

Mayor and Council Special Session (42nd Voting Session), Work Session and Executive Session July 14, 2026 Agenda

"The City of Hagerstown will inspire an inclusive, business-friendly, and sustainable community with clean, safe, and vibrant neighborhoods."

"The City of Hagerstown shall be a community focused municipality"

The agenda and meeting packet is available at www.hagerstownmd.org/government/agenda

"Opportunities don't happen, you create them" - Anonymous

2:00 PM SPECIAL SESSION

1. Approval of Minutes - May 5, 2026, May 12, 2026, May 19, 2026, and May 26, 2026
2. Approval of an Ordinance: Amendments to the Forest Conservation Ordinance - ZT-2026-01

2:00 PM WORK SESSION

- 2:10 PM** 1. Confirmation of Existing Payment in Lieu of Taxes (PILOT) Agreement: Hagerstown Housing Authority – *Amanda Gregg, Director of Housing & Community Development and Sean Griffith, Executive Director of Hagerstown Housing Authority*
- 2:20 PM** 2. Community Parks and Playgrounds Grant Request FY2028 Wheaton Park Shade Structure – *Eric Deike, Director of Public Works*
- 2:35 PM** 3. Battery Energy Storage System RFP Development and Solicitation – *Nathan Fridinger, Deputy Director of Electric Operations and Jason Bachtell, Electric Engineering Manager*
- 2:50 PM** 4. Charter Review Committee – *Mayor and City Council*
- 3:00 PM** 5. **The Mayor and Council will meet in Open Session for the purpose of voting to close its meeting to discuss matters that the Open Meetings Act permits it to discuss in Executive/Closed Session.**

CITY ADMINISTRATOR'S COMMENTS

MAYOR AND COUNCIL COMMENTS

ADJOURN

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

Topic:

Approval of Minutes - May 5, 2026, May 12, 2026, May 19, 2026, and May 26, 2026

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Motion_-_Minutes.pdf

Description

Motion - Minutes

REQUIRED MOTION

MAYOR AND CITY COUNCIL HAGERSTOWN, MARYLAND

Date: July 14, 2026

TOPIC: Approval of Minutes

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

MOTION: I hereby move for the approval of minutes, as presented, for the Mayor and Council meetings held on May 5, 2026, May 12, 2026, May 19, 2026 and May 26, 2026.

DATE OF PASSAGE: July 14, 2026

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

Topic:

Approval of an Ordinance: Amendments to the Forest Conservation Ordinance - ZT-2026-01

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

2026_0714_WS_SS_Approval_of_an_Ordinance_-_Amendments_to_Forest_Conservation_Ordinance_ZT-2026-01.pdf

Description

Approval of an Ordinance:
Amendments to the Forest
Conservation Ordinance -
ZT-2026-01

REQUIRED MOTION

MAYOR AND CITY COUNCIL HAGERSTOWN, MARYLAND

DATE: July 14, 2026

TOPIC: Approval of an Ordinance: Land Management Code
Article, 3 and 7, Forest Conservation Ordinance

Charter Amendment

Code Amendment

Ordinance

X

Resolution

Other

MOTION: I hereby move that the Mayor and City Council approve an ordinance to amend the Land Management Code, Articles 3 and 7, Forest Conservation Ordinance, to comply with the State of Maryland amended Forest Conservation Act (FCA) which changed with the adoption of the 2023 Forest Preservation and Retention legislation (SB 526 / HB 723) and the follow-up 2024 legislation (HB 1511).

DATE OF INTRODUCTION: 06/23/2026

DATE OF PASSAGE: 07/14/2026

EFFECTIVE DATE: 8/14/2026

CITY OF HAGERSTOWN, MARYLAND

AN ORDINANCE TO AMEND CHAPTER 140 OF THE CODE OF THE CITY OF HAGERSTOWN, FOR THE PURPOSE OF AMENDING THE FOREST CONSERVATION ORDINANCE TO COMPLY WITH MARYLAND LAW.

RECITALS

WHEREAS, by virtue of the Land Use Article of the Annotated Code of Maryland the City Charter, the City of Hagerstown regulates land use within the City; and

WHEREAS, the Mayor and Council have a responsibility to promote public health, safety and general welfare of the citizens of Hagerstown; and

WHEREAS, the Mayor and Council have a responsibility to implement the policies of the Comprehensive Plan and provide a system of land use and development regulations that provides for harmonious use and development of land; and

WHEREAS, the Planning Commission have recommended amendments to the Land Management Code to update the Code to comply with recent changes to the Annotated Code of Maryland as it pertains to Forest Conservation; and

WHEREAS, upon discussion with City staff and review during a public hearing process, the Mayor and Council find it in the best interests of the citizens to revise Chapter 140 to incorporate the proposed amendments, as hereafter described;

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

1. The Code of the City of Hagerstown be and is hereby amended to enact changes to Articles 3 and 7, Chapter 140, Land Management Code, Version 3.12, as revised, to read as follows:

(See Attached Amended Text of Chapter 140)

2. This ordinance shall become effective thirty (30) days from the date of its approval.

Effect on penalty, forfeiture, or liability

(a) Except as otherwise expressly provided, the repeal, repeal and reenactment, or amendment of this Ordinance does not release, extinguish, or alter a civil penalty, forfeiture, or liability imposed or incurred under this Ordinance.

Purposes for which Ordinance shall remain in effect

(b) This repealed, repealed and reenacted, or amended Ordinance shall remain in effect for the purpose of sustaining any:

- (1) pending civil action, suit, proceeding, matter or prosecution for the enforcement of a penalty, forfeiture, or liability; and
- (2) judgment, decree, decision or order that imposes, inflicts, or declares the penalty, forfeiture, right, or liability.

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

William McIntire, Mayor

Date of Introduction: June 23, 2026

Date of Passage: July 14, 2026

Effective Date: August 14, 2026



MEMORANDUM

TO: Scott Nicewarner, City Administrator

FROM: Valerie Feinberg, AICP, Senior Planner

DATE: July 14, 2026

SUBJECT: Approval of Ordinance: Land Management Code
Article 3 and 7, Forest Conservation Ordinance

The proposed ordinance is scheduled to be adopted by the Mayor and City Council on July, 14, 2026 during a special session.

The Planning Commission held a public review meeting regarding this proposal on May 27, 2026 and forwarded this proposal with a recommendation to approve. No one appeared in opposition to the proposal. The Commission recommends approval of these proposals.

The Mayor and City Council were briefed in a workshop on June 2, 2026. A public hearing regarding proposed text amendments that update the Forest Conservation Ordinance to comply with the State of Maryland amended Forest Conservation Act (FCA), particularly following the adoption of the 2023 "Forest Preservation and Retention" legislation (SB 526 / HB 723) and the follow-up 2024 legislation (HB 1511) was held June 23, 2026. The Mayor and City Council introduced the ordinance that evening.

The next step is the attached motion to adopt. If adopted on July 14, 2026, it will take effect 30 days thereafter.

LAND MANAGEMENT CODE TEXT AMENDMENT PROPOSAL

Number: 2026-27	Is this a new issue or one previously discussed?	New
Version: 1	Is this new text proposed since last discussion in need of initial review?	No
Released to Planning Commission Public Review Meeting	Is this revised text in need of confirmation that it conforms to prior editorial direction?	No
Summary: Adjustments to forest conservation ordinance		
Justification: Codifying certain changes in the state code so that the city's ordinance matches state code.		

Existing text to be removed is in ~~strikeout~~. New text to be added is **red**. Staff directions are **blue**.

This packet includes Article 7, the Forest Conservation Ordinance in its entirety for context. However not all sections of the ordinance have changes. **The pagination and formatting may have inconsistencies.** Changes to Definitions found in Article 3 of the Land Management Code that pertain to Forest Conservation are included as an attachment to this packet.

The State of Maryland is requiring local governments to substantially strengthen and modernize their local Forest Conservation Ordinances under the Maryland Forest Conservation Act (FCA), particularly following the adoption of the 2023 “Forest Preservation and Retention” legislation (SB 526 / HB 723) and the follow-up 2024 legislation (HB 1511).

This means local codes must now be revised to align with updated State standards and Maryland DNR model ordinance requirements.

ARTICLE 7
Forest Conservation Ordinance
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A. General Provisions.

1. Title.

This Article shall be known as the Forest Conservation Ordinance of the City of Hagerstown.

2. Definitions.

Article 3 of the Land Management Code shall govern all definitions as they apply to this Article.
[Changes, additions and deletions to definitions are included as an attachment to this packet](#)

3. Application, Exemption, Declaration of Intent and Consideration of Non-City Forest Conservation Plans Affecting Lands Within City Jurisdiction.

Except as provided in Subsection A.3.b of this Article, this Article applies to:

- a. **Application.** A regulated activity as defined in Article 3 of this Code.
- b. **Exemptions.** This Article does not apply to:
 - (1) Highway construction activities under Natural Resources Article, Section 5-103, Annotated Code of Maryland.
 - (2) Commercial logging and timber harvesting operations, including harvesting conducted subject to the forest conservation and management program under Tax-Property Article, Subsections 8-211, Annotated Code of Maryland, that are completed:
 - a. before July 1, 1991; or
 - b. after July 1, 1991, on property ~~which~~ **that is not the subject of an application for a grading permit for development within five years after the logging or harvesting operation. However, after this 5-year period, the property shall be subject to this subtitle**
 - (i) ~~has not been the subject of application for a grading permit for development within five (5) years after the logging or harvesting operation, and~~
 - (ii) ~~is the subject of a declaration of intent as provided for in Subsection A.3.c of this Article, approved by the Planning and Code Administration Department.~~
 - (3) **Any a** ~~Agricultural activities not resulting in~~ **activity that does not result in** a change in land use category, including agricultural support buildings and other related structures built using accepted best management practices, except that a person engaging in an agricultural activity clearing 40,000 square feet or greater of forest within a one- (1) year period, may not receive an agricultural exemption, unless the person files a declaration of intent as provided for in Subsection A.3.c of this Article which includes:

- a. a statement that the landowner or landowner's agent will practice agriculture on that portion of the property for five (5) years from the date of the declaration; and
 - b. a sketch map of the property which shows the area to be cleared.
- (4) The cutting or clearing of public utility rights-of-way **for electric generating stations** licensed under Sections **7-204, 7-205, 7-207 or 7-208 of the Public Utilities Article, provided that:** ~~licensed under Sections 1-101 and 2-101, et seq. Of the Public Utilities Companies Article of the Annotated Code of Maryland if:~~
 - a. **Any** required certificates of public convenience and necessity have been issued in accordance with Natural Resources Article, §5-1603(f), Annotated Code of Maryland; and
 - b. **The** cutting or clearing of the forest is conducted to minimize the loss of forest.
- (5) **Any r** Routine maintenance or emergency repairs of public utility rights-of-way licensed under Sections 1-101 and 2-101, et seq. of the Public Utilities Companies Article of the Annotated Code of Maryland
- (6) Except for a public utility subject to Subsection A.3.b.6 of this Article, routine maintenance or emergency repairs of a public utility right-of-way if:
 - a. the right-of-way existed before the effective date of this ordinance; or
 - b. the right-of-way's initial construction was approved under this ordinance.
- (7) **Any Residential** construction activity that is constructed on a single lot of any size or a linear project ~~if the activity~~ **provided that:**
 - a. **The activity** does not result in the cumulative cutting, clearing, or grading of more than 20,000 square feet of forest;
 - b. **The activity on the lot or linear project will not result in the cutting, clearing or grading of any forest that is subject to the requirements of a previous forest conservation plan prepared under this subtitle. does not result in the cutting, clearing, or grading of a forest that is subject to the requirements of a previous forest conservation plan approved under this ordinance; and**
 - ~~c. is the subject of a declaration of intent filed with the Planning and Code Administration Department, as provided for in Subsection A.3.c of this Article, stating that the lot will not be the subject of a regulated activity within five (5) years of the cutting, clearing, or grading of forest.~~
- (8) **Any s**Strip or deep mining of coal regulated under **Title 15, Subtitle 5 or Subtitle 6 of the Environment Article and any** ~~Natural Resources Article, Title 7,~~

