilitating or eliminating nuisance properties and abandoned properties within the City of Hagerstown; and

WHEREAS, upon the investigation and recommendation of City staff, the Mayor and Council find it in the best interests of the citizens to enact legislation authorizing the City of Hagerstown to eliminate the existence of nuisance properties and abandoned properties within the City of Hagerstown as hereafter described;

**NOW, THEREFORE, BE IT RESOLVED, ENACTED AND ORDAINED** by the Mayor and Council of the City of Hagerstown, Maryland, as its duly constituted legislative body, as follows:

1. The foregoing recitals be and are incorporated herein as if restated verbatim.
2. The Code of the City of Hagerstown is hereby amended by adding thereto a new chapter, to be Chapter 187, entitled *Nuisance and Abandoned Property Abatement*, to read as follows:

(See Attached)

3. This amendment to the Code of the City of Hagerstown shall become effective immediately upon the effective date of this Enacting Ordinance.

**BE IT FURTHER RESOLVED, ENACTED AND ORDAINED** that this Enacting Ordinance shall become effective upon the expiration of thirty (30) calendar days following its approval.

WITNESS AND ATTEST  
AS TO CORPORATE SEAL

MAYOR AND COUNCIL OF THE  
CITY OF HAGERSTOWN, MARYLAND

\_\_\_\_\_  
Donna Spickler, City Clerk

\_\_\_\_\_  
David S. Gysberts, Mayor

Date of Introduction: December 15, 2015

Date of Passage: January 26, 2016

Effective Date: February 26, 2016

PREPARED BY  
SALVATORE & BOYER, LLC,  
CITY ATTORNEY



**Chapter 187**  
**Nuisance and Abandoned Property Abatement**

**187-1 Definitions.**

- A. Abandoned property shall mean a residential or commercial property that is not occupied by either the property owner or a legal tenant and is
  - 1. unsuitable for habitation or reasonable use;
  - 2. is in a dilapidated, hazardous, unsafe or dangerous condition; or
  - 3. is open to entrance or trespass.
- B. Department means the Planning and Code Administration Department, or its successor.
- C. Mortgagee means the holder of a security interest in a nuisance property or an abandoned property which is recorded among the land records of Washington County, Maryland.
- D. Nuisance property shall mean a property that is in an unsafe, hazardous or unsanitary condition that:
  - 1. Interferes with the use or enjoyment of adjacent land;
  - 2. Injures or interferes with adjacent land; or
  - 3. Poses a significant danger to or adversely affects the health, safety or welfare of the surrounding community.
- E. Owner means the record title holder of a nuisance property or an abandoned property and, if the record title holder is deceased, the record title holder's personal representative, executors and administrators.

**187-2 Powers and duties.** The Department is empowered to implement this chapter and shall be responsible for:

- A. Determining where abandoned properties and nuisance properties exist;
- B. Ascertaining the ownership of abandoned properties and nuisance properties;
- C. With the assistance of the city attorney, instituting court proceedings against the owners in furtherance of the provisions of this article;
- D. Subject to the hereinafter set forth parameters, negotiating settlement agreements with the owners for the purpose of rehabilitating or demolishing the abandoned properties and nuisance properties, irrespective of whether such settlement agreements are entered into while court proceedings are pending or on a prelitigation basis;
- E. Proceeding upon such lawsuits that are not settled and seeking court orders that:
  - 1. Declare the subject properties to be abandoned properties or nuisances properties;
  - 2. Require the owners to repair and rehabilitate them;
  - 3. Authorize the City of Hagerstown to enter upon the subject properties and abate the conditions or demolish them; and/or
  - 4. Require the owners of such properties that have been demolished to pay the costs of the demolition as well as reasonable attorney's fees, court costs and litigation expenses incurred in seeking the relief described herein through the entry of money judgments against the owners.