~~Subtitle 5 or 5A~~, Annotated Code of Maryland non-coal surface mining regulated under **Title 15, Subtitle 8 of the Environment Article** ~~Natural Resources Article, Title 7, Subtitle 6A~~, Annotated Code of Maryland.
Combined 8 and 9

- (9) **Any** activity required for the purpose of constructing a dwelling house intended for the use of the owner, or a child of the owner, if the activity does not result in the cutting, clearing, or grading of more than ~~40,000~~ **20,000** square feet of forest.
 - a. is the subject of a declaration of intent filed with the ~~Planning and Code Administration~~ Department, as provided for in Subsection A.3.c of this Article, which states that transfer of ownership may result in a loss of exemption.
- (10) A preliminary plan of subdivision or a grading or sediment control plan approved before July 1, 1991.
- (11) A planned unit development that, by December 31, 1991, has:
 - a. met all requirements for planned unit development approval; and
 - b. obtained initial development plan approval by the City of Hagerstown.
- (12) A real estate transfer to provide a security, leasehold, or other legal or equitable interest, including a transfer of title, of a portion of a lot or parcel, if:
 - a. the transfer does not involve a change in land use, or new development or redevelopment, with associated land disturbing activities; and
 - ~~b.~~ both the grantor and grantee file a declaration of intent, as provided for in Subsection A.3.c of this Article.
- (13) An activity on a previously developed area covered by impervious surface and located in the Priority Funding Area.
- (11) **Renumbered was 15** A stream restoration project, as described in Article 3 of this Land Management Code, for which the applicant for a grading or sediment control permit has executed a binding maintenance agreement of at least five (5) years with the affected property owner or owners, or
- (12) **Renumbered was 16** Maintenance or retrofitting of a storm water management structure that may include clearing of vegetation or removal and trimming of trees, so long as the maintenance or retrofitting is within the original limits of the disturbance for construction of the existing structure, or within any maintenance easement for access to the structure.
- (13) **Forest management.**
- (14) **Transit-oriented development**, as defined under Subsection 7–101 of the

Transportation Article, provided that the area of forest removed shall be:

- (a) Reforested at a ratio of at least 1/4 acre replanted for each acre removed; or
 - (b) Mitigated in a manner in which 1/2 acre of forest is permanently protected for each acre removed.
- (15) The construction of a new federal government facility projected to house the employment of at least 2,500 persons.
- (16) The construction of multifamily housing, consisting of a single structure containing at least 25 dwelling units, provided that the area of forest removed shall be:
- (a) Reforested at a ratio of at least 1/4 acre replanted for each acre removed; or
 - (b) Mitigated in a manner in which 1/2 acre of forest is permanently protected for each acre removed.

c. **Declaration of Intent.**

- (1) The purpose of the declaration of intent is to verify that the proposed activity is exempt under this Article.
- (2) A person seeking an exemption under Subsections 2, 3, 7, 10, or 13 of Subsection A.3.b above, shall file a declaration of intent with the Planning and Code Administration Department.
- (3) The existence of a declaration of intent does not preclude:
 - a. an exempted activity on the property subject to a declaration of intent, if the activity:
 - (i) does not conflict with the purpose of any existing declaration of intent, and
 - (ii) complies with the applicable requirements for an exempted activity;
 - b. a regulated activity on the area covered by the declaration of intent, if the activity occurs within five (5) years of the effective date of the declaration of intent, in which case:
 - (i) there shall be an immediate loss of exemption, or
 - (ii) there may be a noncompliance action taken by the ~~Planning and Code Administration Department~~ **the Department** as appropriate, under this Article; or
 - c. a regulated activity on that area of the property not covered under the declaration of intent if the requirements of this Article are satisfied.

- (4) ~~The Planning and Code Administration Department~~ **The Department** may require a person failing to file a declaration of intent or found in noncompliance with a declaration of intent to:
- a. meet the retention, afforestation and reforestation requirements established in this Article;
 - b. pay a noncompliance fee of \$0.50 per square foot of forest cut or cleared under the declaration of intent;
 - c. be subject to other enforcement actions appropriate under this Article; or
 - d. file a declaration of intent with the Planning and Code Administration Department.
- (5) In its determination of appropriate enforcement action, the ~~Planning and Code Administration Department~~ **the Department** may consider whether failure to file a declaration of intent by a person required to file is a knowing violation of this Article.
- (6) The declaration of intent is effective for five (5) years from date of Planning Commission approval and shall be recorded immediately among the land records of Washington County.

d. **Consideration of Non-City Forest Conservation Plans Affecting Lands Within City Jurisdiction.**

- (1) When a development that is outside of the City is proposed to include dedication of lands within the corporate limits of the City of Hagerstown for forest conservation retention or reforestation, the plan shall be submitted to the Hagerstown Planning Commission for review and approval. The Planning Commission may reject the proposal if it finds that the proposal will interfere with the logical development of the balance of the property or surrounding lands, will not be the highest and best use of land, will be inconsistent with the policies and goals of the Hagerstown Comprehensive Plan, or it will remove from potential development lands the City views as valuable for economic development purposes. The Planning Commission may solicit the comments and opinions of adjacent property owners, the Department of Community and Economic Development and any other agency or organization the Commission identifies as having potential pertinent views on the proposal. Should the Commission approve such a plan, it may impose conditions necessary to protect the public interest from the City's perspective.
- (2) Should the County or State propose a public works project that will impact a property that is subject to a City-approved forest conservation plan, the new plan shall be submitted to the Hagerstown Planning Commission for review and approval. The plan shall contain proposals to offset any forest conservation measures lost by the proposal. Should the Planning Commission approve the

proposal, the forest conservation plan file for the subject property shall be updated to reflect the approved change.

B. General Requirements.

1. **General.** A person making application after the effective date of this Article, for a regulated activity shall:
 - a. Submit to the ~~Planning and Code Administration~~ Department a forest stand delineation and a forest conservation plan for the lot or parcel on which the development is located; and
 - b. Use methods approved by the City of Hagerstown, as provided in the ~~City of Hagerstown~~ **2024 State Forest Conservation Technical Manual (as amended)**, to protect retained forests and trees during construction.
2. **Government Agency or Funding.** If a local agency or person using state funds makes application to conduct a regulated activity, the provisions of COMAR 08.19.04.01D-G apply.
 - a. The plans for the regulated activity shall be submitted to the ~~Planning and Code Administration~~ Department; and
 - b. The ~~Planning and Code Administration~~ Department shall notify the Department of Natural Resources within 15 days of receipt of this plan or application.
 - c. Within 15 days of receipt of notice from the local authority, the Department of Natural Resources shall:
 - (1) determine whether the regulated activity has impact on significant forest resources; and
 - (2) notify the local authority whether the regulated activity is subject to the state program.
 - d. If the Department of Natural Resources determines that the regulated activity is subject to the state program, the:
 - (1) time limit for approval of the forest stand delineation and preliminary and final forest conservation plans shall begin when the Department of Natural Resources receives the necessary documents from the local authority; and
 - (2) local authority may not approve a regulated activity until the local authority receives notice from the Department of Natural Resources that the standards and requirements of the state program have been satisfied.
 - e. If the Department of Natural Resources determines the regulated activity need not be reviewed under the state program, the time limit from approval of the forest stand delineation and forest conservation plan under the local program begins when the local authority receives notice from the Department of Natural Resources.

C. Forest Stand Delineation.

1. Criteria.

- a. **When Submitted.** A forest stand delineation shall be submitted before subdivision development plan or site plan approval, and before the issuance of any grading permit, sediment control plan approval or any other permit is issued for a regulated activity.
- b. **Qualified Professional.** The delineation shall be prepared by a licensed forester, licensed landscape architect, or a qualified professional, as specified in COMAR 08.19.06.01A.
- c. **Components.** The delineation shall be used during the preliminary review process to determine the most suitable and practical areas for forest conservation and shall be considered complete if it includes the following components:
 - (1) a topographic map delineating intermittent and perennial streams, and steep slopes over 25%;
 - (2) a soils map delineating soils with structural limitations, hydric soils, or soils with a soil K value greater than 0.35 on slopes of 15% or more;
 - (3) forest stand maps indicating species, location, and size of trees and showing dominant and codominant forest types;
 - (4) location of 100-year floodplains;
 - (5) information required by the **2024 State Forest Conservation Technical Manual (as amended)**, ~~City of Hagerstown Forest Conservation Technical Manual~~; and
 - (6) other information the City of Hagerstown determines is necessary to implement this Article.
- d. **Simplified Delineation.** If approved by the ~~Planning and Code Administration~~ Department, a simplified forest stand delineation may be submitted for an area:
 - (1) when no forest cover is disturbed during a regulated activity; or
 - (2) all forest on the site is designated to be under a long-term protective agreement.
- e. **Components of Simplified Delineation.** A simplified forest stand delineation shall be considered complete if it includes:
 - (1) all requirements under Subsection C.1.c (1), (2), (4), (5) and (6) of this Article (above);
 - (2) a map showing existing forest cover as verified by field inspection by City of Hagerstown personnel; and

- (3) other information required by this Article.
- f. **Expiration of Plan.** An approved forest stand delineation may remain in effect for a period not longer than five (5) years from the date of approval by the ~~Planning and Code Administration~~ Department.
- g. **Time for Submittal.**
 - (1) Within 30 calendar days after receipt of the complete forest stand delineation, the ~~Planning and Code Administration~~ Department shall notify the applicant whether the forest stand delineation is complete and correct.
 - (2) If the ~~Planning and Code Administration~~ Department fails to notify the applicant within 30 days, the delineation shall be treated as complete and correct.
 - (3) The ~~Planning and Code Administration~~ Department may require further information or provide for an additional 15 calendar days under extenuating circumstances.
 - (4) The 30-day review period may be extended in 15-day increments by the ~~Planning and Code Administration~~ Department upon appropriate notification of the applicant.

D. Forest Conservation Plan.

1. General Provisions.

- a. **Priorities.** In developing a forest conservation plan, the applicant shall give priority to techniques for retaining existing forest on the site.
- b. **Plan Strategy.** Except when using the Express Procedures described in Section E if existing forest on the site subject to a forest conservation plan cannot be retained, the applicant shall demonstrate to the satisfaction of the Planning Commission:
 - (1) how techniques for forest retention have been exhausted;
 - (2) why the priority forests and priority areas specified in Subsection F.2 of this Article cannot be left in an undisturbed condition;
 - (a) if priority forests and priority areas cannot be left undisturbed, how the sequence for afforestation or reforestation will be followed in compliance with Section H of this Article; and
 - (b) where on the site in priority areas afforestation or reforestation will occur in compliance with Section H of this Article.
 - (3) How the disturbance to the priority forests and priority areas as specified in Subsection F.2 of this Article qualifies for a variance.
- c. **Fee Contribution.** Except when using the Express Procedures as described in Section E, the applicant shall demonstrate to the satisfaction of the Planning Commission that the requirements for afforestation or reforestation onsite or offsite cannot be reasonably accomplished if the applicant proposes to make a payment into the local forest conservation fund instead of afforestation or reforestation.
- d. **Discretion of the Planning Commission.** The Planning Commission shall have the authority to determine if a payment instead of afforestation or reforestation is permitted and appropriate.
- e. **Non-Tidal Wetlands.** A regulated activity under the local program is subject to the following requirements:
 - (1) For the purposes of delineation, permitting, and mitigation, areas determined to be non-tidal wetlands under Environmental Article, Title 9, Annotated Code of Maryland shall be regulated under Environmental Article, Title 9, Annotated Code of Maryland or this Article, whichever is more stringent.
 - (2) For the purpose of calculating reforestation mitigation under this Article, a forested non-tidal wetland permitted to be cut or cleared and required to be mitigated under COMAR 08.05.04 shall be shown on the forest conservation plan and subtracted on an acre-for-acre basis from the total amount of forest to be cut or cleared as part of a regulated activity.

- (3) Non-tidal wetlands shall be considered to be priority areas for retention and replacement.
- (4) Forested non-tidal wetland identification and delineation should be included at the earliest stage of planning to assist the applicant in avoidance and reduction of impacts to the non-tidal wetlands and to avoid delay in the approval process.
- f. **On-site Compliance Spanning Residential Lots Discouraged.** This Article discourages compliance plans that reserve portions of residential building lots for easements for retention, afforestation or reforestation in order to meet the requirements of this Article. Such proposals result in long-term conflicts with homeowners desiring to make reasonable use of their yard areas for customary residential accessory uses. This provision shall not prevent the Planning Commission from considering such concepts on a case-by-case basis.

2. **Preliminary Forest Conservation Plan.**

- a. **Qualified Professional.** A preliminary forest conservation plan shall be prepared by a licensed forester, a licensed landscape architect, or a qualified professional who meets the requirements stated in COMAR 08.19.06.01B.
- b. **Components.** A preliminary forest conservation plan shall be submitted with the subdivision development plan or plan for a regulated activity and shall be considered complete if it includes the following components:
 - (1) The approved forest stand delineation for the site;
 - (2) Include a table that lists the proposed values of the following, in square feet:
 - (a) net tract area,
 - (b) area of forest conservation required, and
 - (c) area of forest conservation that the applicant proposes to provide, including both on-site and off-site areas;
 - (3) Include a clear graphic indication of the forest conservation provided on the site drawn to scale, showing areas where retention of existing forest or afforestation or reforestation is proposed;
 - (4) An explanation of how the provisions of Subsection D.1 of this Article have been met;
 - (5) In the case of afforestation or reforestation, a proposed afforestation or reforestation plan;
 - (6) A proposed construction timetable showing the sequence of forest conservation procedures;

- (7) The proposed limits of disturbance;
 - (8) The proposed stockpile areas ~~delineated~~;
 - (9) ~~Moved from 3.b.(3)(a) A binding proposed two- (2-) year management maintenance~~ agreement that shows how areas designated for afforestation or reforestation will be maintained to ensure protection and satisfactory establishment;
 - (a) ~~Watering; and~~
 - (b) ~~Reinforcement planting provisions if survival falls below required standards.~~
 - (10) Information required in the ~~2024 State Forest Conservation Technical Manual (as amended), City of Hagerstown Forest Conservation Technical Manual;~~ and
 - (11) Other information the City of Hagerstown determines is necessary to implement this Article.
- c. **When Submitted.** The review of the preliminary forest conservation plan shall be concurrent with the review of the site plan or subdivision development plan.
 - d. **Modification During Staff Review.** During the different stages of the review process, the preliminary forest conservation plan may be modified, as required by the Planning and Code Administration Department, prior to approval by the Planning Commission.

3. **The Final Forest Conservation Plan.**

- a. **Qualified Professional.** A final forest conservation plan shall be prepared by a licensed forester, a licensed landscape architect, or a qualified professional who meets the requirements stated in COMAR 08.19.06.01B.
- b. **Components.** A final forest conservation plan shall be submitted with a final plan of subdivision, or plan for a regulated activity, and shall be considered complete if it includes the following components:
 - (1) Proposed locations and types of protective devices to be used during construction activities to protect trees and forests designated for conservation;
 - (2) In the case of afforestation or reforestation, an afforestation or reforestation plan, with a timetable and description of needed site and soil preparation, species, size, and spacing to be used;
 - (3) ~~Moved to 2.9 A binding two- (2-) year maintenance agreement specified in Section K of this Article and COMAR 08.19.05.01 that details how the areas designated for afforestation or reforestation will be maintained to ensure protection and satisfactory establishment, including:~~
 - ~~(a) Watering, and~~

- ~~(b)~~ A reinforcement planting provision if survival rates fall below required standards, as provided in the City of Hagerstown Forest Conservation Technical Manual;
 - (4) (3). A long-term binding protective agreement as specified in COMAR 08.19.05.02 that:
 - (a) Provides protection for areas of forest conservation, including areas of afforestation, reforestation, and retention, and
 - (b) Limits uses in areas of forest conservation to those uses that are designated and consistent with forest conservation, including recreational activities and forest management practices that are used to preserve forest;
 - ~~(5)~~ (4). The substantive elements required under Subsection D.2.b (1) through (4), (6) through (8), and (10) of this Article, as finalized elements of the forest conservation plan; and
 - ~~(6)~~ (5). Other information the ~~Planning and Code Administration~~ Department determines is necessary to implement this Article.
- c. **Final Submittal.** The applicant submits once the Planning Commission approves concurrent with the site plan or subdivision development plan.
- d. **Notifications.** At least 20 days before approval of the forest conservation plan, the department shall:
- (1) Provide notice that is consistent with notice requirements to all property owners abutting and adjacent to the boundary of the subject property of any proposed clearing of a priority retention area as described in Subsection 5-1607(c) of Maryland Code; and
 - (a) On a net tract area of at least 5 acres and if at least 75% of the priority retention area is proposed to be cleared, provide an opportunity for written and verbal comment before plan approval; or
 - (b) For any other project where priority retention area is proposed for clearing, provide an opportunity for public written comment before plan approval.
 - (c) Property separated from the subject property by a public right-of-way shall be considered abutting and adjacent.
 - (2) Within 45 days from receipt of the forest conservation plan, the department shall notify the applicant whether the forest conservation plan is complete.
 - (a) If the department fails to notify the applicant about the forest conservation plan within 45 days, the plan shall be treated as complete and approved.

- (b) The department may require further information or provide for an extension of this deadline for an additional 15 days for extenuating circumstances.
 - (c) In addition, at the request of the applicant, the State or the department may extend this deadline for extenuating circumstances.
- (3) A person petitioning for judicial review of an approved forest conservation plan shall file the petition in accordance with the Maryland Rules not later than 30 days after approval of the forest conservation plan.
 - (a) Any judicial review of a forest conservation plan shall be:
 - i. Conducted in accordance with the Maryland Rules; and
 - ii. Limited to the record compiled by the department.
- e. **~~Time for Submittal.~~ (Renamed as “Notifications” see above)**
 - ~~(1) Within 45 calendar days after receipt of a complete final forest conservation plan, the Planning Commission shall notify the applicant whether the forest conservation plan is approved.~~
 - ~~(2) If the Planning Commission fails to notify the applicant within 45 calendar days, the plan shall be treated as complete and approved.~~
 - ~~(3) The Planning Commission may require further information or extend the deadline for an additional 15 calendar days under extenuating circumstances.~~
 - ~~(4) At the request of the applicant, the Planning Commission may extend the deadline under extenuating circumstances.~~
- f. **e. Concurrent with Final Plat.** The Planning Commission's review and approval of a final forest conservation plan shall be concurrent with the review of the final subdivision or project plan, grading permit application, or sediment control plan approval associated with the project. The final forest conservation plan shall be approved prior to the issuance of any permits.
- ~~g.~~ **f. Revocation of Plan.** The City of Hagerstown may revoke an approved forest conservation plan if it finds that:
 - (1) a provision of the plan has been violated;
 - (2) approval of the plan was obtained through fraud, misrepresentation, a false or misleading statement, or omission of a relevant or material fact; or
 - (3) changes in the development or in the condition of the site necessitate preparation of a new or amended plan.
- ~~h.~~ **g. Stop Work Order.** The City of Hagerstown may issue a stop work order against a person who violates a provision of this Article or a regulation, order, approved forest

conservation plan, or maintenance agreement.

- † **h. Revocation. Notification.** Before revoking approval of a forest conservation plan, the City of Hagerstown shall notify the violator in writing and provide an opportunity for a hearing.

E. Express Procedures.

1. Purpose and Intent.

- a. **Purpose.** The purpose of an Express Procedure is to provide an alternate review and approval mechanism which will allow certain development activities to meet the intent of the Forest Conservation Ordinance through a review and approval process that is proportionate to the impact on forest resources.
- b. **Process.** The Express Procedure allows the combination of the various steps in the review process that are described as separate in this Article. It will not require documentation of a progression through the sequence of priorities for afforestation and reforestation.
- c. **Intent.** Certain development activities, such as those described in the eligibility standards contained in this Article, result in small afforested or reforested areas that may not be located in priority areas and provide little or no real benefit to improvements in water quality. The goal of the Express Procedure is to create significant-sized forest stands in priority areas where they will provide real benefits to improvements in water quality. This will occur through the aggregation and accumulation of payment-in-lieu of fees. The funds are expended by the City of Hagerstown on a schedule and in locations that will more closely meet the intent and purpose of this Article.

2. Eligibility to Use Express Procedure. An application must meet the following criteria in order to use the Express Procedure.

- a. Subdivisions of five lots or less when the afforestation or reforestation requirement as calculated from the worksheet is two acres or less; or
- b. Where no subdivision is proposed, when the afforestation or reforestation requirements as calculated from the worksheet is two acres or less; and
- c. There is no disturbance proposed in those priority areas described in Subsection F.2 and Subsections H.1.c, (1), (2), (4), (5), (6) and, (7).

3. The Express Procedure.

- a. **Discretion of the Applicant.** If the eligibility criteria are met, the applicant may choose to use the Express Procedure without prior approval by the Planning Commission.
- b. **Non-Exclusive.** Nothing in this section shall prevent the applicant from using the procedures described elsewhere in this Article.
- c. **Simplified Format.** The Forest Stand Delineation may be prepared in the simplified format as described in Subsection C.1.d. In addition, the Forest Stand Delineation shall identify those areas described in Subsection E.2.c.
- d. **Concurrence with Subdivision or Site Plan.** The Forest Stand Delineation and Forest Conservation Plan may be submitted, reviewed and approved concurrently with the applicable subdivision or site plan.

- e. **Area Affected.** The net tract area as requested on the worksheet and upon which calculations are based to determine afforestation and reforestation requirements shall be equal to the area of the proposed subdivided lots or the area of the entire parcel to be developed when no subdivision is proposed.
- f. **Discretion of the Applicant.** The applicant may select the payment-in-lieu of fee to meet the requirements of afforestation or reforestation without prior approval by the Planning Commission.
- g. **Timing of Payment-in-Lieu.** The payment-in-lieu of fee shall be paid prior to the issuance of a permit to begin construction activity.

4. **Additional Guidelines.**

- a. **Remaining Lands Not Eligible for Express Procedure.** After an applicant has chosen to use the Express Procedure for an eligible subdivision, the remaining land of the original parcel is not eligible to use the procedure again. It shall be subject to the requirements of this Article as if the Express Procedure did not exist.
- b. **When in Variation with Other Provisions.** Where the Express Procedures described in this Article vary from those described elsewhere in this Article, the Express Procedures may be followed without violation of the Article as long as the subdivision or site development proposal meets the eligibility requirements.