**187-3 Settlement agreements.**

- A. The Department may negotiate settlement agreements with owners for the purpose of requiring owners to:
  - 1. Repair and rehabilitate properties over a term of no more than six (6) months;

2. Demolish the properties; and/or
  3. Transfer legal title of the same to the city.
- B. Unless otherwise authorized by the mayor and city council, the settlement agreements must provide:
1. That the repair and rehabilitation costs are to be borne entirely by the owners without contribution from the City of Hagerstown;
  2. Property which is not rehabilitated within six (6) months of the date of the settlement agreement shall be demolished; and
  3. With respect to properties to be transferred to the City of Hagerstown, the only costs to be incurred by the City of Hagerstown in connection with the said transfers shall be the deed recording fee, a reasonable deed preparation fee and the proration of real property taxes and utility fees, as applicable.
- C. Settlement agreements entered into after commencement of litigation shall be reduced to the form of a consent decree, to be filed for record in the Circuit Court for Washington County, Maryland.
- 187-4 Notice to owner and mortgagee.** At least thirty (30) days prior to the institution of court proceedings, the Department shall mail notice to the owner and mortgagee, if applicable, advising the owner and mortgagee that the property has been identified as a nuisance property and/or an abandoned property and advising the owner and mortgagee that court proceedings will be instituted unless the owner enters into a settlement agreement with the City of Hagerstown or otherwise repairs and rehabilitates the property or otherwise remediates the conditions resulting in its designation as a nuisance property and/or an abandoned property. The said notice shall be sent by first class U.S. mail, postage prepaid, and it shall be mailed to the owner at the owner's address reflected in the records of the state department of assessments and taxation and it shall be mailed to the mortgagee at the mortgagee's address as stated in the recorded instrument creating or perfecting the security interest or at such other address as is reasonably expected to result in the mortgagee's receipt of the notice described herein. In the event the owner cannot be identified, the notice may be provided through publication in a newspaper of general circulation in Washington County, Maryland and by posting the property.

**187-5 Filing of complaint.**

- A. Named Defendants. The court proceedings referenced in this article shall be instituted by filing a complaint in the Circuit Court for Washington County, Maryland. The defendants in such action shall include the owner, the mortgagees, if any, and the plaintiff in any proceeding that was timely filed under Md. Tax. Prop. Code Ann. § 14-833 (Complaints to foreclose right of redemption) and for which the time for securing a decree of foreclosure has not yet expired.
- B. The complaint shall be supported by an affidavit stating that:
1. Notice required under section 187-4 has been provided to the owner and mortgagee, if applicable;
  2. A settlement agreement has not been entered into; and

3. The property has not been repaired or rehabilitated and the circumstances resulting in its designation as a nuisance property and/or an abandoned property have not been remediated;
- C. The complaint shall include a description of the condition of the property and the facts and circumstances that have resulted in its designation as a nuisance property and/or abandoned property.
- D. The complaint shall include a request for the following:
  1. A determination by the court that the property is a nuisance property or an abandoned property; and
  2. Authorization to abate the conditions or demolish the property at the Defendant's cost.

**187-6 Lien.** In the event the court enters an order granting the City of Hagerstown authorization to abate or demolish a nuisance property or an abandoned property, the costs of abatement or demolishing the property, any money judgment entered on behalf of the city, and all costs incidental thereto shall be chargeable against the owner and shall constitute a lien upon such property, and may be collected pursuant to section 223-11 of the Code.

**187-7 Liberal construction.** Because the purpose of this chapter is to promote and protect the health, safety and general welfare of the City of Hagerstown and its occupants, it shall be liberally construed in order to effectuate that purpose.

**187-8 Severability.** Should any section, subsection, sentence, clause, or phrase of this chapter be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of the chapter in its entirety or of any part thereof other than that portion declared to be invalid.

## CITY OF HAGERSTOWN, MARYLAND

### **AN ORDINANCE TO AMEND THE CODE OF THE CITY OF HAGERSTOWN, CHAPTER 65 THEREOF, ENTITLED *PROPERTY MAINTENANCE HABITUAL OFFENDER* TO RENAME THE CHAPTER, TO REVISE THE DEFINITION OF HABITUAL OFFENDER TO INCLUDE ADDITIONAL OFFENSES WHICH MAY LEAD TO HABITUAL OFFENDER STATUS AND TO EXPAND THE APPLICABILITY OF THE CHAPTER TO INCLUDE VIOLATIONS OF THE CODE WITH RESPECT TO STRUCTURES AND LAND**