F. Afforestation and Retention.

1. Afforestation Requirement. Except for linear projects that involve no change in land use, a person making application for a regulated activity after the effective date of this Article shall: ~~1. Afforestation requirements must conform to the conditions in Subsections 5–1607 and 5–1610 of State of Maryland Code, including payment into the Forest Conservation Fund, if afforestation on-site or off-site cannot be reasonably accomplished.~~

- a. **Threshold Ratios.** Conduct afforestation on the lot or parcel in accordance with the following threshold ratios.:

	Category of Use	Afforestation Threshold Percentage
(1)	Agricultural and resource areas	20%
(2)	Medium density residential areas	20%
(3)	Institutional development areas	15%
(4)	High-density residential areas	15%
(5)	Mixed-use and planned unit development areas	15%
(6)	Commercial and industrial use areas	15%

- b. ~~Afforestation requirements under this subsection shall be accomplished within 1 year or 2 growing seasons after the completion of the development project.~~

(1) ~~If afforestation cannot be reasonably accomplished on-site or off-site, the requirement to contribute money to a Forest Conservation Fund under Maryland State Code Subsection 5–1610 of this subtitle shall be met within 90 days after the completion of the development project.~~

- c. ~~Linear projects that involve no change in land use may not be subject to afforestation requirements.~~
- d. ~~Solar photovoltaic facilities may not be subject to afforestation requirements under this subtitle,~~

2. Forest Cover Requirements. Subject to Subsection Maryland State Code Subsection 5–1606.1 as follows:

- a. ~~Except as provided in item 2.b. of this paragraph, for all existing forest cover measured to the nearest 1/10 acre cleared on the net tract area, the area of forest removed shall be reforested at a ratio of 1 acre planted for every 1 acre removed; and~~
- b. ~~For all existing forest cover located in a priority funding area designated under § 5–7B–03 of the State Finance and Procurement Article, and not identified as a priority for retention as described in Maryland State Code Subsection 5–1607(c) of this subtitle, measured to the nearest 1/10 acre~~

cleared on the net tract area, the area of forest removed shall be reforested at a ratio of 1/2 acre planted for every 1 acre removed.

- c. Upon meeting the reforestation and afforestation requirements in this section, all unforested riparian buffers on site shall be afforested and reforested, unless the applicant demonstrates to the department that afforestation in the riparian buffer:

- (1) Would be in conflict with allowable uses as established for the riparian buffer;
- (2) Is located on park property and conflicts with the mission and established stewardship practices of the park; or
- (3) Is not suitable for the establishment and retention of the required planting materials, in which case substitute environmental protection measures must be implemented.

- 3. **Cutting Below Ratios.** Comply with the following when cutting into forest cover that is currently below the afforestation percentages described in Subsection F.1.a of this Article:

- (1) The required afforestation level shall be determined by the amount of forest existing before cutting or clearing begins; and
- (2) Forest cut or cleared below the required afforestation level shall be reforested or afforested at a 2 to 1 ratio and added to the amount of afforestation necessary to reach the minimum required afforestation level, as determined by the amount of forest existing before cutting or clearing began.

- 4. **Retention – Priority.** The following trees, shrubs, plants, and specific areas are considered priority for retention and protection and shall be left in an undisturbed condition unless the applicant has demonstrated, to the satisfaction of the Planning Commission, that reasonable efforts have been made to protect them and the project plan cannot be reasonably altered:

- a. Trees, shrubs, and plants located in sensitive areas including the 100-year floodplain, intermittent and perennial streams and their buffers, steep slopes, non-tidal wetlands, and critical habitats;
- b. Contiguous forest that connects the largest undeveloped or most vegetated tracts of land within and adjacent to the site;
- c. Forest suitable for forest interior-dwelling species;
- d. Forest located in a Tier II or Tier III high quality watershed as identified by the Department of the Environment;
- e. Forest located in a water resource protection zone, a reservoir watershed, or wellhead protection area as identified by Washington County; and
- f. Forests in urban areas that are most important for providing wildlife habitat or mitigating flooding, high temperatures, or air pollution; as delineated in the priority urban forest map in the 2024 State Forest Conservation Technical Manual (as amended).

g.

5. **Retention – Priority – Need for Variance.** The following trees, shrubs, plants and specific areas are considered priority for retention and protection and shall be left in an undisturbed condition unless the applicant has demonstrated to the satisfaction of the Planning Commission that the applicant qualifies for a variance in accordance with Section M of this Article:
- a. Trees, shrubs, or plants determined to be rare, threatened, or endangered under:
 - (1) The Federal Endangered Species Act of 1973 in 16 U.S.C. §§1531 through 1544 and in 50 CFR Part 7;
 - (2) The Maryland Nongame and Endangered Species Conservation Act, Natural Resources Article, §§10-2A-01 through 10-2A-09, Annotated Code of Maryland; and
 - (3) COMAR 08.03.08;
 - b. Trees that:
 - (1) Are part of an historic site,
 - (2) Are associated with a historic structure, or
 - (3) Have been designated by the state or the City of Hagerstown as a national, state, county or city champion tree; and
 - c. Any tree having a diameter measured at four and five tenths (4.5) feet above the ground of:
 - (1) 30 inches or more; or
 - (2) 75% or more of the diameter, measured at four and five tenths (4.5) feet above the ground, of the current state champion tree of that species as designated by the Department of Natural Resources.

G. Reforestation.

~~1.~~ **Forest Conservation Threshold. Mitigation Rates**

- a. Reforestation mitigations rates are a 1:1 ratio, except in priority funding areas that are not designated as priority for retention which is a 1:0.5 ratio.

a. ~~**Threshold.**~~ There is a forest conservation threshold established for all land use categories, as provided in Subsection b of this Section. The forest conservation threshold means the percentage of the net tract area at which the reforestation requirement changes from a ratio of one quarter (1/4) acre planted for each acre removed above the threshold to a ratio of two (2) acres planted for each acre removed below the threshold.

b. ~~**Reforestation for Cutting Below Threshold.**~~ After reasonable efforts to minimize the cutting or clearing of trees and other woody plants have been exhausted in the development of a regulated activity and implementation of the forest conservation plan, the forest conservation plan shall provide for reforestation, or at the option of the Planning Commission, payment into the forest conservation fund, according to the formula set forth in this Article and consistent with Subsection D.1 of this Article, and the following forest conservation thresholds for the applicable land use category:

	Category of Use	Conservation Threshold Percentage
(1)	Agricultural and resource areas	50%
(2)	Medium density residential areas	25%
(3)	Institutional development areas	20%
(4)	High density residential areas	20%
(5)	Mixed use and planned unit development areas	15%
(6)	Commercial and industrial use areas	15%

c. **Calculations.**

(1) For all existing forest cover measured to the nearest one tenth (1/10) acre cleared on the net tract area ~~above the applicable forest conservation threshold~~, the area of forest removed shall be reforested at a ratio of ~~one quarter (1/4)~~ **one** quarter (1/4) acre planted for each acre removed.

(2) ~~Each acre of forest retained on the net tract area above the applicable forest conservation threshold shall be credited against the total number of acres required to be reforested under paragraph (1) of this subsection. The calculation of the credit shall be according to the criteria provided in the City of Hagerstown Forest Conservation Technical Manual.~~

(3) ~~For all existing forest cover measured to the nearest one tenth (1/10) acre cleared on the net tract area below the applicable forest conservation threshold, the area of~~

~~forest removed shall be reforested at a ratio of two acres planted for each acre removed below the threshold and at a ratio of one quarter (1/4) acre planted for each acre removed above the threshold.~~

H. Sequence, Priorities and Time Requirements for Afforestation and Reforestation.

1. Sequence for Afforestation and Reforestation.

- a. **Sequence.** After techniques for retaining existing forest on the site have been exhausted, the preferred sequence for afforestation and reforestation, as determined by the Article, is as follows:
 - (1) Those techniques that enhance existing forest and involve selective clearing or supplemental planting on-site;
 - (2) On-site afforestation or reforestation may be utilized where the retention options have been exhausted. In those cases, the method shall be selected in accordance with subsection (b) of this section, and the location shall be selected in accordance with subsection (d) of this section;
 - (3) Off-site afforestation or reforestation in the same watershed or in accordance with an approved master plan may be utilized where the applicant has demonstrated that no reasonable on-site alternative exists, or where
 - (a) Any on-site priority areas for afforestation or reforestation have been planted in accordance with subsection (d) of this section; and
 - (b) The applicant has justified that environmental benefits associated with off-site afforestation or reforestation would exceed those derived from on-site planting;
 1. In these cases, the method shall be selected in accordance with subsection (b) of this section, and the location shall be selected in accordance with subsection (d) of this section; and
 2. Off-site afforestation or reforestation may include the use of forest mitigation banks which have been so designated in advance by the State or local forest conservation program which is approved by the Department; and
 - (4) The Department may allow an alternative sequence for a specific project if necessary to achieve the objectives of a local jurisdiction's land use plans or policies or to take advantage of opportunities to consolidate forest conservation efforts.
 - (5) **Renumbered** Forest creation in accordance with a forest conservation plan using one or more of the following:
 - (a) Transplanted or nursery stock,
 - (b) Whip and seedling stock, or
 - (c) Natural regeneration where it can be adequately shown to meet the objective of the State Forest Conservation Technical Manual;

- (6) **Renumbered** Planting street trees for afforestation or reforestation with a mature canopy coverage may be granted full credit as a mitigation technique;
 - (7) **Renumbered** Acquisition of an off-site protection easement on existing forested areas not currently protected in perpetuity as a mitigation technique, provided that two square feet of off-site existing forest is protected by easement for every one square foot of obligation toward compliance with this Ordinance is being met;
 - (8) **Renumbered** When all other options, both on-site and off-site, have been exhausted, landscaping as a mitigation technique conducted under an approved landscaping plan that establishes a forest at least 35 feet wide and covering at least 2,500 square feet of area.
- b. **Alternative Sequences.** A sequence other than the one described in Subsection a. above may be used for a specific project, if necessary, to achieve the objectives of the City's forest conservation policies or to take advantage of opportunities to consolidate forest conservation efforts.
 - c. **Priority.** The following are considered a priority for afforestation and reforestation.
 - (1) Establish or enhance forest buffers adjacent to intermittent and perennial streams to widths of at least 50 feet;
 - (2) Establish forest or enhance non-forested areas on 100-year floodplains, when appropriate;
 - (3) Establish or increase existing forested corridors to connect existing forests within or adjacent to the site and where practical, forested corridors should be a minimum of 300 feet in width to facilitate wildlife movement;
 - (4) Establish or enhance forest buffers adjacent to critical habitats where appropriate;
 - (5) Establish plantings to stabilize slopes of 25% or greater and slopes of 15% or greater with a soil K value greater than 0.35 including the slopes of ravines or other natural depressions;
 - (6) Establish buffers adjacent to areas of differing land use when appropriate, or adjacent to highways or utility rights-of-way;
 - (7) Establish forest areas adjacent to existing forests to increase the overall area of contiguous forest cover, when appropriate; and
 - (8) Use native plant materials for afforestation or reforestation, when appropriate.
 - d. **Time Frames for Planting.** A person required to conduct afforestation or reforestation under this Article shall accomplish it following development project completion within one year or two growing seasons, whichever is a greater period of time.

I. Payment-In-Lieu of Afforestation and Reforestation.

1. Forest Conservation Fund.

- a. **Fund Created.** There is established a forest conservation fund in the local program that meets the requirements of the Natural Resources Article, SS5-1610(h – l), Annotated Code of Maryland.
- b. **Fee Rate.** If a person subject to this Article demonstrates to the satisfaction of the Planning Commission that requirements for reforestation or afforestation on-site or off-site cannot be reasonably accomplished and appropriate credits generated by a forest mitigation bank in the same county or watershed are not available, or if the person is eligible to use the Express Procedure as described in Section E, the person shall contribute money into the City of Hagerstown forest conservation fund at a rate of:

- (1) \$0.30 per square foot of the area of required planting until December 31, 2013, and
- (2) adjusted for inflation as determined by the Planning and Code Administration Department annually after December 31, 2013.

Nothing in this provision shall prohibit the City of Hagerstown from setting a fee rate that exceeds that set by the Department of Natural Resources for the State equivalent of this Article, and at no time shall the fee be set lower than the rate set by the State of Maryland. Planning Commission approval of the use of fee-in-lieu contribution shall be identified and measured in the amount of area subject to compliance. Payment of fee-in-lieu contributions will be made based on the amount of area approved by the Planning Commission and the rate in effect at the time the applicant remits payment.

- c. **Authority of the Planning Commission.** The Planning Commission shall have the authority to determine if a payment instead of afforestation or reforestation is permitted and appropriate.
- d. **Discretion of Applicant When Using Express Procedure.** When an applicant is eligible to use the Express Procedure described in Section E, the decision to select the payment-in-lieu of afforestation or reforestation shall not require prior approval by the Planning Commission.
- e. **Timing of Fee Payment.** Money contributed instead of afforestation or reforestation under this Article shall be paid prior to the issuance of a permit to begin the construction activity. Planning Commission approval of the use of fee-in-lieu contribution shall be identified and measured in the amount of area subject to compliance. Payment of fee-in-lieu contributions will be made based on the amount of area approved by the Planning Commission and the rate in effect at the time the applicant remits payment.
- f. **Time Frame for Planting.** Money contributed under this Article shall remain in the fund for a period not to exceed two years or three growing seasons, whichever is greater, after receipt of payment. The City shall accomplish the reforestation or afforestation for the equivalent number of acres for which the money is deposited. Money deposited in the local conservation fund may only be spent on the costs directly related to reforestation and afforestation, including site identification, acquisition, preparation, maintenance of existing forests and achieving urban canopy goals, and shall be deposited in a separate forest conservation fund and may not revert to the general fund.

- g. **Extensions.** The time period specified in Subsection f above may be extended one time for an additional one year or two growing seasons by the Planning Commission with appropriate notification to the person who contributed the money.
- h. **When Planting Outside of City Limits.** Except as provided in Subsection d. of this section, sites for the reforestation or afforestation requirement using fund money contributed under this Article shall occur in the city or, if outside the city, on any property owned by the City of Hagerstown

J. Recommended Tree Species.

1. Native Species Preferred.

Tree species used for afforestation or reforestation shall be native to the area, unless approved by the City, and selected from a list of approved species established by the City of Hagerstown.

2. Tree Species List.

The City of Hagerstown shall adopt a list of tree species to be used for any required afforestation or reforestation and incorporate it into the **2024 State** Forest Conservation Technical Manual.

K. Financial Security for Afforestation and Reforestation.

1. Performance Bond or Other Acceptable Surety.

- a. **Security Required.** A person required to conduct afforestation or reforestation under this Article shall furnish financial security in the form of a bond, an irrevocable letter of credit, or other security approved by the Planning Commission. The surety shall:
 - (1) assure that the afforestation, reforestation, and the associated maintenance agreement are conducted and maintained in accordance with the approved forest conservation plan;
 - (2) be in an amount equal to the estimated cost, as determined by the City of Hagerstown, of afforestation and reforestation; and
 - (3) be in a form and of a content approved by the City of Hagerstown.
- b. **Reduction of Security.** After one growing season, the person required to file a bond under Subsection K.1.a of this Article may request reduction of the amount of the bond or other financial security by submitting a written request to the Planning and Code Administration Department with a justification for reducing the bond or other financial security amount, including estimated or actual costs to ensure afforestation or reforestation requirements are met.
- c. **City Review of Alternate Bond Amounts.** The City of Hagerstown shall determine whether a lesser amount is sufficient to cover the cost of afforestation or reforestation, taking into account the following:
 - (1) the number of acres,
 - (2) the proposed method of afforestation or reforestation,
 - (3) the cost of planting materials or replacement materials,
 - (4) the cost of maintenance of the afforestation or reforestation project, and
 - (5) other relevant factors.
- d. **Release of Security.** If, after one year or two growing seasons, whichever is greater, the plantings associated with the afforestation or reforestation meet or exceed the standards of the City of Hagerstown Forest Conservation Technical Manual, the amount of the cash bond, letter of credit, surety bond, or other security shall be returned or released. If the planted area does not meet survival requirements, the maintenance period shall be extended by an additional term.

L. Standards for Protecting Trees from Construction Activities.

1. Standards Adopted.

The City hereby adopts standards for the protection of trees from construction activity that are included in the ~~City of Hagerstown~~ 2024 State Forest Conservation Technical Manual.

2. Installation of Protective Devices Required.

Before cutting, clearing, grading, or construction begins on a site for which a forest conservation plan is required by this Article, the applicant shall demonstrate to the City of Hagerstown that protective devices have been established.

M. Variances, Appeals, Enforcement and Penalties.

1. Variance Procedure.

- a. **Hardship.** A person may request that a variance from this Article be granted by the Planning Commission if the person demonstrates that enforcement would result in unwarranted hardship.
- b. **Requirements.** An applicant for a variance shall:
 - (1) describe the special conditions peculiar to the property which would cause the unwarranted hardship;
 - (2) describe how enforcement of these rules will deprive the applicant of rights commonly enjoyed by others in similar areas;
 - (3) verify that the granting of the variance will not confer on the applicant a special privilege that would be denied to other applicants;
 - (4) verify that the variance request is not based on conditions or circumstances which are the result of actions by the applicant;
 - (5) verify that the request does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; and
 - (6) verify that the granting of a variance will not adversely affect water quality.
- c. **Findings.** The ~~Planning and Code Administration~~ Department shall make findings that the applicant has met the requirements in Subsections a. and b. of this Section before the Planning Commission may grant a variance.
- d. **Notice.** Notice of a request for a variance shall be given to the Maryland Department of Natural Resources within 15 days of receipt of a request for a variance.
- e. **Department of Natural Resources.** There is established by this Article the right and authority of the Department of Natural Resources to initiate or intervene in an administrative, judicial or other original proceeding or appeal in the state concerning an approval of a variance under Natural Resources Article, §§5-1601 through 5-1612, Annotated Code of Maryland, or this Article.

2. Appeals.

The appeal procedure as applies to this Article shall be in accordance with the provisions of Article 8 of this Code.

3. Enforcement and Penalties.

Enforcement of the provisions of this Article, and penalties for violation thereof shall be in accordance with the provisions of Article 8 of this Code.

N. Annual Report, Biennial Review by the Department of Natural Resources and Effective Date and Subsequent Amendments.

1. Annual Report.

On or before ~~August~~ **March** 31 of each year, the ~~Planning and Code Administration~~ Department shall submit to the Maryland Department of Natural Resources Forest Service a report on:

- a. The number, location, and type of projects subject to the provisions of this Article;
- b. The amount and location of acres cleared, conserved, and planted in connection with a development project;
- c. The amount of reforestation and afforestation fees and noncompliance penalties collected and expended, the number of acres for which the fees were collected, and the number of acres reforested, afforested, or conserved using the fees; and
- d. The costs of implementing the Forest Conservation Program;
- e. The size, location and protection of any local forest mitigation banks which are created under a local or State program, the number of acres debited from which each forest mitigation bank since the last annual report and the number of forest mitigation banks inspected since the last annual report;
- f. The number, location and type of violations and type of enforcement activity conducted in accordance with this subtitle; and
- g. To the extent practicable, the size and location of all conserved and planted forest areas, submitted in an electronic geographic information system or computer aided design format.

2. Biennial Review.

The ~~Planning and Code Administration~~ Department shall submit the necessary documentation to comply with COMAR 08.19.02.04.

3. Effective Date and Subsequent Amendments.

This Article is hereby enacted and becomes effective May 21, 1999. This Article may be amended as required. All amendments to this Article are subject to the approval of the Department of Natural Resources.

LAND MANAGEMENT CODE TEXT AMENDMENT PROPOSAL

Number: 2026-27	Is this a new issue or one previously discussed?	New
Version: 1	Is this new text proposed since last discussion in need of initial review?	No
Released to Planning Commission Public Review Meeting	Is this revised text in need of confirmation that it conforms to prior editorial direction?	No
Summary: Adjustments to forest conservation ordinance		
Justification: Codifying certain changes in the state code so that the city's ordinance matches state code.		

Existing text to be removed is in ~~strikeout~~. New text to be added is **red**. Staff directions are **blue**.

ATTACHMENT A - DEFINITIONS

Definitions from Article 3 (C) related to Forest Conservation Ordinance Update

AGRICULTURAL AND RESOURCE AREAS – Undeveloped areas zoned for densities of less than or equal to one dwelling unit per **five (5) acres**. (Forest Conservation)

CALIPER – The diameter measured at two inches above **the root collar which** is the transition zone between stem and root at the ground line of a tree or seedling. (Forest Conservation)

DECLARATION OF INTENT –

1. A signed and notarized statement by a landowner or the landowner's agent certifying that the activity on the landowner's property:
 - a. **Is for certain activities exempted under this Ordinance or Natural Resources Article, Section 5-103 and 5-1601-5-1612, Annotated Code of Maryland;**
 - b. **Does not circumvent the requirements of this Ordinance or Natural Resources Article, Section 5-103 and 5-1601 - 5-1612, Annotated Code of Maryland; and**
 - c. **Does not conflict with the purposes of any other declaration of intent; or**
2. **The document required under COMAR 08.19.01.05 or with Article 7, Subsection A.3.c of this Chapter.**

DEVELOPMENT PROJECT COMPLETION – For the purposes of afforestation, reforestation, or payment into a fund: (Forest Conservation)

1. The release of the **performance** bond, or surety, ~~not~~ **if** required under Article 7 of this Chapter; or
2. **Acceptance of the project's streets, utilities, and public services by the Department; or**
3. Designation by the ~~Planning and Code Administration~~ Department that a:
 - a. Development project has been completed, or a
 - b. Particular stage of a staged development project, including a planned unit development, has been completed.
4. The release of any bond or surety not required under Article 7 of this Chapter shall not be construed to mean the completion of afforestation, reforestation, or payment into a fund, as required by this Chapter.

FOREST –

1. "Forest" means a biological community dominated by **live** trees and other woody plants covering a land area of 10,000 square feet or greater.

2. "Forest" includes:
 - a. Areas that have at least 100 live trees per acre with at least 50% of those trees having a two-inch or greater diameter at four-and-a-half feet above the ground and larger; and
 - b. ~~Forest a~~ Areas that have been cut but not cleared.
3. "Forest" does not include orchards.
(Forest Conservation)

FOREST CONSERVATION AND MANAGEMENT AGREEMENT – An agreement ~~as applicable and described in COMAR 08.19.05.01.~~ **as stated in Tax Property Article, Section 8-211, Annotated Code of Maryland.** (Forest Conservation)

FOREST CONSERVATION PLAN – A plan ~~prepared pursuant~~ **approved pursuant to Natural Resources Article, Sections 5-1606 and 5-1607, Annotated Code of Maryland.** ~~to Article 7 of this Chapter.~~
(Forest Conservation)

FOREST MITIGATION BANKING - The intentional restoration, creation, or qualified conservation of forests undertaken expressly for the purpose of providing credits for afforestation or reforestation requirements with enhanced environmental benefits from future activities.
(Forest Conservation)

LOT –

1. A parcel of land either vacant or occupied by one principal building structure, or use and its accessory buildings, uses or structures, or a group of principal buildings as allowed by Article 4 and including open spaces and landscaped areas as required. (Subdivision and Land Development)
2. For the purposes of Article 7, a unit of land, the boundaries of which have been established as a result of a deed or previous subdivision of a larger parcel, and which will not be the subject of further subdivision, **as defined by Natural Resources Article, Section 5-1601, Annotated Code of Maryland,** and this Ordinance without an approved forest stand delineation and forest conservation plan. (Forest Conservation)

MAINTENANCE AGREEMENT – The short-term management agreement associated with afforestation or reforestation plans required under **Natural Resources Article, Section 5-1605, Annotated Code of Maryland,** and Article 7, Sections D and E of this Chapter. (Forest Conservation)

QUALIFIED CONSERVATION - means the conservation of all or a part of an existing forest that:

- (1) Has been approved by the appropriate State or local forest conservation program for the purpose of establishing a forest mitigation bank; and
- (2) Is encumbered in perpetuity by a restrictive easement, covenant, or another similar mechanism recorded in the county land records to conserve its character as a forest. (Forest Conservation)

SEDIMENT CONTROL PERMIT - The authorization of an activity regulated under a sediment control plan as provided in Environment Article, Title 4, Annotated Code of Maryland (Forest Conservation)

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

Topic:

Confirmation of Existing Payment in Lieu of Taxes (PILOT) Agreement: Hagerstown Housing Authority – *Amanda Gregg, Director of Housing & Community Development and Sean Griffith, Executive Director of Hagerstown Housing Authority*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

7.14.26_WS_HHA_PILOT.pdf

Description

Confirmation of Existing Payment in Lieu of Taxes (PILOT) Agreement – Hagerstown Housing Authority



CITY OF HAGERSTOWN, MARYLAND

Department of Housing & Community Development

One East Franklin Street • Hagerstown, MD 21740

E-mail: DHCD@hagerstownmd.org

Telephone: 301-739-8577, ext. 103 • Website: www.hagerstownmd.org

TO: Scott Nicewarner, City Administrator

FROM: Amanda Gregg, Director of Housing & Community Development
Sean Griffith, Executive Director of Hagerstown Housing Authority

DATE: July 14th, 2026

RE: Confirmation of Existing Payment in Lieu of Taxes (PILOT) Agreement – Hagerstown Housing Authority

Staff will attend the July 14th, 2026, Work Session of the Mayor and City Council to review the Existing Payment in Lieu of Taxes (PILOT) Agreement – Hagerstown Housing Authority

Staff recommend that the Mayor and City Council acknowledge and affirm their support for the continuation of the existing Payment in Lieu of Taxes (PILOT) Agreement between the City of Hagerstown and the Hagerstown Housing Authority during the planned rehabilitation of the Housing Authority's public housing properties.