#### **RECITALS**

**WHEREAS**, by virtue of State Law and the City Charter, the City of Hagerstown regulates property conditions within the City; and

**WHEREAS**, pursuant to Chapter 65 of the City Code, the City of Hagerstown currently deems persons who incur multiple violations of the Property Maintenance Code to be habitual offenders and establishes enhanced penalties for further violations by such persons; and

**WHEREAS**, the Mayor and Council desire to expand the type of code violations which establish habitual offender status to include violations of Chapter 64, *Property Maintenance*, Chapter 185, *Nuisance Abatement*, Chapter 197 *Rental Facilities*, Chapters 232 and 233, *Vacant Structures* and the *Land Management Code*; and

**WHEREAS**, the Mayor and Council deem it advisable to rename Chapter 65, *Habitual Offender*, to be consistent with the expansion of the applicable code sections; and

**WHEREAS**, the Mayor and Council find it to be in the best interests of the citizens of the City of Hagerstown to do so;

**NOW, THEREFORE, BE IT RESOLVED, ENACTED AND ORDAINED** by the Mayor and Council of the City of Hagerstown, Maryland, as its duly constituted legislative body, as follows:

1. Chapter 65 of the Code of the City of Hagerstown, §65-1 be and is hereby amended to change the title of the Chapter, to read as follows:

“**§65-1 Title.** This chapter shall be known and may be cited as the “City of Hagerstown Habitual Offender Ordinance.”

2. Chapter 65 of the Code of the City of Hagerstown, §65-3, *Definitions*, be and is hereby amended to revise the definition of Habitual Offender, to read as follows:

“HABITUAL OFFENDER – Any person who shall pay a fine after receipt of a citation, or who shall be convicted of or have judgment entered against them for violations of the following Chapters of the City Code, or any combination thereof for three (3) or more separate and distinct violations occurring during a twenty-four month period shall be considered a habitual offender. The Chapters of the City Code which apply toward habitual offender status are Chapter 64, *Property Maintenance*, Chapter 140, *Land Management Code*, Chapter 185, *Nuisance Abatement*, Chapter 197, *Rental Facilities*, Chapter 232, *Vacant Non-Residential Structures*, and Chapter 233, *Vacant Residential Structures*.

3. Chapter 65 of the Code of the City of Hagerstown, §65-3, *Definitions*, be and is hereby is hereby amended to add a new definition thereto, to read as follows:

“PREMISES – A lot, plot or parcel of land, including any structures thereon and the public sidewalk or public way abutting such lot, plot or parcel.”

4. Chapter 65 of the Code of the City of Hagerstown, subsection 65-4.A thereof is hereby amended to read as follows:

“A. It shall be unlawful for any person considered a habitual offender under this chapter to own, use or occupy any premises regulated by Chapters 64, 185, 197, 232, or 233 of the Hagerstown City Code, or the *Land Management Code* of the City of Hagerstown in conflict with or in violation of the provisions contained therein.”

5. These amendments to Chapter 65 of the Code of the City of Hagerstown shall become effective immediately upon the effective date of this enacting Ordinance.

**BE IT FURTHER RESOLVED, ENACTED AND ORDAINED** that this Enacting Ordinance shall become effective upon the expiration of thirty (30) calendar days following its approval.

WITNESS AND ATTEST  
AS TO CORPORATE SEAL

MAYOR AND COUNCIL OF THE CITY  
OF HAGERSTOWN, MARYLAND

\_\_\_\_\_  
Donna Spickler, City Clerk

By: \_\_\_\_\_  
David S. Gysberts, Mayor

Date of Introduction: December 15, 2015  
Date of Passage: January 26, 2016  
Effective Date: February 26, 2016

PREPARED BY:  
Salvatore & Boyer, City Attorney



**REQUIRED MOTION  
MAYOR AND CITY COUNCIL  
HAGERSTOWN, MARYLAND**

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**Topic:**

Discussion of Legislative Priorities

**Mayor and City Council Action Required:**

**Discussion:**

**Financial Impact:**

**Recommendation:**

**Motion:**

**Action Dates:**