Background

The City of Hagerstown entered into a Cooperation Agreement with the Hagerstown Housing Authority on **June 20, 1950**, establishing the framework for the development and operation of public housing within the City. The agreement provides that, in lieu of paying real property taxes, the Housing Authority makes annual Payments in Lieu of Taxes (PILOT) as permitted under Maryland law. The agreement was subsequently amended in **1956** and again in **1976** to expand the number of authorized dwelling units while maintaining the existing PILOT structure.

Under the existing agreement, the Housing Authority's annual PILOT payment is calculated as **10 percent of aggregate shelter rent** collected from the Authority's housing developments, less allowable deductions as outlined in the agreement. The payment is then distributed among the City, County, and State based upon their respective property tax rates. For Fiscal Year 2025, the total PILOT payment was approximately **\$266,743**, with the City's share totaling approximately **\$142,974**.

Current Request

The Hagerstown Housing Authority is undertaking a substantial rehabilitation of its existing Noland Village public housing community. The project consists of renovating and modernizing existing units to preserve the long-term viability of the housing stock.

Importantly:

- No additional dwelling units are being created.
- No existing units are being demolished and replaced.
- The rehabilitation does not change the overall scope or intent of the original Cooperation Agreement.

Because the project preserves the existing public housing units rather than creating a new development, the Housing Authority has requested confirmation that after completion, the community will remain on the long-standing PILOT.

Staff Analysis

Staff have reviewed the existing Cooperation Agreement and subsequent amendments and find that the proposed rehabilitation is consistent with the purpose and intent of the original agreement. Since the project preserves the existing public housing inventory without increasing the number of units or materially altering the underlying relationship between the City and the Housing Authority, staff believes continuation of the existing PILOT arrangement is appropriate.

This action does **not** create a new PILOT Agreement, amend the payment methodology, or change the City's existing financial arrangements with the Housing Authority. Rather, it confirms the City's continued support for the existing agreement while the Housing Authority reinvests in its aging public housing properties.

Recommendation

Staff recommend that the Mayor and City Council affirm their support for maintaining the existing Payment in Lieu of Taxes (PILOT) Agreement during the Housing Authority's rehabilitation project, recognizing that the improvements preserve the City's existing affordable housing inventory and do not alter the terms or intent of the long-standing Cooperation Agreement.

Attachments:

Original Cooperation Agreement

Amendment to Cooperation Agreement

c: Michelle Hepburn, Chief Financial Officer

AMENDMENT
TO
COOPERATION AGREEMENT

THIS AMENDATORY AGREEMENT made this 31st day of August, 1976 by and between The Housing Authority of the City of Hagerstown, Maryland (herein called the "Local Authority") and the County of Washington, Maryland (herein called the "Local Government").

WITNESSETH:

WHEREAS, the Local Authority and the Local Government entered into a certain Cooperation Agreement, dated June 20, 1950, as amended March 13, 1956 with respect to development and administration by the Local Authority of low-rent housing projects within the corporate limits of the Local Government, such projects to contain an aggregate number of dwellings not in excess of 500 units; and

WHEREAS, the parties desire to amend the said Cooperation Agreement in certain respects,

NOW, THEREFORE, in consideration of the mutual covenants contained in the said Cooperation Agreement the parties do hereby agree as follows:

1. Section 2 of the said Cooperation Agreement shall be and the same is hereby amended by deleting the figure "500" therein and substituting in lieu thereof the figure "1,450".

IN WITNESS WHEREOF, the Local Authority and the Local Government have caused this Amendatory Agreement to be executed in their respective names and have caused their respective seals to be hereunto affixed and attested as of the date first above written.

(SEAL)

ATTEST:

Kathryn D. Short
Title Acting Clerk

Board of County Commissioners
of Washington County
Corporate Name of Local Government

By William A. Smith
Title President

(SEAL)

ATTEST:

Norman L. Foltz
Secretary-Treasurer

THE HOUSING AUTHORITY OF THE
CITY OF HAGERSTOWN, MARYLAND
Corporate Name of Local Authority

By J. Kenneth Redenow
Chairman

AMENDMENT TO COOPERATION AGREEMENT

This Amendatory Agreement entered into this 13 day of March, 1956, by and between the Housing Authority of the City of Hagerstown, Maryland (herein called the "Local Authority") the County Commissioners of Washington County, Maryland (herein called the "County"), and the Board of Education of Washington County, Maryland (herein called the "Board of Education"),

WITNESSETH:

WHEREAS, the Local Authority, the County, and the Board of Education have heretofore under date of June 20, 1950, entered into an Agreement designated and hereinafter referred to as "Cooperation Agreement" with reference to the development and operation by the Local Authority of low-rent housing within the City of Hagerstown, Maryland; and

WHEREAS, the Authority, the County and the Board of Education desire to extend the provisions of the said Cooperation Agreement to cover additional units of low-rent housing and to otherwise amend and extend the same;

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants hereinafter set forth the Local Authority, the County, and the Board of Education do agree that the Cooperation Agreement entered into between them under date of June 20, 1950 shall be, and it hereby is, amended and extended in the following respects:

1. Section 2 is amended to read as follows:

"2. The Local Authority shall endeavor to secure a contract or contracts with the PHA for loans and annual contributions, and shall endeavor to develop and administer one or more Projects. The aggregate number of dwelling units in such Projects shall not substantially exceed 500 units of low-rent housing. The Project or Projects shall be located within the corporate limits of the City of Hagerstown, Washington County, Maryland."

2. Effective as of the next ensuing fiscal year, Section 3(b) is amended to read as follows:

"(b) Each such annual Payment in Lieu of Taxes to the County shall be made after the end of the fiscal year established for such Project and shall be in an amount equal to (i) that proportion of ten percent (10%) of the Aggregate Shelter Rent charged by the Local Authority in respect to such Project during such fiscal year, which the real property taxes which would have been paid to the County for such year if the Project were not exempt from taxation bears to the total real property taxes which would have been paid to the City of Hagerstown, Maryland and to the County for such year if the Project were not exempt from taxation, or (ii) such lesser amount as is prescribed by State law. Upon failure of the Local Authority to make any such Payment in Lieu of Taxes, no lien against any Project or assets of the Local Authority shall attach, nor any interest or penalty accrue or attach on account thereof."

3. By incorporating in the Cooperation Agreement an additional section to be designated as Section 8, reading as follows:

"8. In addition to the Payments in Lieu of Taxes and in further consideration for the public services and facilities furnished and to be furnished in respect to any Project for which no Annual Contributions Contract had been entered into prior to August 2, 1954, between the Local Authority and the PHA;

(1) After payment in full of all obligations of the Local Authority in connection with such Project for which any annual contributions are pledged and until the total amount of annual contributions paid by the PHA in respect to such Project has been repaid, (a) all receipts in connection with such Project in excess of expenditures necessary for the management, operation, maintenance, or financing, and for reasonable reserves therefor, shall be paid annually to the PHA and to the local public bodies (including the County and the Board of Education) which have contributed to such Project in the form of tax exemption or otherwise, in proportion to the aggregate contribution which the PHA and such local public bodies have made to such Project, and (b) no debt in respect to such Project, except for necessary expenditures for such Project, shall be incurred by the Local Authority;

(2) If, at any time, such Project or any part thereof is sold, such sale shall be to the highest responsible bidder after advertising, or at fair market value as approved by the PHA, and the proceeds of such sale, together with any reserves, after application to any outstanding debt of the Local Authority in respect to such Project, shall be paid to the PHA and local public bodies as provided in clause 1(a) of this Section 8; Provided, That the amounts to be paid to the PHA and the local public bodies shall not exceed their respective total contribution to such Project."

IN WITNESS WHEREOF the parties hereto have respectively signed this Amendment to Cooperation Agreement and caused their seals to be affixed and attested as of the day and year first above written.

(SEAL)

ATTEST:

Robert H. H. H.
Secretary-Treasurer

THE HOUSING AUTHORITY OF THE
CITY OF HAGERSTOWN, MARYLAND

By Charles A. Butler
Chairman

(SEAL)

ATTEST:

Hubert B. Stone
County Clerk

THE COUNTY COMMISSIONERS OF
WASHINGTON COUNTY, MARYLAND

By W. R. E. Egan
President

(SEAL)

ATTEST:

William M. Wick
Secretary-Treasurer

BOARD OF EDUCATION OF WASHINGTON
COUNTY, MARYLAND

By Harold A. Brewer
Vice President

COOPERATION AGREEMENT

This Agreement entered into this 20th day of June, 1950, by and between the Housing Authority of the City of Hagerstown Maryland (Herein called the "Local Authority"), and The County Commissioners of Washington County, Maryland (Herein called the "County"), and the Board of Education of Washington County (Herein called the "Board of Education"), witnesseth:

In consideration of the mutual covenants hereinafter set forth, the parties hereto do agree as follows:

1. Whenever used in this Agreement:

(a) The term "Project" shall mean any low-rent housing hereafter developed as one operation by the Local Authority with financial assistance of the Public Housing Administration (herein called the "PHA"); excluding, however, any low-rent housing project covered by any contract entered into prior to March 1, 1949, for loans and annual contributions between the Local Authority and the PHA or its predecessor agencies.

(b) The term "Taxing Body" shall mean the State or any political subdivision or taxing unit thereof in which a Project is situated and which would have authority to assess or levy real or personal property taxes or to certify such taxes to a taxing body or public officer to be levied for its use and benefit with respect to a Project if it were not exempt from taxation.

(c) The term "Shelter Rent" shall mean the total of all charges to all tenants of a Project for dwelling rents and non-dwelling rents (excluding all other income of such Project), less the cost to the Local

Authority of all dwelling and non-dwelling utilities.

(d) The term "Slum" means any area where dwellings predominate which, by reason of dilapidation, overcrowding, faulty arrangement or design, lack of ventilation, light or sanitation facilities, or any combination of these factors, are detrimental to safety, health, or morals.

2. The Local Authority shall endeavor to secure a contract or contracts with the PHA for loans and annual contributions, and shall endeavor to develop and administer one or more Projects. The aggregate number of dwelling units in such Projects shall not substantially exceed 250 units of low-rent housing. The Project or Projects shall be located within the corporate limits of the City of Hagerstown, Washington County, Maryland.

3. (a) Under the constitution and statutes of the State of Maryland all Projects are exempt from all real and personal property taxes (and special assessments levied or imposed by any Taxing Body. So long as either (i) a Project is owned by a public body or governmental agency and is used for low-rent housing purposes, or (ii) any contract between the Local Authority and the PHA for loans (including preliminary loans) or annual contributions, or both, in connection with such Project shall remain in force and effect, or (iii) any bonds issued in connection with such Project shall remain outstanding, whichever period is the longest, the Count agrees that it will not levy or impose any real or personal property taxes (or special assessments) upon such Project or upon the Local Authority with respect thereto. During such period, the Local Authority shall make annual payments (herein called "Payments in Lieu of Taxes") in lieu of such taxes (and special assessments) and in payment for the public ser-

amended
3/13/50
8/31/73

services and facilities furnished from time to time without other cost or charge for or with respect to such Project.

(b) Each such annual Payment to the County in Lieu of Taxes shall be made after the end of the fiscal year established for such Project, and shall be in an amount equal to either (i) Seven and one half Per Cent (7½%) of the aggregate Shelter Rent charged by the Local Authority in respect to such Project during such fiscal year or (ii) the amount permitted to be paid by applicable state law in effect on the date of this Cooperation Agreement whichever amount is the lower. Upon failure of the Local Authority to make any such Payment in Lieu of Taxes, no lien against any Project or assets of the Local Authority shall attach, nor shall any interest or penalties accrue or attach on account thereof.

(c) No payment for any year shall be made to the County in excess of the amount of the real property taxes which would have been paid to the County for such year if the Project were not exempt from taxation.

4. During the period commencing with the date of the acquisition of any part of the site or sites of any Project and continuing so long as either (i) such Project is owned by a public body or governmental agency and is used for low-rent housing purposes, or (ii) any contract between the Local Authority and the PHA for loans or annual contributions, or both, in connection with such Project shall remain in force and effect, or (iii) any bonds issued in connection with such Project shall remain outstanding, whichever period is the longest, and the County and The Board of Education without cost or charge to the Local Authority or the tenants of such Project (other than the Payments in Lieu of Taxes) shall:

amended
3/13/56

(a) Furnish or cause to be furnished to the Local Authority and the tenants of such Project public services and facilities of the same character and to the same extent as are furnished from time to time without cost or charge to other dwellings and inhabitants in the County.

(b) Cooperate with the Local Authority by such other lawful action or ways as the County and the Local Authority may find necessary in connection with the development and administration of such Project.

5. If by reason of the County's or The Board of Education's failure or refusal to furnish or cause to be furnished any public services or facilities which it has agreed hereunder to furnish or to cause to be furnished to the Local Authority or to the tenants of any Project, the Local Authority incurs any expense to obtain such services or facilities then the Local Authority, after written notice to the County may deduct the amount of such expense from any Payments in Lieu of Taxes due or to become due to the County in respect to any Project or any other low-rent housing projects owned or operated by the Local Authority.

6. No Cooperation Agreement heretofore entered into between the County and Board of Education and the Local Authority shall be construed to apply to any project covered by this Agreement.

7. So long as any contract between the Local Authority and the PHA for loans (including preliminary loans) or annual contributions, or both, in connection with any Project shall remain in force and effect, or so long as any bonds issued in connection with any Project shall remain outstanding, this Agreement shall not be abrogated, changed, or modified without the consent of the PHA.

The privileges and obligations of the County and Board of Education hereunder shall remain in full force and effect with respect to each Project so long as the beneficial title to such Project is held by the Local Authority or any other public body or governmental agency, including the PHA, authorized by law to engage in the deve-

opment or administration of low-rent housing projects. If, at any time the beneficial title to, or possession of, any Project is held by such other public body or governmental agency, including the PHA, the provisions hereof shall inure to the benefit of and may be enforced by, such other public body or governmental agency, including the PHA.

IN WITNESS WHEREOF the County, The Board of Education and the Local Authority have respectively signed this agreement and caused their seals to be affixed and attested as of the day and year first above written.

THE COUNTY COMMISSIONERS OF WASHINGTON
COUNTY

By

I. Keller Shank
I. Keller Shank, President

BOARD OF EDUCATION OF WASHINGTON COUNTY

By

Philip A. Rauth

HOUSING AUTHORITY OF THE CITY OF HAGER
TOWN

By

Norman B. Hoopes
Chairman

ATTEST:

Robert H. Shank

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

Topic:

Community Parks and Playgrounds Grant Request FY2028 Wheaton Park Shade Structure –
Eric Deike, Director of Public Works

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Description

CPP_Grant_Request_Wheaton_Park_Shade_Structure_Council_Packet.pdf

Community Parks
& Playgrounds
Grant Request
FY2028 Wheaton
Park Shade
Structure



CITY OF HAGERSTOWN, MARYLAND

Public Works Department

www.hagerstownmd.org

TO: Scott Nicewarner, City Administrator

FROM: Eric B. Deike, Director of Public Works

DATE: June 23, 2026

SUBJECT: Community Parks & Playgrounds Grant Request FY2028
Wheaton Park Shade Structure

MAYOR AND COUNCIL ACTION REQUESTED

Staff is seeking direction and approval from the Mayor and Council on recommendations for the State of Maryland's Community Parks & Playgrounds (CP&P) grant funds for FY2028. We will be seeking \$50,000 for a new shade structure to be constructed at Wheaton Park.

DISCUSSION

CP&P is a grant through the Maryland Department of Natural Resources (DNR). Per their guidelines: "Grants may be for up to 100% of the project cost and are selected on a competitive basis. Projects must be publicly accessible."

Several years ago, the City set out to renovate Wheaton Park with a series of upgrades and updates to the park. Many ideas were presented and the most favorable, as decided by the neighborhood residents, were divided between Phase I and Phase II. Phase I included the demolition of the former Caretaker's House, construction of a misting pad, upgraded parking, and the installation of a new playground set.

Phase II is the construction of an entertainment stage located in the southwest quadrant of the park. Construction has begun on this project with a completion date in early Fall.

Beyond Phase I and Phase II, there were many amenities on the neighborhood's "wish list." All of this was placed on a master plan from landscape architects, Mahan Rykiel Associates, Inc. One of these items is the construction of a shade structure over the bleachers. See item H on the attached plan under the heading of "Proposed."

Staff intends to pursue CP&P funding for the shade structure to be built over the bleachers or elsewhere in the park.

The CP&P application is submitted directly to DNR. The City would be in competition with other counties and municipalities applying for funds in the state of Maryland. DNR receives far more requests than there are funds to cover. DNR staff has previously made it clear to submit one project for one park to have any chance of being successful in obtaining funds. Given Wheaton

Public Works Department
51 West Memorial Blvd.
Hagerstown, MD 21740
Ph: 301.739.8577 Ext. 178

Parks and Recreation Division
351 North Cleveland Ave.
Hagerstown, MD 21740
Ext. 169

Parking Division
1 E. Franklin St.
Hagerstown, MD 21740
Ext.479



CITY OF HAGERSTOWN, MARYLAND

Public Works Department

www.hagerstownmd.org

Park has a formal plan and vision, it seems reasonable to pursue funding to continue the upgrades at this facility.

The applications are due in August of 2026 for fiscal year 2028. Our grant application submitted for fiscal year 2027 was denied.

FINANCIAL IMPACT

The CP&P request will be for 100% of the project. There will be costs to the City to possibly include site preparation and installation. These cost will be incidental to the project and will come from the operating budget for labor and material.

RECOMMENDATION

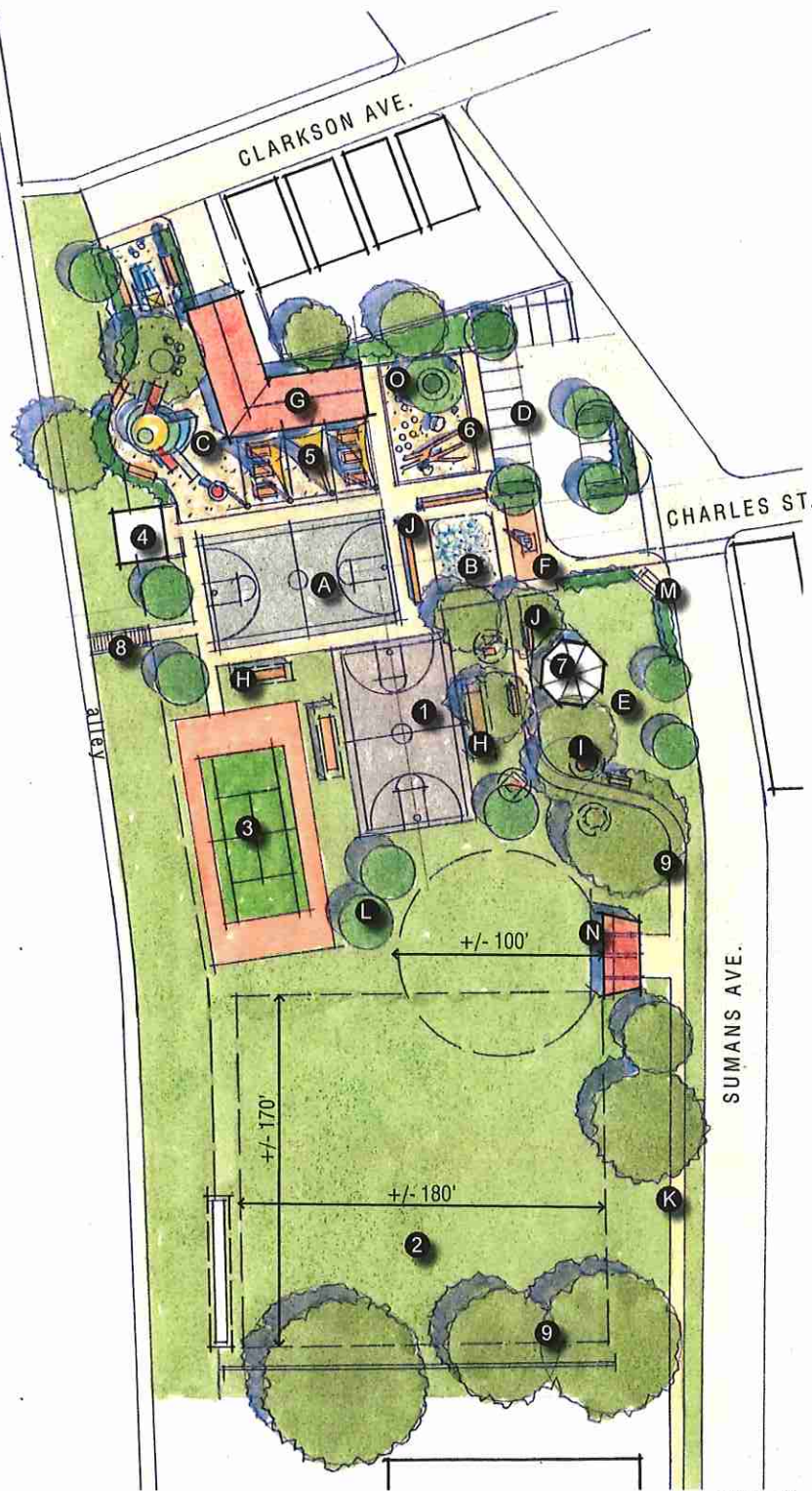
Staff recommends pursuing this grant.

Att: Wheaton Park Master Landscape Plan, Motion Sheet
C: Parks Staff
Finance Staff

Public Works Department
51 West Memorial Blvd.
Hagerstown, MD 21740
Ph: 301.739.8577 Ext. 178

Parks and Recreation Division
351 North Cleveland Ave.
Hagerstown, MD 21740
Ext. 169

Parking Division
1 E. Franklin St.
Hagerstown, MD 21740
Ext.479



Scale: 1" = 40'

Overview

- Remove/Reconfigure Existing Picnic Pavilion & Storage Building to Create Space for a New Full Size Basketball Court
- Realign Sidewalk Along East Park Edge - Create a Gathering Lawn/Green Space with New Stage
- Focal Plaza with Misting Pad
- Field & Bleacher Improvements
- Off Street Parking Improvements Off Of Alley & Charles Street
- Playground Upgrades
- New Additional Bandstand/Stage Area
- Provide Seating/Shade & Comfort Areas
- Create Smaller Outdoor Game Pad Areas or Rooms
- Remove House - Add Natural Play Area

Existing

- 1 Basketball Court
Maintenance As Needed
- 2 Multipurpose Field
Seeding/Maintenance As Needed. Replace/Maintain Existing Bleachers
Possible Turf Surface
- 3 Tennis Court
Repair/Restore - New Painting (As Needed) Consider Adding Pickle Ball Court Layout
- 4 Restrooms
Maintenance (As Needed)
- 5 Picnic Pavilion
Remove Existing Structure. New Picnic Pavilion.
- 6 House
To be Removed
- 7 Bandshell
Keep in Existing Location. Restoration Underway.
- 8 Stairs
Restore/Repair (As Needed)
- 9 Trees (Typical)
Prune/Maintain (As Needed)

Proposed

- A Basketball Court
New Full Sized Regulation Court Space
- B Misting Pad
Flexible Use Plaza Space with Misting Feature. Space
Designed to Accommodate Events/Gathering Area when Mist
is Turned Off
- C Playground/Play Feature
New ADA Accessible Equipment for Children of All Ages
- D Parking
New Off Street Surface Parking. +/- 11 Spaces Total
- E Park Green Space
Gathering Lawn Area Adjacent & Under Existing Shaded Tree
Area for Music, Bands, and Other Events. New Stage & Pavilion
- F Plaza Space with Art/Sculpture Opportunities
Opportunity Areas for Seating/Gathering & Art/Sculpture
Display
- G Picnic Pavilion Area
Picnic Tables, Shade Features, Lighting & New storage Area
- H Bleachers
Consider Shade Structure Over Bleacher Areas
- I Outdoor Game Pads or Rooms
Gaga Ball, Corn Hole, Informal Table Games Etc.
- J Seating
Benches or Seating Features
- K Sidewalk Realignment
Realign Sidewalk Slightly to Create Room for New Lawn/Green
Event Space Area
- L Tree Planting
Plant Additional Large Upright Deciduous Trees for Shade &
Comfort
- M Stairs
Create Corner Entry into the Green Area
- N New Stage/Bandshell Area
Additional Lawn/Gathering Space for Events
- O Natural Play Area
New Play Improvements with nature Elements

WHEATON
PARK

Hagerstown, Maryland

IMPROVEMENTS MASTER PLAN

PARK IMPROVEMENT OPPORTUNITIES | MAHAN RYKIEL

REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND

DATE: July 28, 2026

TOPIC: **APPROVAL OF AN APPLICATION TO THE STATE OF MARYLAND'S DEPARTMENT OF NATURAL RESOURCES COMMUNITY PARKS AND PLAYGROUNDS (CPP) GRANT FUNDING PROGRAM FOR FY2028**

Charter Amendment

Code Amendment

Ordinance

Resolution

✓ Other

MOTION: I hereby move for Mayor and Council to approve an application to the State of Maryland's Department of Natural Resources Community Parks And Playgrounds (CPP) grant funding program. The funding would be for FY2028. The proposed project is to provide a new shade structure for Wheaton Park in the amount of \$50,000.

This is a competitive program through the State of Maryland with no assurances the City would be awarded the funds.

Date of Introduction: July 28, 2026

Date of Passage: July 28, 2026

Effective Date: July 28, 2026

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

Topic:

Battery Energy Storage System RFP Development and Solicitation – *Nathan Fridinger, Deputy Director of Electric Operations and Jason Bachtell, Electric Engineering Manager*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

20260714_Memo_BEES - _Follow-Up.pdf

Description

Memo



CITY OF HAGERSTOWN, MARYLAND

Hagerstown Light Department

425 E Baltimore St • Hagerstown, MD 21740

Telephone: 301-790-2600

Website: www.hagerstownlight.org

Date: July 8, 2026

To: Scott Nicewarner, City Administrator
Michelle Hepburn, Chief Financial Officer
Nancy Hausrath, Director of Utilities

From: Nathan Fridinger, Deputy Director of Electric Operations

Re: Battery Energy Storage - RFP Development and Solicitation

Action: July 14, 2026 – Work Session Discussion

As follow-up to the March 10, 2026 discussion regarding distributed energy resources and Mayor McIntire's request to explore various Battery Energy Storage System (BESS) providers and review projected energy cost saving numbers, HLD's wholesale and energy supply consultant, GDS & Associates, prepared a proposal for RFP development, process management, bidder communications, evaluation, pricing analysis, and support through the initial phases of a contract. For the purposes of this discussion, these costs will remain undisclosed.

Considering there are costs associated with exploring the feasibility of this project HLD staff is requesting advisement on the next steps, to include:

1. Interest in continuing to explore a BESS solution,
2. Whether to continue to the next step with HLD's current consulting firm, GDS and Associates via contract B1603.16, or to formally procure RFP development, process management, bidder communications, evaluation, pricing analysis, and support services from other energy supply consultants. If continuation with GDS is the preferred method, there are two solicitation methods to consider, private and public.
 - a. Private solicitation will target known vendors that have previously been vetted through a public RFP process by GDS.
 - b. Public solicitation would require additional effort and associated costs to filter through the list of respondents and determine the best qualified, examining financial viability, technology, discharge activation response, etc. thus reducing overall calculated savings.

HLD Staff will be available during the discussion for guidance.

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

Topic:

Charter Review Committee – *Mayor and City Council*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Charter_Review.pdf

Description

Memo: Charter Review
Committee



CITY OF HAGERSTOWN, MARYLAND

Donna Spickler

City Clerk

One East Franklin Street • Hagerstown, MD 21740

E-mail: dspickler@hagerstownmd.org

Telephone: 301.766.4183 • TDD: 301.797.6617 • Website: www.hagerstownmd.org

TO: Mayor and City Council Members
Scott A. Nicewarner, City Administrator

FROM: Donna K. Spickler, City Clerk

SUBJECT: Charter Review Committee

DATE: July 8, 2026

During the May 12, 2026 Work Session, the Mayor and City Council determined that routine review of the City Charter would be beneficial and agreed to establish a Charter Review Committee. The last comprehensive review of the Charter occurred in 2007.

This Committee will be established by a resolution as an Ad Hoc Committee in accordance with the City Code, Provisions of Administration, Part 2, Article V General Provisions and Article VI Ad Hoc Boards. Responsibilities include reviewing the entire Charter for clarity, consistency, and relevance and to identify outdated or conflicting provisions.

The Committee will consist of 7 voting members and 2 non-voting Council members. All members must be residents of the City of Hagerstown. Members will be selected by the Mayor and City Council members from applications submitted from interested citizens. The term of the Committee will be one year, commencing on September 1, 2026 and ending on August 31, 2027.

The draft Resolution, Overview of Expectations, and the application are attached for your review.

Approval of the resolution is tentatively scheduled for a Special Session on July 21, 2026. Applications would be accepted until early August. Members would be appointed on August 25, 2026 at the Mayor and City Council's Regular Session.

Please let me know if you have any questions or need additional information.

Thank you.



CITY OF HAGERSTOWN, MARYLAND

A RESOLUTION ESTABLISHING A CHARTER REVIEW COMMITTEE

WHEREAS, the Mayor and Council believe that it is appropriate and timely to conduct a review of the City Charter and having determined that it is not feasible for any existing department, board or other City body to undertake the review,

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council, pursuant to the Provisions of Administrative Sections of the City Code Part 2, Article V, Section 10-19 through 10-23, and Article VI Sections 10-24 through 10-26, does hereby create the Charter Review Committee of 2026.

The Committee will be responsible for reviewing the City Charter and present to the Mayor and City Council written recommendations, if any, for changes to the existing Charter.

The Committee shall be composed of 7 voting members and 2 non-voting Council members, to be selected by the Mayor and City Council.

The City Attorneys shall attend the meetings of the Committee to provide advice but shall not vote.

The City Administrator shall assign such employees as he deems necessary to serve as liaison to the Committee and shall provide staff services. These appointees shall not vote.

The term of the Committee shall be one year commencing September 1, 2026 and terminating on August 31, 2027.

BE IT FURTHER RESOLVED, by the Mayor and City Council for Hagerstown, Maryland, that this Resolution shall become effective immediately upon its passage.

WITNESS AND ATTEST
AS TO CORPORATE SEAL

MAYOR AND CITY COUNCIL OF THE
CITY OF HAGERSTOWN, MARYLAND

Donna K. Spickler, City Clerk

William B. McIntire, Mayor

Date of Passage: *July 21, 2026*
Effective Date: *July 21, 2026*



CITY OF HAGERSTOWN, MARYLAND

Donna Spickler

City Clerk

One East Franklin Street • Hagerstown, MD 21740

E-mail: dspickler@hagerstownmd.org

Telephone: 301.766.4183 • TDD: 301.797.6617 • Website: www.hagerstownmd.org

DRAFT

Charter Review Committee

The City of Hagerstown is seeking individuals interested in serving on the recently established Charter Review Committee. Municipal charters serve as the foundational governing document for a city, outlining power, structure, and procedures. Over time, provisions may become outdated due to changes in State law, administrative practices, or evolving community priorities. A periodic and structured review ensure the Charter remains relevant, transparent, and effective.

Applicants must be residents of the City of Hagerstown. The Committee may include residents representing different districts or neighborhoods, individuals with legal, governmental, or administrative experience, and at least one current or former elected official.

Responsibilities and Scope of Work include the following:

1. Review the entire Charter for clarity, consistency, and relevance
2. Identify outdated or conflicting provisions
3. Evaluate the governance structure, roles, and authorities
4. Ensure alignment with current State law
5. Consider best practices in municipal governance
6. Solicit and incorporate public input

Members of the Committee should anticipate working between six to twelve months on this project. This would include milestones for the initial organizational meeting, public engagement opportunities, draft recommendations, and final presentation to the Mayor and City Council. Public engagement may include hosting public meetings, listening sessions or workshops to familiarize the residents with the charter. Staff would ensure that all meetings are recorded and that public hearings are televised. Staff would also provide a site on the City webpage for additional comments.

Upon completion of the review, the Committee will present a formal report to the Mayor and City Council showing recommended Charter amendments, the rationale for each, and a summary of the public input received during the process.

Interested persons should contact Donna Spickler, City Clerk, 301-739-8577, ext. 113 for an application. Applications are also available on the City's website.

Applications are requested to be returned to the City Clerk by (insert date).





CITY OF HAGERSTOWN, MARYLAND

One East Franklin Street • Hagerstown, MD 21740

Charter Review Committee 2026

The Mayor and City Council have established a Charter Review Committee to evaluate, modernize, and strengthen the City Charter to ensure it reflects current governance needs, legal standards, and community expectations. Please complete the application below if you are interested in being a member of the Charter Review Committee.

Name: _____

Address: _____

Telephone: _____ E-mail: _____

Occupation: _____

Business Address: _____

Business Telephone: _____ E-mail: _____

Education: _____

Why are you interested in serving on the Charter Review Committee?: _____

Activities/Interests: _____

Comments (Use back of form as needed): _____

For additional information, please contact the City Clerk's Office at 301.739.8577, Ext. 113.

Please mail or e-mail this completed form to:

Office of the City Clerk

1 East Franklin Street

City Hall, Room 200

Hagerstown, MD 21740

dspickler@hagerstownmd.org

Thank you for your interest in the City of Hagerstown.

July 21, 2026



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

Topic:

The Mayor and Council will meet in Open Session for the purpose of voting to close its meeting to discuss matters that the Open Meetings Act permits it to discuss in Executive/Closed Session.

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates: