

Mayor and Council Work Session December 11, 2018 Agenda

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

"Sometimes you can't see yourself clearly until you see yourself through the eyes of others." -
Ellen DeGeneres

4:00 PM SPECIAL SESSION

1. Introduction of an Ordinance: Quit Claim for Alley off Magnolia – Eklund Family, LLC
2. Introduction of an Ordinance: Quit Claim for Alley off Magnolia – Michael J. Hill
3. Approval of an Ordinance: Land Management Code Amendment
4. Approval of a Resolution: Extension of Verra Mobility Agreement for Automated Traffic Enforcement
5. Approval of Public Exhibitions at Dangerous Elevations Exemption – Boys and Girls Club of Washington County's 'Over the Edge' Event

4:00 PM WORK SESSION

- 4:15 PM** 1. Hagerstown Neighborhood Development Partnership (HNDP Inc.) / Hagerstown Home Store Presentation – *Morgan Plummer, Director*
- 4:25 PM** 2. Maryland Theatre Presentation – *Jessica Green, Executive Director*
- 4:35 PM** 3. Washington County Historical Society Presentation – *Stefanie Basilik, Executive Director*
- 4:45 PM** 4. Community Rescue Service Presentation – *D. Randall Brumbelow, Chief Financial Officer*
- 4:55 PM** 5. Preliminary Agenda Review
- 5:05 PM** 6. Program Open Space Annual Program Discussion – *Rodney Tissue, City Engineer*
- 5:15 PM** 7. Pavement Preservation Program – *Rodney Tissue, City Engineer*
- 5:25 PM** 8. LMC Amendments Discussion – *Kathleen Maher, Director of Planning and Code Administration*
- 6:00 PM** 9. Proposed Parking Rate Amendments – *Mayor Robert E. Bruchey, II*

CITY ADMINISTRATOR'S COMMENTS

MAYOR AND COUNCIL COMMENTS

ADJOURN

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

Topic:

Introduction of an Ordinance: Quit Claim for Alley off Magnolia – Eklund Family, LLC

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

3.Ordinance_to_Quit_Claim_portion_of_Alley_.pdf
2.Deed_to_Eklund_Family_LLC_Final.pdf

Description

Introduction to Quit Claim
Eklund Family

CITY OF HAGERSTOWN, MARYLAND

**AN ORDINANCE MAKING A DETERMINATION
THAT CERTAIN PROPERTY IS NO LONGER
NEEDED FOR A PUBLIC PURPOSE AND AUTHORIZING
CONVEYANCE TO ADJOINING PROPERTY OWNER**

RECITALS

WHEREAS, the City of Hagerstown is a Municipal Corporation existing under and by virtue of the laws of the State of Maryland; and

WHEREAS, the City has an interest in a parcel of land lying north of West Magnolia Avenue, in the City of Hagerstown, commonly known and designated as Alley #5-35 ("the Alley"); and

WHEREAS, in accordance with the provision of the Maryland Code and the Charter of the City of Hagerstown, the Mayor and Council, as the duly constituted legislative body for the City has determined that a portion the aforesaid Alley is no longer needed for a public purpose; and

WHEREAS, Eklund Family, LLC, owns property adjoining the Parcel and has requested that the City execute a quit claim its right, title and interest in the Parcel adjacent to and adjoining its property, and as depicted on the attached Quit Claim Deed, subject to the City's retention of a perpetual utility easement and subject to the adjoining landowner, Michael J. Hill's retention of a perpetual pedestrian easement; and

WHEREAS, the City agrees to transfer the Quit Claim Area #1, as depicted on the attached Quit Claim Deed and Drawing, subject to the aforementioned easements;

WHEREAS, the introduction of this Ordinance shall constitute the twenty (20)-day notice of the proposed transfer as required by law; and

WHEREAS, the Mayor and Council find that the property may be quit claimed and conveyed to the adjoining property owner, Eklund Family, LLC.

NOW, THEREFORE, BE IT RESOLVED, ENACTED AND ORDAINED as follows:

1. That the foregoing recitals be and are incorporated herein as if fully set forth.

2. That the Mayor and Council find that the Parcel no longer needed for a public purpose.

3. That the Mayor be and is hereby authorized to execute and deliver a Quit Claim Deed vesting all of its right, title and interest in the Parcel to the adjoining property owner, Eklund Family, LLC. The description and extent of the property so conveyed is as depicted on the attached Quit Claim Deed.

4. That the Mayor be and is hereby authorized to execute the attached Quit Claim Deed, and such additional documentation and take all necessary steps to carry out the purpose of this Ordinance.

BE IT FURTHER RESOLVED, ENACTED AND ORDAINED, that this Ordinance shall become effective upon the expiration of 30 days from the date of its passage.

WITNESS AND ATTEST
AS TO CORPORATE SEAL

MAYOR AND COUNCIL OF THE
CITY OF HAGERSTOWN, MARYLAND

Donna K. Spickler
City Clerk

Robert E. Bruchey, II, Mayor

Date of Introduction: December 11, 2018
Date of Passage: December 18, 2018
Effective Date: January 18, 2019

PREPARED BY:
SALVATORE & MORTON
CITY ATTORNEYS

NO TITLE EXAM

THIS QUIT CLAIM DEED, Made this ____ day of _____, 2019, by THE CITY OF HAGERSTOWN, a MARYLAND MUNICIPAL CORPORATION, “Grantor”, to EKLUND FAMILY, LLC, a MARYLAND LIMITED LIABILITY COMPANY, “Grantee”.

RECITALS

The **GRANTOR** owns a certain parcel of land lying north of West Magnolia Avenue, in the City of Hagerstown, commonly known and designated as Alley #5-35.

The Mayor and Council of the City of Hagerstown, as its duly constituted legislative body, and pursuant to Article 23A of the Annotated Code of Maryland and the Charter of the City of Hagerstown, have determined that the property hereinafter described and shown no longer needed for a public purpose.

On December 18, 2018, the Mayor and Council enacted an Ordinance, with an effective date of January 18, 2019, to that effect and authorized abandonment of the hereinafter described property and the transfer of the property by Quit Claim Deed to Eklund Family, LLC, a Maryland Limited Liability Company, hereinafter referred to as “**GRANTEE**”.

The purpose of this Quit Claim Deed is to transfer ownership of all that hereinafter described property to Eklund Family, LLC.

WITNESSETH:

NOW, THEREFORE, the **GRANTOR**, for no monetary consideration, but for other good and valuable consideration, does by these presents release and forever quitclaim to **GRANTEE**, all the right, title, interest, estate, claims, and demands, both at law and in equity of the **GRANTOR** in and to the hereinafter described portion of the bed of Ally #5-35, situate and lying in Election District 25, City of Hagerstown, Washington County, Maryland, namely, Quit Claim Area #1 (containing 926.5 S.F. 0.02 Ac.) as depicted on a drawing prepared by Frederick Seibert & Associates, Inc. dated November 9, 2018 and titled “Quit Claim & Access Easement Plat for Potomac Dental,” attached hereto and incorporated by reference.

The above-described parcel is hereby conveyed subject to and together with any and all conditions, restrictions, limitations, easements and rights of way of record applicable thereto. **The City specifically reserves unto itself a perpetual and permanent easement over all of said quitclaimed property for access to the electric and communication system including all trenches, conduits, cables, poles, guy wires & anchors, and other facilities over, under, and upon said property, for the purpose of constructing, inspecting, maintaining, repairing, altering, replacing, operating and/or removing said utility lines, with the further right to install, maintain, operate and replace its facilities without responsibility for any damages caused thereby to trees, bushes and undergrowth, and other obstructions interfering with the safe and proper operation and maintenance thereof.** This easement is for the benefit of the

City and shall be covenant running with said lands and binding upon Eklund Family, LLC's successors and assigns.

The City also reserves unto Michael J. Hill, his heirs, successors and assigns, a perpetual and permanent non-exclusive pedestrian easement over said quitclaimed property for access to and from the rear portion of the real property located at 4 West Magnolia Avenue, Hagerstown, Maryland, and described in a deed recorded among the Land Records of Washington County, Maryland at Liber 5105, folio 75, but the said Michael J. Hill is not granted any other right or interest in the servient tenancy. This easement is for the benefit of the owner of 4 West Magnolia Avenue, and shall be covenant running with said lands and binding upon Eklund Family, LLC's successors and assigns. Notwithstanding said easements, the Grantee shall have the right to alter the grade and elevation of the servient tenancy.

This deed has been prepared without the benefit of a title examination. All parties affirm their understanding that only a title examination will disclose the status of title, including but not limited to, the quality and quantity of title; the possibility of other persons having an interest in the property conveyed by this deed, as well as any other matters disclosed by an examination of title. Notwithstanding this disclosure and having been fully informed of the cost of accomplishing an examination of title, we elect not to have an examination of this title and release the scrivener of this deed from all and any loss, claim, damages and/or liability resulting from a condition of title which might have been disclosed by a title examination of the property conveyed by this deed.

AFFIDAVIT OF TOTAL PAYMENT TO GRANTOR(S)

Pursuant to the Annotated Code of Maryland, Tax General Article Section 10-912, the herein Grantor(s) hereby state under the penalties of perjury that:

- (1) It is a Resident Entity of the State of Maryland;
- (2) The purchase price of the herein described property is \$0.00, as recited herein;

The above property is conveyed subject to and together with all the conditions, restrictions, easements, and rights of way of record applicable thereto.

WITNESS the hand and seal of the Grantor by its duly authorized officer.

CITY OF HAGERSTOWN, a Maryland Municipal
Corporation

Donna K. Spickler, City Clerk

_____(SEAL)
By: Robert E. Bruchey, II, Mayor

EKLUND FAMILY, LLC a Maryland Limited Liability Company

By: Everett Eklund, DDS, Managing Member (SEAL)

STATE OF MARYLAND, COUNTY OF WASHINGTON, to-wit:

I HEREBY CERTIFY, that on this ____ day of _____, 2019, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared Robert E. Bruchey, II, Mayor of the City of Hagerstown, who acknowledged that he executed the foregoing deed for the purposes therein contained.

WITNESS my hand and Official Notarial Seal.

Notary Public
My Commission Expires:

STATE OF MARYLAND, COUNTY OF WASHINGTON, to-wit:

I HEREBY CERTIFY, that on this ____ day of _____, 2019, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared Everett Eklund, DDS, Managing Member of Eklund Family, LLC, a Maryland Limited Liability Company, who acknowledged that he executed the foregoing deed for the purposes therein contained.

WITNESS my hand and Official Notarial Seal.

Notary Public
My Commission Expires:

This is to certify that the within instrument was prepared by or under the supervision of the undersigned attorney at law.

Jason Morton

Mail to: **Eklund Family, LLC**
 Attention: Everett Eklund, DDS
 21167 Millers Church Road
 Hagerstown, Maryland 21742

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

Topic:

Introduction of an Ordinance: Quit Claim for Alley off Magnolia – Michael J. Hill

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Description

Ordinance_for_Quit_Claim_portion_fo_alley_to_Michael_J_Hill.pdf Michael J. Hill

CITY OF HAGERSTOWN, MARYLAND

**AN ORDINANCE MAKING A DETERMINATION
THAT CERTAIN PROPERTY IS NO LONGER
NEEDED FOR A PUBLIC PURPOSE AND AUTHORIZING
CONVEYANCE TO ADJOINING PROPERTY OWNER**

RECITALS

WHEREAS, the City of Hagerstown is a Municipal Corporation existing under and by virtue of the laws of the State of Maryland; and

WHEREAS, the City has an interest in a parcel of land lying north of West Magnolia Avenue, in the City of Hagerstown, commonly known and designated as Alley #5-35 ("the Alley"); and

WHEREAS, in accordance with the provision of the Maryland Code and the Charter of the City of Hagerstown, the Mayor and Council, as the duly constituted legislative body for the City has determined that a portion the aforesaid Alley is no longer needed for a public purpose; and

WHEREAS, Michael J. Hill, owns property adjoining the Parcel and has requested that the City execute a quit claim its right, title and interest in the Parcel adjacent to and adjoining its property, and as depicted on the attached Quit Claim Deed, subject to the City's retention of a perpetual utility easement; and

WHEREAS, the City agrees to transfer the Quit Claim Area #2, as depicted on the attached Quit Claim Deed and Drawing, subject to the aforementioned easements;

WHEREAS, the introduction of this Ordinance shall constitute the twenty (20)-day notice of the proposed transfer as required by law; and

WHEREAS, the Mayor and Council find that the property may be quit claimed and conveyed to the adjoining property owner, Michael J. Hill.

NOW, THEREFORE, BE IT RESOLVED, ENACTED AND ORDAINED as follows:

1. That the foregoing recitals be and are incorporated herein as if fully set forth.

2. That the Mayor and Council find that the Parcel no longer needed for a public purpose.

3. That the Mayor be and is hereby authorized to execute and deliver a Quit Claim Deed vesting all of its right, title and interest in the Parcel to the adjoining property owner, Michael J. Hill. The description and extent of the property so conveyed is as depicted on the attached Quit Claim Deed.

4. That the Mayor be and is hereby authorized to execute the attached Quit Claim Deed, and such additional documentation and take all necessary steps to carry out the purpose of this Ordinance.

BE IT FURTHER RESOLVED, ENACTED AND ORDAINED, that this Ordinance shall become effective upon the expiration of 30 days from the date of its passage.

WITNESS AND ATTEST
AS TO CORPORATE SEAL

MAYOR AND COUNCIL OF THE
CITY OF HAGERSTOWN, MARYLAND

Donna K. Spickler
City Clerk

Robert E. Bruchey, II, Mayor

Date of Introduction: December 11, 2018
Date of Passage: December 18, 2018
Effective Date: January 18, 2019

PREPARED BY:
SALVATORE & MORTON
CITY ATTORNEYS

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

Topic:

Approval of an Ordinance: Land Management Code Amendment

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

Public Hearing - 11/29/18

intro ordinance to amend LMC - 12/4/18

approve ordinance to amend LMC - 12/11/18

effective date - 1/10/19

ATTACHMENTS:

File Name

Description

Motion_and_ordinance_approve_ord_to_amend_LMC_for_barber_shops.pdf

Approve
Ordinance to
Amend LMC for
Hair, Nail, Skin
Care Stores in IR

REQUIRED MOTION

MAYOR AND CITY COUNCIL HAGERSTOWN, MARYLAND

Date: December 11, 2018

TOPIC: **Approval of Ordinance: Land Management Code Amendment**
Charter Amendment
Code Amendment
Ordinance X
Resolution
Other

MOTION: I hereby move that the Mayor and City Council approve an ordinance to amend Chapter 140, Land Management Code, of the City Code, to add *hair, nail, and skin care stores* as a permitted principal use in the IR (Industrial Restricted) zoning district. The attached ordinance details the code citations associated with this amendment. This proposed amendment is a result of a request made during the Mayor and City Council's public hearing on the Planning Commission's recommended 2018 package of proposed amendments to the Land Management Code. In a future action, the Mayor and City Council will move on the package of proposed amendments forwarded by the Planning Commission, as forwarded or with revisions.

DATE OF INTRODUCTION: 12/4/18

DATE OF PASSAGE: 12/11/18

EFFECTIVE DATE: 1/10/19

CITY OF HAGERSTOWN, MARYLAND

**AN AMENDED ORDINANCE TO AMEND THE CODE
OF THE CITY OF HAGERSTOWN TO REVISE CHAPTER 140, *LAND
MANAGEMENT CODE***

RECITALS

WHEREAS, by virtue of State Law and 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 a package of amendments to the *Land Management Code* to better protect our neighborhoods and facilitate desirable use and development of land within the City of Hagerstown; and

WHEREAS, as part of the Mayor and City Council's public hearing process on the proposed amendments to the *Land Management Code* a request was made by a property owner for an additional amendment which is of a time sensitive nature for a business recruitment initiative; and

WHEREAS, the Mayor and Council find it in the best interests of the citizens to move forward with the following amendment ahead of action on the Planning Commission's forwarded package of proposed amendments and to revise Chapter 140 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 foregoing recitals be and are incorporated herein as if restated verbatim.
2. The Code of the City of Hagerstown is hereby amended to revise Chapter 140, *Land Management Code*, as follows:

Amend the Chart of Permitted and Special Exception Uses in Section Z of Article 4, Zoning Ordinance, to add *hair, nail, and skin care stores* as a permitted principal use in the IR zone.

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

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

WITNESS AND ATTEST
AS TO CORPORATE SEAL

MAYOR AND COUNCIL OF THE
CITY OF HAGERSTOWN, MARYLAND

Donna Spickler, City Clerk

Robert E. Bruchey, II, Mayor

Date of Introduction: December 4, 2018
Date of Passage: December 11, 2018
Effective Date: January 10, 2019

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

Topic:

Approval of a Resolution: Extension of Verra Mobility Agreement for Automated Traffic Enforcement

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Verra_Mobility_2019_Contract.pdf

Description

Verra Mobility

REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND

Date: December 11, 2018

TOPIC: Approval of a Resolution: Extension of 2017 American Traffic Solutions (dba Verra Mobility) Agreement for Automated Traffic Enforcement

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

MOTION: I hereby move for Mayor and Council approval of a resolution for the renewal/extension of the Verra Mobility automated traffic enforcement agreement for a one-year period beginning January 1, 2019, and ending December 31, 2019.

DATE OF PASSAGE: December 11, 2018

CITY OF HAGERSTOWN, MARYLAND

**A RESOLUTION TO APPROVE
THE EXECUTION AND DELIVERY
OF A SECOND AMENDMENT TO AGREEMENT WITH
AMERICAN TRAFFIC SOLUTIONS, INC.
D/B/A VERRA MOBILITY
FOR THE PURPOSES OF
PROVIDING A DIGITAL RED LIGHT CAMERA SYSTEM
AND RELATED OFFICE SERVICES**

RECITALS

WHEREAS, Maryland Transportation Code Ann. §21-202.1 (“the Code”) authorizes the use of traffic control signal monitoring systems (“Red Light Camera Systems”); and

WHEREAS, the Mayor and City Council of the City of Hagerstown, hereinafter referred to as “the City,” believe it is in the best interest for the safety of its citizens that a Red Light Camera System be implemented within the City of Hagerstown, in accordance with the Code;

WHEREAS, American Traffic Solutions, Inc. d/b/a Verra Mobility (“ATS”), a corporation organized and existing under the laws of the State of Kansas, installs, operates, and provides technical and other support services for Red Light Camera Systems in the State of Maryland;

WHEREAS, Howard County, Maryland (“Howard County”) entered into a written agreement with ATS on or about January 5, 2016 for the provision of a Red Light Camera System in Howard County (the “Howard County Agreement”), after a competitive bid process;

WHEREAS, Howard County can provide assistance with installation, approval of locations, training, technical and other support relating to Red Light Camera System in the City through the City’s membership and participation in the Regional Automated Enforcement Center (“RAEC”);

WHEREAS, the City entered into agreements with both ATS (“the ATS Agreement”) and Howard County which provide for the benefits of Howard County Agreement, as well as Howard County’s assistance with installation, approval of locations, training, technical and other support relating to Red Light Camera System in the City, and the City’s use of the RAEC;

WHEREAS, the ATS Agreement expired on December 31, 2017, but was extended until December 31, 2018 by the parties by virtue of a First Amendment to Agreement between the City of Hagerstown, Maryland and American Traffic Solutions, Inc.;

WHEREAS, the City and ATS wish to extend the terms of the ATS Agreement until December 31, 2019; and

WHEREAS, attached hereto and incorporated herein is a Second Amendment to Agreement between the City and ATS to secure ATS's assistance with installation, approval of locations, training, technical and other support relating to Red Light Camera System in the City. The Second Amendment is effective for a one-year period beginning on January 1, 2019 and ending on December 31, 2019, subject to rights of termination by either party as set forth in Howard County Agreement.

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

1. That the foregoing recitals are incorporated herein as if fully set forth.
2. That the City of Hagerstown be and is hereby authorized to execute the Second Amendment to Agreement between the City and ATS, a copy of which is attached hereto, and to execute such other and further documents as are necessary to effectuate the same.

BE IT FURTHER RESOLVED, that this Resolution shall become effective immediately upon its approval.

WITNESS AND ATTEST
AS TO CORPORATE SEAL

MAYOR AND COUNCIL OF THE CITY
OF HAGERSTOWN, MARYLAND

Donna K. Spickler, City Clerk

By: _____
Robert E. Bruchey, II, Mayor

Date of Introduction: December 11, 2018
Date of Passage: December 11, 2018
Effective Date: December 11, 2018

PREPARED BY:
SALVATORE & MORTON, LLC
CITY ATTORNEYS

**SECOND AMENDMENT TO AGREEMENT
BETWEEN CITY OF HAGERSTOWN, MARYLAND
AND AMERICAN TRAFFIC SOLUTIONS, INC.
d/b/a VERRA MOBILITY**

This Second Amendment ("Amendment") is effective as of the date of final execution hereof and entered into between the City of Hagerstown, a municipal corporation of the State of Maryland ("Municipality") and American Traffic Solutions, Inc., doing business as Verra Mobility, a Kansas corporation (herein "VERRA MOBILITY").

WHEREAS, VERRA MOBILITY entered into an agreement with Howard County, Maryland as of January 5, 2016 (hereinafter the "Howard County Agreement"); and

WHEREAS, the Municipality and VERRA MOBILITY entered into an Agreement, subject to the terms and conditions of the Howard County Agreement, effective January 5, 2016, which was amended by the First Amendment to Agreement dated as of December 12, 2017 ("Agreement"); and

WHEREAS, the Municipality and VERRA MOBILITY wish to modify and amend certain terms and conditions of the Agreement; and

WHEREAS, Section 3.2 of the Howard County Agreement allows seven (7) one-year renewal options; and

NOW, THEREFORE, in consideration of the mutual covenants, warranties, representations, and conditions contained in the Agreement, the parties hereto agree as follows:

1. The Agreement is hereby extended for a one-year period beginning January 1, 2019, and ending December 31, 2019. The parties specifically preserve the right to terminate the Agreement, per paragraphs 3.1 and 5 of the Howard County Agreement.
2. Except as expressly amended or modified by the terms of this Amendment, all terms of the Agreement shall remain in full force and effect. In the event of a conflict between the terms of this Amendment and the Agreement, the terms of this Amendment shall prevail and control.
3. This Amendment may be executed in one or more counterparts, each of which shall constitute an original, but all of which taken together shall constitute one and the same instrument. Each party represents and warrants that the representative signing this Amendment on its behalf has all right and authority to bind and commit that party to the terms and conditions of this Amendment.

IN WITNESS WHEREOF, authorized representatives of the parties have set forth their signatures below, intending to be legally bound.

AMERICAN TRAFFIC SOLUTIONS, INC.

CITY OF HAGERSTOWN

By: _____

Elizabeth Caracciolo
EVP/GM, Government Solutions

Date _____

By: _____

Robert E. Bruchey, II

Date _____

REQUIRED MOTION MAYOR AND CITY COUNCIL HAGERSTOWN, MARYLAND

Topic:

Approval of Public Exhibitions at Dangerous Elevations Exemption – Boys and Girls Club of Washington County's 'Over the Edge' Event

Mayor and City Council Action Required:

During the December 11, 2018 Special Session, City staff seek Mayor and Council approval of an exemption from the City's Public Exhibitions at Dangerous Elevations ordinance (section 173-5) for the Boys and Girls Club of Washington County's 'Over the Edge' event scheduled to take place on April 6, 2019.

Discussion:

During the October 9, 2019 Work Session, City Staff and Boys and Girls Club Staff discussed the 'Over the Edge' event. This fundraiser will provide people with the opportunity to rappel down the Alexander House under strict safety protocol. The Over the Edge (OTE) company has offered rappelling events since 2008 and has helped non-profit organizations raise over \$80 million. This is a unique opportunity for the Boys and Girls Club to raise significant funds in support of its programming.

During the November 6, 2018 Special Session, Mayor and Council approved an ordinance to amend Section 173-5 of the Code of the City of Hagerstown – *Public Exhibitions at Dangerous Elevations* to allow the Mayor and City Council to grant exceptions.

As of December 6, 2018, this ordinance to amend Section 173-5 will be effective.

The City's Logistics Team (Police, Fire, Public Works, Engineering, Safety/Risk Management, and DCED) has reviewed OTE's Site Inspection and Safety Plan. They support this event and will work with OTE and the Boys and Girls Club to ensure that City requirements are met in the implementation of the event.

The Boys and Girls Club awaits approval of this exemption from Section 173-5 in order to publicize this event as soon as possible and to maximize fundraising potential.

Financial Impact:

Recommendation:

Motion:

I hereby move that Mayor and Council approve an exemption from the City of Hagerstown's *Public Exhibitions at Dangerous Elevations* Ordinance under section 173-5 of the Code of the City of Hagerstown for the Boys and Girls Club of Washington County's 'Over the Edge' event on April 6, 2019.

Action Dates:

DATE OF PASSAGE: 12/11/2018

ATTACHMENTS:**File Name**

121118_Dangerous_Elevation_Exemption_Motion-
Over_the_Edge.pdf

Description

Motion & Memo Exemption
Dangerous Elevation Over
The Edge event

REQUIRED MOTION

MAYOR AND CITY COUNCIL HAGERSTOWN, MARYLAND

Date: December 11, 2018

TOPIC: **Approval of Public Exhibitions at Dangerous Elevations Exemption – Boys and Girls Club of Washington County’s ‘Over the Edge’ Event**

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

MOTION: I hereby move that Mayor and Council approve an exemption from the City of Hagerstown’s *Public Exhibitions at Dangerous Elevations* Ordinance under section 173-5 of the Code of the City of Hagerstown for the Boys and Girls Club of Washington County’s ‘Over the Edge’ event on April 6, 2019.

DATE OF PASSAGE: 12/11/2018



CITY OF HAGERSTOWN, MARYLAND

Department of Community & Economic Development

TO: Valerie Means, City Administrator
FROM: Kitty Clark, Community Events Coordinator
DATE: December 5, 2018
SUBJECT: Public Exhibitions at Dangerous Elevations Exemption – Boys and Girls Club of Washington County's 'Over the Edge' Event

Mayor and City Council Action Requested:

During the December 11, 2018 Special Session, City staff seek Mayor and Council approval of an exemption from the City's Public Exhibitions at Dangerous Elevations ordinance (section 173-5) for the Boys and Girls Club of Washington County's 'Over the Edge' event scheduled to take place on April 6, 2019.

Background:

During the October 9, 2019 Work Session, City Staff and Boys and Girls Club Staff discussed the 'Over the Edge' event. This fundraiser will provide people with the opportunity to rappel down the Alexander House under strict safety protocol. The Over the Edge (OTE) company has offered rappelling events since 2008 and has helped non-profit organizations raise over \$80 million. This is a unique opportunity for the Boys and Girls Club to raise significant funds in support of its programming.

During the November 6, 2018 Special Session, Mayor and Council approved an ordinance to amend Section 173-5 of the Code of the City of Hagerstown – *Public Exhibitions at Dangerous Elevations* to allow the Mayor and City Council to grant exceptions.

As of December 6, 2018, this ordinance to amend Section 173-5 will be effective.

The City's Logistics Team (Police, Fire, Public Works, Engineering, Safety/Risk Management, and DCED) has reviewed OTE's Site Inspection and Safety Plan. They support this event and will work with OTE and the Boys and Girls Club to ensure that City requirements are met in the implementation of the event.

The Boys and Girls Club awaits approval of this exemption from Section 173-5 in order to publicize this event as soon as possible and to maximize fundraising potential.

c: Jill Thompson, Director of Community and Economic Development

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

Topic:

Hagerstown Neighborhood Development Partnership (HNDP Inc.) / Hagerstown Home Store
Presentation – *Morgan Plummer, Director*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

Memo_for_Presentations_12.11.2018.pdf

Description

Memo for all Presentations
in December 11 Meeting



CITY OF HAGERSTOWN, MARYLAND

Finance Department

TO: Mayor & Council Members
Valerie Means, City Administrator

FROM: Michelle Hepburn, Director of Finance
Jennifer Peterson, Accounting/Budget Manager

SUBJECT: Presentation for FY 2020 General Fund Agency Contributions

DATE: December 6, 2018

RE: Presentations from organizations that receive general fund agency contributions

The City of Hagerstown has started to discuss items for the upcoming budget season for FY 2020. In this beginning stage of preparations, it is the Mayor & Council's request that the organizations that receive general fund agency contributions present a quick 10-15 minute overview of their organization. The overview will include a summary of what the City of Hagerstown funds are utilized for in their organization, an update on their last financial statements of their organization and what other funding sources they utilize to run their organization. Again, this is just a quick informational summary about their organization for Mayor & Council to prepare for the next budget season for FY2020.

Morgan Plummer, Director-HNDP, Inc./ Hagerstown Home Store will be presenting Tuesday, December 11, 2018.

Jessica Green, Executive Director-The Maryland Theatre will be presenting Tuesday, December 11, 2018.

Stefanie Basalik, Executive Director-Washington County Historical Society will be presenting Tuesday, December 11, 2018

D. Randall Brumbelow, Chief Financial Officer-Community Rescue Service will be presenting Tuesday, December 11, 2018.

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

Topic:

Maryland Theatre Presentation – *Jessica Green, Executive Director*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

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

Topic:

Washington County Historical Society Presentation – *Stefanie Basilik, Executive Director*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

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

Topic:

Community Rescue Service Presentation – *D. Randall Brumbelow, Chief Financial Officer*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

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

Topic:

Preliminary Agenda Review

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

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

Topic:

Program Open Space Annual Program Discussion – *Rodney Tissue, City Engineer*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

POS_program.2018.pdf

Description

Program Open Space
Annual Program



CITY OF HAGERSTOWN, MARYLAND

Department of Parks and Engineering

December 11, 2018

TO: Valerie Means, City Administrator
FROM: Rodney Tissue, Director, Parks and Engineering *Ron*
RE: Program Open Space (POS)
Annual Program

Attached you will find our recommendation for the Program Open Space funds for FY 2020 and beyond. We request that Council review the list, especially the FY 2020 portion, and provide comments. At the December 18th Regular Session, staff will request that Mayor & Council approve the priority list for FY 2020. We need to send our list to Washington County by January 4, 2019.

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

Attachments: * County request letter
* Proposed FY 20-25 Plan
c: Cathy Beach
Mark Haddock

Parks and Recreation Division

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

Engineering Division

1 East Franklin Street • Hagerstown, MD 21740-4817
Ph: 301.739.8577 Ext. 125 • Fax: 301.733.2214



Washington County

M A R Y L A N D

DIVISION OF PUBLIC WORKS

HAGERSTOWN REGIONAL AIRPORT | HIGHWAYS | PARKS & FACILITIES | TRANSIT

MEMO

OCT 17 2018

TO: Mayor, Robert E. Bruchey III
City Hall
One East Franklin Street
Hagerstown, MD 21740

FROM: James L. Sterling, Director Public Works

RE: Annual Program Open Space-Acquisition & Development Program
FY 2020

DATE: October 15, 2018

The Program Open Space Annual Program for Acquisition and Development Projects for FY 2020 are required to be submitted to the State Department of Natural Resources by July 1, 2019. As in past years, projects will be reviewed by the Washington County Recreation and Parks Advisory Board prior to a recommendation being made to the Board of County Commissioners for adoption of the annual program.

Please submit by Friday, December 21, 2018, requests for acquisition or development project funding in the FY 2020 Annual Program to the Washington County Department of Public Works, 100 West Washington Street, Hagerstown, Maryland, 21740. A completed application is required for each project, along with a map showing the location of the project. **If no projects are submitted by December 21, 2018 then it will be assumed that you do not have any projects for consideration for the 2020 fiscal year.** Please attempt to use realistic estimates when determining project costs and please do not submit more projects than may reasonably be expected to be completed in a fiscal year.

As with last year's submittal, we are also requesting with the submission of projects for the annual program, a list of projects for which you may be considering requesting POS funding in FY 2020 – FY 2024 (next 5 years).

CITY OF HAGERSTOWN
5-YR POS PROPOSED PLAN FY20-25 (Listed By Priority)
Last Revised 12/4/18

FY	CIP #	Project	Location/Description	Total Project Cost	POS Fund Request	City Match
2020	-----	City Park Lighting Improvements and Beautification	Up lighting in trees, electric system expansion	\$70,000	\$63,000	\$7,000
2020	C0822	Replace Pool Whitecoat Phase II	Potterfield Pool: replace whitecoat in area of lap lanes (shallow end was completed in 2015)	\$90,000	\$81,000	\$9,000
2020	----	City Park Improvements	Replace hedges along Virginia Avenue with ornamental fence with mow strip. Improves park visibility and reduces maintenance	\$130,000	\$117,000	\$13,000
2020	----	New City Park Restrooms	Construct new restrooms near City Park Train Hub (202 train display)	\$150,000	\$135,000	\$15,000
2021	C0140	Hagerstown Cultural Trail	Funds for developing triangle park near Park Circle	\$200,000	\$180,000	\$20,000
2021	C0822	Replace Pool Whitecoat Phase III	Potterfield Pool: replace whitecoat in deep end of pool (shallow end was completed in 2015)	\$60,000	\$54,000	\$6,000
2022	C0825	The Greens at Hamilton Run Improvements	Course improvements such as cart paths, tee box and green improvements	\$100,000	\$90,000	\$10,000

CITY OF HAGERSTOWN
5-YR POS PROPOSED PLAN FY20-25 (Listed By Priority)
Last Revised 12/4/18

FY	CIP #	Project	Location/Description	Total Project Cost	POS Fund Request	City Match
2022	C0439	Amenities for Train Museum	City Park Train Museum: for a new pavilion, purchase train themed amenities such as benches, tables, trash receptacles, etc	\$20,000	\$18,000	\$2,000
2022	-----	BMX Lights	Fairgrounds Park: Lights around perimeter of track for night races	\$40,000	\$36,000	\$4,000
2023	C0522	Parking Improvements.	City Park: Upper lot near tennis court	\$250,000	\$225,000	\$25,000
2023	----	New City Park Restrooms	Construct new restrooms near Digby parking Lot	\$150,000	\$135,000	\$15,000
2024	C0626	Parking Improvements.	Fairgrounds Park: Rear lot below BMX	\$250,000	\$225,000	\$25,000
2024	C0626	Soccer Field Lights	Fairgrounds Park: add lights to soccer field for evening use	\$170,000	\$63,000	\$107,000 by others
2025	C0548	Gatekeeper's House Renovation	Fairgrounds Park	\$500,000	\$450,000	\$50,000

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

Topic:

Pavement Preservation Program – *Rodney Tissue, City Engineer*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

pavement_preservation_program.2018.pdf

Description

Pavement Preservation
Program



CITY OF HAGERSTOWN, MARYLAND

Department of Parks and Engineering

December 11, 2018

TO: Valerie Means, City Administrator
FROM: Rodney Tissue, City Engineer *R.T.*
RE: Pavement Preservation Program

1. Background

In November 2017 the Council endorsed a draft 2019 street list for pavement preservation, and now the City must finalize the 2019 street list and begin to establish a list of streets for pavement preservation in 2020. This would allow utilities to budget for and install main replacements as necessary. In addition, property owners who receive curb and sidewalk notices will have approximately 12 months to complete the required work prior to the 2020 pavement preservation work (see section 5 below).

2. Mayor & Council Action Requested

Staff requests that the Mayor & Council on December 18th approve the list of streets proposed for pavement preservation in 2019 and tentatively approve the list of streets for pavement preservation in 2020.

3. Pavement Preservation Program

In October, we completed a "pavement condition" survey that we use to determine future pavement preservation work. In both 2019 and 2020, we plan to mill/overlay, slurry seal, crackfill, and complete random patching based on the results of the pavement conditions survey. I would like to provide a brief presentation on the current pavement condition.

A big factor in selecting streets is the condition of underground utilities and if the respective utility will upgrade prior to paving. We coordinate with the City utilities and Columbia Gas to assure us that their systems are in good condition in the proposed streets.

4. Budget

We will endeavor to budget \$1,500,000 annually for pavement preservation including all paving, milling, slurry seal, patching, crack filling, and pavement markings. We will postpone pavement work on streets to always stay within budget.

5. Curb & Sidewalk Notices

Staff sends about 75 to 100 "Curb & Sidewalk" notices each year. We endeavor to work with property owners and offer a loan program for owner-occupied properties. Staff will follow the previously established City Code and Council-approved policies to issue Notices to the "2020" streets.

Parks and Recreation Division

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

Engineering Division

1 East Franklin Street • Hagerstown, MD 21740-4817
Ph: 301.739.8577 Ext. 125 • Fax: 301.733.2214

Staff will be available on Tuesday to discuss our Pavement Preservation Program.

Attachment: * 2019 Pavement Preservation list for approval
 * Proposed 2020 Pavement Preservation list for review

c: Jim Bender
 Eric Deike
 Delbert Horst
 Tim Young

City of Hagerstown

Pavement Preservation Program

Summer 2019 (FY 20)

FINAL – Mill and Overlay Streets Last revised 12/4/2018

<u>Year Last Paved</u>	<u>Street (PCI)</u>	<u>Location</u>	<u>Area</u>
1970	Snyder Avenue (34)	Virginia Avenue to Noland Drive	2,045sy
1999	North Potomac Street (32)	Oak Hill Ave to Franklin Street	10,215 sy
1998	Potomac Avenue (44)	Moller Parkway to CSX Railroad	27,000 sy
1982	Indiana Avenue (20)	Salem Avenue to Marshall Street	4,165 sy
1997	Pennsylvania Avenue (50)	north of Belview Ave to Park Lane	3,290 sy
1992	Liganore Avenue (31)	Salem Avenue to dead end	5,000 sy
1992	West Antietam Street (35)	Walnut Street to Potomac Street	4,344 sy
1997	West Baltimore Street (40)	Summit Avenue to Prospect Street	1,625 sy
1992	Magnolia Avenue (43)	Mealey Avenue to Oak Hill Avenue	5,870 sy
1980	Manila Avenue (34)	Potomac Avenue to Mulberry Avenue	3,000 sy
1965	Bowman Ave (27)	Eldridge Drive to Commonwealth Avenue	3,580 sy
1992	East Irvin Avenue (37)	Potomac Avenue to Mulberry Avenue	3,690 sy
1973	Howell Road (53)	Edgewood Drive to City Line	2,005 sy
1998	Surrey Avenue (34)	Guilford Avenue to Summit Avenue	1,775 sy
1987	Woodlands Run (32)	Kensington Drive to dead end	2,915 sy
N/A	Fairgrounds Park	Parking Lot Addition at FIT Room	300 sy
N/A	Ridge Ave Park	Off street HCCP Accessible Parking	60 sy
TOTAL			80,579 SY

Slurry Seal Streets: TBD from 2018 Condition survey

City of Hagerstown
Pavement Preservation Program
Summer 2020 (FY 21)

DRAFT – Mill and Overlay Streets *Last revised 11/28/2018*

<u>Year Last Paved</u>	<u>Street (PCI)</u>	<u>Location</u>	<u>Area</u>
1996	Nottingham Road (50)	Salem Avenue to Washington Street	9,780 sy
1990	Wesel Boulevard (50)	Burhans Blvd to City Line (except mid-section)	47,780 sy
1997	Key Avenue (36)	Church Street to City Line on Daycotah/ Salem	8,020 sy
1960	Hamilton Lane (19)	Charles Street to Forest Drive	1,610 sy
1973	Center Street (28)	Burhans Blvd to Ridge Avenue	970 sy
1992	Cypress Street (48)	Oak Hill Avenue to Potomac Avenue	3,785 sy
1992	East Irvin Avenue (38)	Valleybrook Road to Eastern Boulevard	11,460 sy
1991	East Hillcrest Road (36)	Potomac Avenue to View Street	4,510 sy
1998	Sumans Avenue (42)	North Street to Charles Street	2,260 sy
1998	Charles Street (32)	North Potomac Street to Wheaton Park dead end	3,920 sy
1990	East Lee Street (32)	Locust Street to Mulberry Street	1,510 sy
1989	Hampton Circle (34)	Kasinof Avenue to cul de sac	2,400 sy
1968	Jackson Avenue (49)	Monroe Avenue to Westwood Street	<u>2,215 sy</u>
TOTAL			100,220 SY

Slurry Seal Streets: TBD from 2018 Condition survey

Potential 2021 Mill/Paving Streets (all or portions of TBD)

- Sumans Avenue
- North Mulberry Street (Broadway Ave to North Avenue)
- South Locust Street (Locust Point to Washington Street)
- Jefferson Blvd (Cleveland to City Limits)
- Pope Avenue
- Columbia Avenue
- Security Road
- Valley Road (Cross Street to dead end)
- Cross Street (Fairgrounds Avenue to Mulberry Street)
- Calvert Terrace (Potomac Heights to East Irvin Ave)
- Westwood Street
- Moller Avenue
- Belview Avenue (Pennsylvania Avenue to Hillcrest Road)
- McComas Street (Potomac Avenue to Locust Street)
- Bryan Place
- Interval Road
- Chase Street (Burhans Blvd o Ridge Avenue)

Potential 2022 Mill/Paving Streets (all or portions of TBD)

- West Memorial Boulevard
- Maple Avenue/Jamison Drive
- West Irvin Ave (Woodland Way to railroad)
- Moller Parkway
- Oak Hill (CSX to Potomac)
- Chestnut Street
- Church Street (Nottingham to dead end)
- Central Avenue
- North Avenue (Potomac Street to Prospect Street)
- Clarkson Avenue
- Summer Street
- Garlinger Avenue
- Thames Street
- Glenwood Avenue
- Park Lane (The Terrace to Woodland Way)
- Rowland Avenue
- The Terrace
- Pangborn Blvd near school
- Howard Street
- Noland Drive
- Marion Street

Pavement Management Program

Department of Parks and Engineering
December 11, 2018



In the old days....

- Prior to 1995, selected streets were paved with asphalt, maybe a dozen a year, based on the "worst-first" approach.
- Around 1995 we began to mill prior to repaving.
- In 2000, the cost of a ton of 'installed' asphalt was about \$30. The City spent about \$225,000 annually while our Highway User Revenue (HUR) far exceeded that.
- Today, that same ton of installed asphalt is \$67.
- Our HUR funds are now "predictable" for the next five years and our FY20 allocation is over \$1,600,000.

Research shows that exclusively doing a "worst first" approach is misplaced, actually causing the *overall* street system condition to worsen.



Rehabilitating a road that has fallen into disrepair costs substantially more than keeping the road in good condition in the first place. **The cost of keeping a mile of road in good condition is less than half over time of letting a road deteriorate and then making major repairs.**

What is "Pavement Preservation"

- There are never enough resources to rebuild roadways and bridges. With constrained resources causing roadways to deteriorate to the point of no return, we need to include preserving and maintaining this fundamental investment.
- Pavement preservation fills that gap.
- The essence of pavement preservation is the application of the *right treatment, to the right pavement, at the right time.*

Preservation is Proactive

- Preservation is proactive, not reactive.
- We're not talking pothole filling, but pothole prevention.
- As roads worsen, reconstruction becomes the only option, but the cost is unaffordable.



Pavement Preservation Techniques



← Patching & crackfilling



Milling →



← Slurry Seal



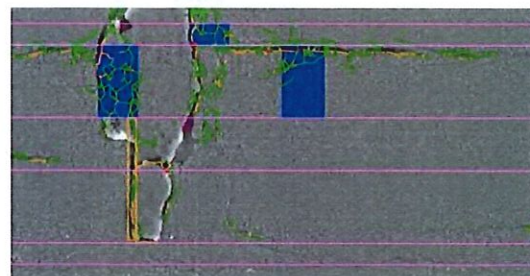
Thin lift overlay →

Pavement Condition Survey

- First ever survey conducted in December 2012. Update conducted in September 2015 and again on October 2018.
- Identifies surface distress (various cracks, potholes, rutting, failures) and rates the condition of the pavement



Sample image of 3D pavement scan

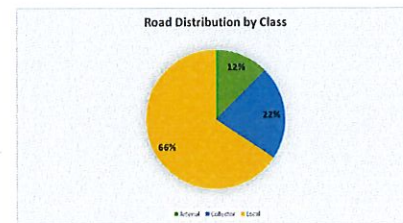


Pavement Condition Index (PCI)

- Numerical index between 0 and 100 which is used to indicate the general condition of a pavement.
- Developed by the *United States Army Corps of Engineers*, the method is based on a survey of the number and types of distresses in a pavement. The result of the analysis is a numerical value between 0 and 100, with 100 representing the best possible condition (new pavement) and 0 representing the worst possible condition.

Current Pavement Condition

Road distribution by class

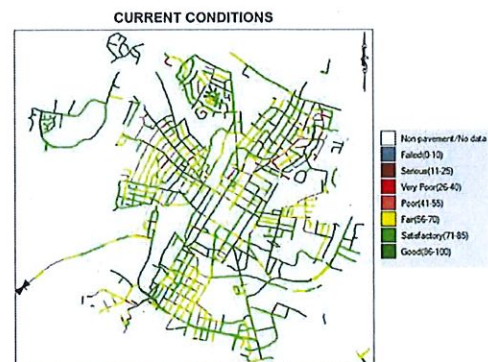


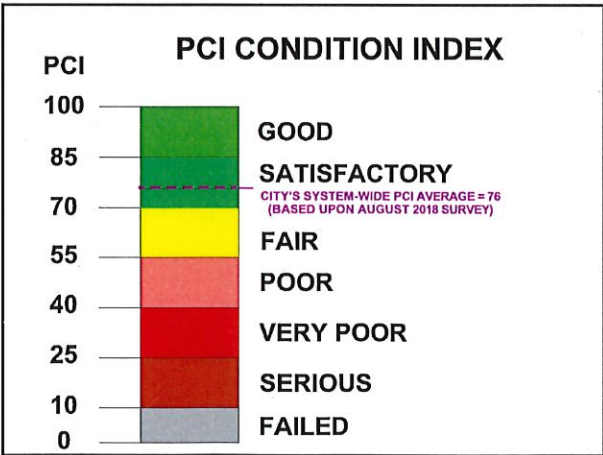
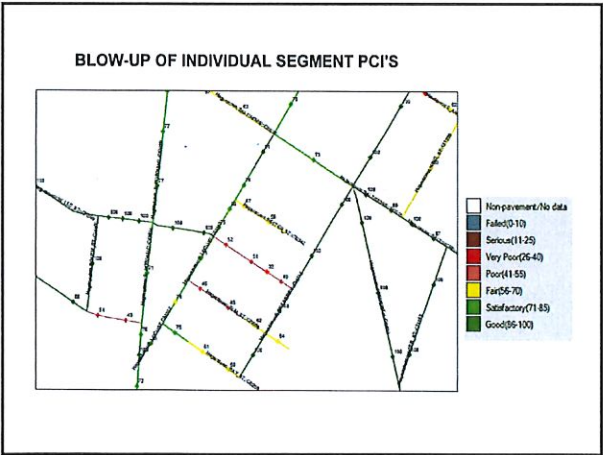
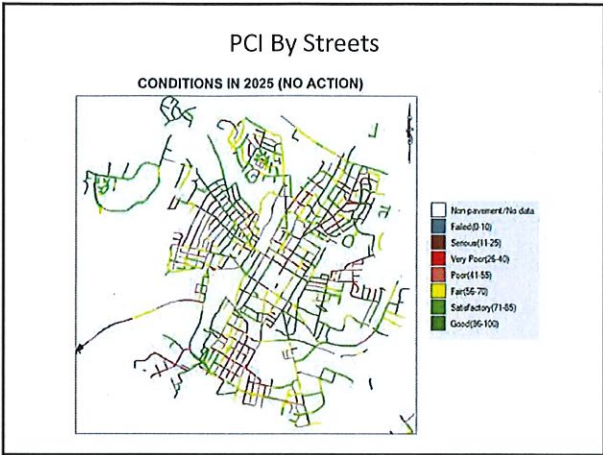
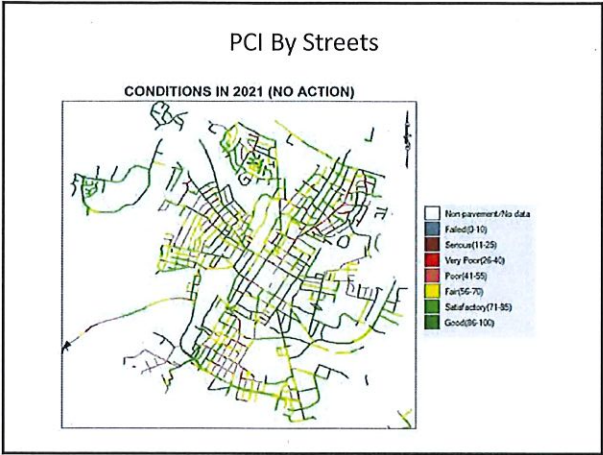
Current Pavement Condition

Network average PCI- 76



PCI By Streets





Current Pavement Condition

Network average PCI- 76

Average PCI	2018	2019	2020	2021	2022	2023
Overall	75	74	71	68	64	61
Arterial	78	75	73	71	67	64
Collector	78	75	73	70	67	64
Local	74	73	70	66	63	60

Table shows the PCI's decline if "no action" is taken on any streets over the next 5 years

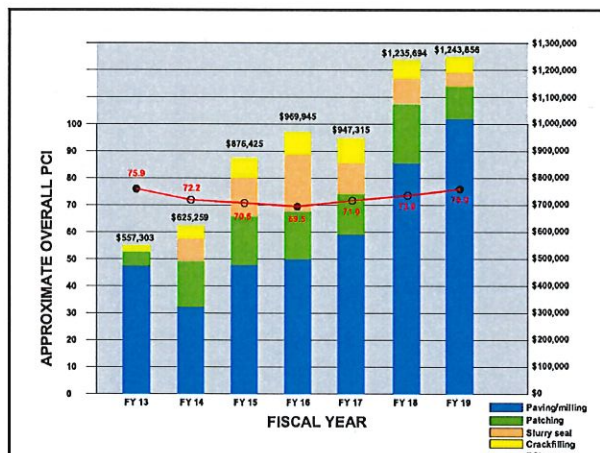
PCI Index for Streets

- 12/2012 Survey: Hagerstown City-wide PCI= 75.9
- 9/2015 Survey: Hagerstown City-wide PCI= 69.5
- 10/18 Survey: Hagerstown City-wide PCI= 76

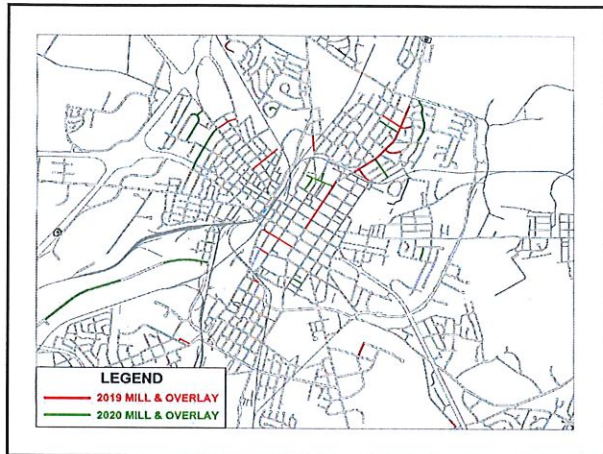
- Comparisons (provided by consultant):

Jurisdiction	Overall PCI Ratings	Centerline Miles
City of Hagerstown, MD	76	120

Obtaining data from consultant, will be provided during workshop presentation



City of Hagerstown State Shared Taxes: State Highway User Revenue Detail as of November 30, 2018					
	Total	Yearly Change Over FY09	One-Time Allowments	Annual Allocation	Yearly Change Over FY09
FY09 Actual	1,899,819.05			1,899,819.05	
FY10 Actual	217,821.80	-89%	-92%	217,821.80	-89%
FY11 Actual	161,387.12	-26%	-92%	161,387.12	-26%
FY12 Actual	469,325.59	191%	-75%	469,325.59	191%
FY13 Actual	301,984.70	-36%	-61%	301,984.70	-36%
FY14 Actual - includes one-time allotment	1,039,879.51	244%	-45%	222,831.83	5%
FY15 Actual - includes one-time allotment	1,081,978.18	4%	-43%	748,955.36	5%
FY16 Actual - includes one-time allotment	1,224,207.10	13%	-36%	854,465.39	2%
FY17 Actual - includes one-time allotment	1,206,124.86	-1%	-37%	873,766.19	-2%
FY18 Actual - includes one-time allotment	1,250,140.94	4%	-34%	916,032.11	1%
Estimated FY19 based on 9/11/18 memo					
FY19 Projected Annual allotment - includes one-time	1,364,415.41	9%	-28%	1,027,992.41	1%
Preliminary Estimated FY20 budget based on 9/11/18 memo					
FY20 Preliminary Budget	1,684,390.56	23%	-11%	1,684,390.56	401%



PCI Index for Alleys

- Condition survey of alleys was also completed in 2015. The study looked at 144 different alleys, and the network PCI was **46.9** which is considered "poor"
- Based on this, and the fact that we did not rebuild hardly any alleys for a couple decades, \$769,000 was added in the 2017 bond issue with these funds we **replaced 6750 L.F. of alley, improved 23 different alley locations and 12 of those were a rebuild the entire length.**



Before



After

- Review 2019 and 2020 proposed lists
- Questions?

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

Topic:

LMC Amendments Discussion – *Kathleen Maher, Director of Planning and Code Administration*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

November 6 - presentation

November 27 - public hearing

November 28-December 7 - record open for 10 days

December 11 - discussion

ATTACHMENTS:

File Name

Description

M_CC_memo_LMC_Text_Amendments_Follow_Up_Packet_12_11_18.pdf

2018 LMC
Amendments
- Memo and
Support
Docs

2018_LMC_package_Grouped_in_Themes_10_24_18_FINAL_DRAFT_FOR_HEARING.pdf

2018 LMC
Amendments
- All but
Signs

2018_LMC_package_Sign_Revisions_10_24_18_FINAL_DRAFT_FOR_HEARING.pdf

2018 LMC
Amendments
- Signs



CITY OF HAGERSTOWN, MARYLAND

Planning and Code Administration Department

MEMORANDUM

TO: Valerie Means, City Administrator

FROM: Kathleen A. Maher, Director of Planning & Code Administration
Stephen R. Bockmiller, Zoning Administrator/Development Review Planner

DATE: December 6, 2018

SUBJECT: 2018 LMC Text Amendments

As a result of the Mayor and City Council's public hearing on the proposed 2018 package of amendments to the Land Management Code on November 27 and the 10 day period when the record was left open, we received some public input as well as comments from the City Council. In response to a request submitted for the public hearing, the Mayor requested that an ordinance be introduced on December 4 to amend the LMC to add Hair, Nail and Skin Care Stores to the IR district as a permitted principal use. On December 11, that ordinance will be on the agenda for approval at a special session and staff will be present at the work session for follow-up on the public hearing process and to gain input from the Mayor and City Council on the Planning Commissions' recommended 2018 package of amendments to the LMC.

We anticipate there will be Planning Commission members present at the December 11 work session to provide input to the discussion if that would be helpful to the Mayor and City Council.

Please bring your full packets of proposed amendments to the meeting. Digital copies will be placed in NOVUS again. To assist with the discussion on December 11, staff prepared the following summary of points raised during the public hearing process.

Public Input in the Hearing Process (November 27 – December 7)

1. Letter from Frankie Corsi requesting an amendment to the LMC to allow barber shops in the IR district. Letter is attached. ***(This issue was not raised during the Planning Commission review process.)*** The Mayor and City Council are taking action on this amendment request via the ordinance introduction and adoption process in December, as described above.
2. Raj Patel voiced support for Proposal 2.3 that would allow rooming houses as a permitted use in the LMC, specifically as a potential use for his property in the CG district.
3. Irving Lara had questions about the temporary signs amendment (would it apply to holiday decorations?) and the mansion house apartments (can apartments go into garages?). Otherwise he indicated he supported the package of proposed amendments.

4. Letter from the Hagerstown Housing Authority objecting to Proposal 4.9 which would require all newly constructed dwelling units to be on their own lot. Concern about increase in cost of development and conflict with mission of Housing Authority for affordable housing. Requested that future redevelopment of Noland Village be exempted if the amendment is adopted. Letter is attached.
5. Email from Raj Patel. Staff believes Mr. Patel is objecting to the special exception requirement in Proposal 2.3 for larger rooming houses in the CG district, objecting to the 24 hour on-site supervisor requirement in Proposal 2.3 for rooming houses, and requesting Mayor and City Council consider his request to allow senior housing in the CG district. Desire for maximum flexibility in use of properties. Email is attached. Also attached are an excerpt from proposal on senior housing (developed in consultation with Mr. Patel with awareness of Commission's position regarding housing in the CG zone) which was reviewed and not supported by the Planning Commission during their review process and the minutes from the Commission's meetings on October 10 and 24 when these issues were discussed.
6. Email from Sassan Shaoool requesting amendment to include multi-family housing in the CR district when it applies to a mixed-use building or mixed-use development. (***This idea was not raised during the Planning Commission review.***) Belief that CR regulations are outdated and too rigid for changing market place and expressed need for maximum flexibility. Email is attached.
 - a. **Staff input** – CR district is Commercial Regional zone and is intended for regional shopping center types of development. Housing is not permitted except as part of a PUD (Planned Unit Development) overlay zone. Existing CR zoned land is Martins Shopping Center area along the Dual Highway, Longmeadow Shopping Center and Stone House Square Shopping Center, Center at Hagerstown, shopping area along Wesel Boulevard, existing development along Day Road which annexed with the Doub Farm, and vacant tracts adjacent to The Reserve at Collegiate Acres and at the intersection of I-70 and US 40 (Doub Farm).
7. Email from Jason Divelbiss, on behalf of Dave Lyles, objecting to the multi-family component of Proposal 4.9 which would require every dwelling on its own lot. Concern about impact on design of development (less room for amenities) and possibility of portions of development being sold off into differing management styles and at expense of cohesiveness of the development. Email is attached.
8. Email from Devonte Dinkins (requested to be included in the record on December 4) objecting to the 24 hour on-site supervisor requirement in Proposal 2.3 for rooming houses. Requested it be removed for rooming houses of less than 8 occupants. Email is attached.

The record remains open until the end of the day on December 7. If additional input is received while the record is open, staff will forward to the Mayor and City Council on Monday and present it at the December 11 work session.

Issues Raised by Mayor and Council in the Hearing Process

1. Councilman Heffernan pointed out a needed wordsmithing adjustment for Proposal 4.1 regarding the proposed amendment related to donation or taking of rights-of-way for

- public improvements.
2. Councilman Heffernan supports staff's intent to completely update the LMC's wireless communications provisions in a future amendment process. Staff were advised to be familiar with issues surrounding the new 5G technology as those amendments are crafted.
 3. Councilwoman Keller supports adding rooming houses to the LMC (Proposal 2.3) but would not support the requirements for 24 hour, on-site supervision or for off-street parking.
 4. A few councilmembers had questions about the temporary signs amendments and how they would affect businesses and political signs.
 - a. **Staff input** – Due to the Gilbert decision, if we do not set a maximum on number of temporary signs allowed for homes and businesses, our other option is to place no maximum and exempt any kind of temporary sign. The existing code exempts certain kinds of temporary signs (e.g., real estate signs, political signs, construction signs, etc.) and prohibits all others (e.g., advertisements of products or enterprises), but the Gilbert decision says localities cannot exempt signs based on content of the sign. For discussion purposes, staff prepared the attached visual presentation on signs showing examples of environments with uncontrolled permanent signs and temporary signs. Localities across the country have adopted ordinances to place control on signage because of two main concerns about the impact of abundant sign placements:
 - i. detract from aesthetics of the community; and
 - ii. create unsafe distractions for drivers as they attempt to read all the signs placed before them while operating vehicles in traffic.

Next Steps

If the Mayor and City Council are contemplating additional changes that were not contemplated by the Planning Commission or are significant changes to what the Commission recommended, staff would recommend giving the Commission an opportunity to review the issues at their December 19 meeting so they can forward recommendations to the Mayor and City Council.

Following Mayor and City Council discussion and direction on the Planning Commission's proposed amendments and public input received, staff will make any necessary revisions and prepare an ordinance for introduction at a future meeting.

The process to begin public input on the comprehensive rezoning process will begin after the proposed LMC text amendments are acted upon due to the text amendment proposal to create a new zoning district – INST (Institutional) zone.

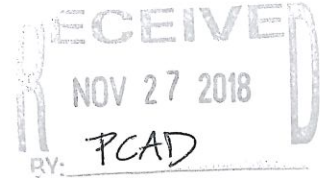
Attachments

C: Planning staff
Planning Commission
Jill Thompson, Director, DCED

Jon Kerns, DCED
Jenn Keefer, City Attorney

Westview Center, LLC

Memo



To: Mayor and City Council
From: Frankie Corsi, Managing Member of Westview Center, LLC
Date: November 27, 2018
Re: Land Management Code Amendment request

This letter is a request to amend the Industrial – Restricted (IR) zoning classification to include the use of “hair, nail and skin care stores” in the IR. The use of “hair, nail and skin care stores” is less intense than most of the uses permitted in the IR and it is not incompatible with those uses.

If approved, our building at 223 N. Prospect Street is expected to become the new home of Slow Down Barber Shop + Lounge that is currently located on Pennsylvania Avenue. The business was started in 2017 by Aaron Rohrer whose dream has been to open his shop in a former industrial space in downtown Hagerstown. We believe that the use is compatible with the existing tenant base in the building and surrounding area.

We began the redevelopment at 223 N. Prospect Street (the former Goodwill building) in 2004 and the building is currently home to over 20 tenants. The area around the property along North Prospect Street will see significant redevelopment over the next 12 to 24 months. The Moller building is under renovation and the current Beachley buildings at 227 and 240 N. Prospect Street will begin redevelopment when Beachley Furniture moves to its new location on Willow Circle in late 2019.

For those reasons, we believe adding this use to IR will improve the redevelopment potential of the industrial buildings and the area as it continues its transition away from pure manufacturing into a more diversified business area.

Thank you for considering this request.

Sincerely,

Managing Member of Westview Center, LLC

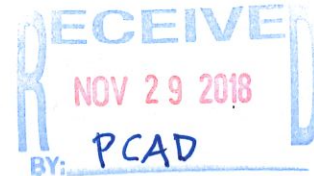


THE HOUSING AUTHORITY
OF THE
CITY OF HAGERSTOWN, MD

EXECUTIVE DIRECTOR
SEAN GRIFFITH

November 29, 2018

Kathleen A. Maher, AICP
Director of Planning and Code Administration
City of Hagerstown
Planning and Code Administration Department
One E. Franklin Street, Suite 300
Hagerstown, MD 21740



Re: Zoning Ordinance Text Amendment

Dear Kathy:

We are writing to provide comments on the proposed *Land Management Code 2018 Comprehensive Update Proposals* which are being considered by the Mayor and Council. Our comments relate specifically to section 4.9.

The text amendment will require all future dwelling buildings to be on their own lot, with the possibility of individual ownership. This includes apartment buildings and would require townhouses to be individually subdivided.

You are aware that HHA is in the process of revitalizing its Noland Village community. The latter phases of this initiative include demolition and new construction at the Noland Village site. Noland Village now consists of 250 townhouse units on bulk lots. Although no firm plan has been put forth, it is highly probable that the existing Noland Village units will be replaced with new rental townhouses and/or apartments.

The new requirement to subdivide each townhouse unit would be cumbersome and costly to the Housing Authority and would be an impediment to HHA's mission of providing affordable housing to citizens of Hagerstown. It would not prevent HHA from replacing Noland Village, but it may result in an inferior urban design, and it will no doubt be economically inefficient.

It seems that the impetus for this change is the notion that rental townhouse units be able to be sold fee simple at some point in the future. In the case of HHA owned properties, this is highly unlikely HHA owned units will be sold as its mission is to provide rental housing. In addition, the financing utilized in the redevelopment requires a minimum 40 year rental compliance period.

We respectfully ask that replacement housing on bulk lots like Noland Village be exempt from these new rules as they pose a potential hardship to HHA and ultimately providing affordable housing for residents of our City.

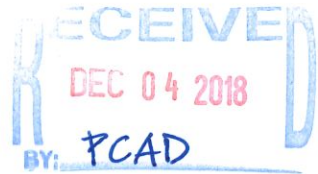
Thank you very much for your consideration.

Respectfully,

Sean Griffith

Kathleen Maher

From: raj patel <rajraj981@hotmail.com>
Sent: Tuesday, December 04, 2018 8:55 AM
To: Kristin Aleshire; Kathleen Maher; mdwatters@juno.com; bbruchey@hagerstownmd.org; Austin Heffernan; Emily Keller; Shelley McIntire; Lewis Metzner; cj.lovelace@herald-mail.com
Cc: cj.lovelace@herald-mail.com
Subject: Puppet or Puppet master...?
Attachments: BZA.gif; 6.2.gif; 2018-12-01 06.54.32.jpg



Consider this as part of the record... Thank You!

Puppet or Puppet Master

Who is running the city, it seems the Kathy Maher, Stephen Bockmiller and other on her team are controlling you all. Everything on a cartoon like detail was presented during the meeting... read the actual verbiage, it designed to @#&^ you up...

Mr. Austin Hefferman, thank you for taking the time to tour the property, when you talk about the property during you meetings, I don't want you to sugar coat anything.

The main purpose of building codes is to protect public health, safety and general welfare. Sometimes they sound great on paper, but really hurt the individuals that should be able to benefit from them. The recently proposed code changes are greatly hindering my ability to conduct business. Instead of staying true to their original intentions, they have become a way to control every aspect of my/any operations. Just an example from Kathy Maher, Stephen Bockmiller and her team... even if you all approve it... it goes back to her side of the court... BZA. Why...? Do you all need to ask permission to go to the bathroom, by raising your hand in the classroom. It shows Ego, or maybe Super Ego... from her side/team...? The drive has to be there to move the city forward, not to screw everybody and their uncle...

I am not your average proprietor. With me, it's not always about the almighty dollar. I care a great deal about my name in the community and I try hard to demonstrate this by my actions. Let me provide a few recent examples of ways that I do business in Hagerstown.

We have a veterans group returning to stay with us again this year. We were not able to accommodate their group last year because the hotel was closed. I spoke with the president of their organization in person and told him that, they could use our bar and keep 100% of the profits (sounds stupid from my side right... lost of money to lose.. Bud lite at \$6 a bottle). He thought I was crazy. He didn't even think I was serious. But I told him I was serious and that we wanted to do everything we could to help their organization since we support their overall mission to the community of veterans.

I have spent my entire life in the United States, but my culture is both American and Indian. Family has always been important to me and I try to help families out where I can. An elderly lady came to my Super 8 as a result of a horrible family dispute. She had been living with her son, but after a disagreement, he decided that he didn't want her to stay with him any longer. So he called the sheriff and had her evicted. Here she was,

basically left on the street, with no place to go. She came to the Super 8 and was able to make payments a few weeks at a time, but eventually her money ran out. When I told my staff member to allow her to continue staying even though she didn't have the money, he told me that he felt empathy for her and was going to suggest the same to me. That's the kind of people I have working for me – people with kindness and compassion, looking for ways to help others. If, I did this to my mom and dad... the Indian community would tarnish my name as well as my sons name, I and my family would be blacked listed in the community.

Another lady stayed with us for few years at Days Inn. She wasn't handicapped and did not need medical attention, and in fact was extremely smart. She actually had several PHDs and taught in a university before a crisis in her life changed everything for her. She was not comfortable socially and had serious trust issues. My staff helped her to build trust in people and looked after her during some very tough times. When I think of having a senior center, it is for people like her who just need a helping hand, someone to help look out for them and to have people to talk to. I don't want to run an assisted living center or a hospital, just a place for elderly folks to come and feel at home, even on a very limited budget.

~~She was a very smart woman, now she has silver hair and everything she wears black. I know you all saw her look her up on the internet.~~ - redacted by staff; invasion of privacy of a citizen.

Bill Wantz and I went to Kathy Maher, Stephen Bockmiller, and the planning board and told them about our idea about section 6.2 and how we can help, and now they crossed it out, I like you guys to uncross it. Maybe, I can separate the floors, seniors on one floor and so forth...

One of the most important assets in all of my hotels is the camera systems. We have camera systems that range up to 32 channels (cameras) to help us keep tabs on everything in and out of the hotel. When there was a homicide near the Suns stadium recently, and the guy came to the Days Inn of all places to clean himself up, I had camera footage of him dumping clothing in the shrubs on our parking lot camera. Our staff has video monitors available at the front desks in order to be aware of people coming in and out. I bet our camera systems rival that of most hospitals and government facilities. They have been instrumental in helping us to respond quickly when incidents occur, and they will occur in every hotel. The difference is in how we handle them. 24 hours on site supervisor is not feasible nor it should be a requirement of the ordinance.

Mr. Kristin Aleshire suggested that the city invest... basically to convert some houses in into low-income housing or something like that... While it's a good idea in theory, there really isn't a market for this right now. Interest rates are up. Baby boomers are still selling their houses. The people who would purchase these homes would be destined for failure from the start. Nobody wants to be committed to a 20-year mortgage, certainly not the Millennials. The house that the city has for sale it's priced at \$140,000. Even if I was a good negotiator and got it down to \$110,000. The expense to run and maintain would be around \$1400 a month for next 20 years. The Prime is sitting at 5.25% and going up. Who want to buy a house that is 50 -60 years old. Mr. Kristin Aleshire how many houses have been converted, setting them up to fail. It makes so much better sense to meet the needs of the community now, to satisfy the demands, instead of trying to gamble on the future with a risky investment.

Mr. Kristin Aleshire, I want you to argue against this idea for the tower, but I want you to give clear, crystal clear explanation to each answer you provide.

We think the 'reasons' given by the Board for denying the application suggest a rather cavalier attitude in respect of its duties and responsibilities. It made no findings of fact worthy of the name and we think citizens are entitled to something more than a boiler-plate resolution. See Baker v. Board of Trustees of Employees' Retirement System, Md., 309 A.2d 768 (1973).

Turner v. Hammond, 270 Md. 41, 55–56 (1973)

Mr. Kristin Aleshire if your arguments does not hold water (for the tower) than I love to have your vote as well (it would be great to have a numinous vote, it would mean a world to me).

The Garden Plaza is a diamond in the rough, and the tower is an emerald. I invite all of the council members, and the mayor as well, to come see the property. See for yourself what we've done with the place and it's potential. I will give you the grand tour and answer all of your questions. Allow me the opportunity to show you what a great place this is and how I can contribute to the great city that we live in. As my Italian friends in Jersey would say "forget about it" the codes come see for yourself. Don't let anybody put "code words" in your mouth.

Again sorry for the typos and grammar mistakes... I am math and science guy and an English major...

Thank You!

Raj

Cc: CJ loveless

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Google Booking.com eBay Weather TripAdvisor Gmail (Raj) Gmail (Days Inn) Gmail (Super 8)

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- 6.2 Modify how the code handles hospitals and nursing homes. Intent is to remove RMOD and RMED as permitted locations for such uses, since the new INST zone would incorporate the existing large RMOD/RMED parcels that currently contain hospitals and nursing homes and small parcels or mid-neighborhood parcels would not be suitable for such high intensity uses.

Article 4, Zoning

Section Z, Chart of Permitted and Special Exception Uses

Use	AT	RMOD	RMED	RH	RO	N-MU	CC-MU	CL
Hospitals, including psychiatric, substance abuse and specialty hospitals		<i>SE</i>	<i>SE</i>	SE	<i>SE</i>		<i>P</i>	<i>SE</i>
Nursing Homes and residential care facility for the elderly <i>Assisted Living Facilities</i>		<i>SE</i>	<i>SE</i>	<i>SE</i> <i>P</i>	<i>P</i>		<i>P</i>	<i>SE</i>

Use	CG	CR	POM	INST	I-MU	IR	IG	Conv	LC	PUD
Hospitals, including psychiatric, substance abuse and specialty hospitals	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>					
Nursing Homes and residential care facility for the elderly <i>Assisted Living Facilities</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>					

- 6.3 Modify how the code handles social and medical services for disabled populations. Intent is to bring code into better alignment with Federal and State laws for protected classes. Proposed new medical services would be allowed where nursing homes are allowed and vocational centers would be allowed where light assembly is allowed. Maximum occupancy levels for assisted living facilities and rehabilitation centers shall be determined by the Fire Marshal and

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Google Booking.com eBay Weather TripAdvisor Gmail (Raj) Gmail (Days Inn) Gmail (Super 8)

ROOMING HOUSE – a facility with sleeping rooms to rent which contains shared bathroom and kitchen facilities in common areas of the facility for use of the residents. (Zoning)

Article 4 – Zoning

Section Z. Chart of Permitted and Special Exception Uses

Use	RH	RO	CC-MU	CG
Rooming House in existing buildings, subject to conditions in Sec. K.18	P	P		P
Rooming House in existing buildings outside the Smart Growth A&E District, subject to conditions in Sec. K.18			P	
Rooming House in existing buildings, over 16 rooming units, subject to conditions in Section K.18				SE

Article 4 – Zoning

Section K. Supplementary Regulations

18. Rooming Houses.

Rooming Houses shall be permitted in existing buildings in zones identified in Section Z provided the facility complies with the following conditions:

- Maximum of 16 rooming units per rooming house property, except a greater of number units may be possible in the CG district if approved by Special Exception by the Board of Zoning Appeals;
- Maximum of 3 residents per rooming unit;
- Minimum size of rooming units based on occupancy:
 - Minimum of 150 square feet for one person;
 - Minimum of 200 square feet for two persons;
 - Minimum of 320 square feet for three persons;

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9, 40
7

The state presented more than a dozen video clips, beginning with Jones and Phillips leaving from separate exits of the Days Inn on Dual Highway at 6:46 p.m.; the killing at 7:02 p.m.; and Phillips returning to the hotel minus the pants and yellow shirt he was wearing when he left.

Evidence against Phillips included his and Jones's blood on a shoe found in a wooded area next to Days Inn. The state showed a hotel security camera video of Phillips throwing something into the woods.

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CITY OF HAGERSTOWN, MARYLAND

Planning and Code Administration Department

MEMORANDUM

TO: Planning Commission

FROM: Kathleen A. Maher, Director of Planning & Code Administration 

DATE: October 5, 2018

SUBJECT: LMC Text Amendments – Other Public Input

Following the public review meeting on September 26, while the record was left open, staff received one written communication from the owner of the Garden Plaza Hotel (attached) and had a telephone conversation with a homeowner. We may receive something in writing yet while the record is open from that homeowner. The following is an overview of the text amendment issues that arose from this additional public input:

Email from Garden Plaza Hotel Owners

The hotel owners, Mr. Raj Patel and Mr. Bharat Patel, are requesting that the City amend the provisions in the CG district to allow existing multi-story buildings or former hotel buildings to be converted to Senior Housing. Staff met with the owners and conferred with them on what their goal is for a portion of their property and explained that any amendment would affect all of the CG zoning district, not just their own. In an effort to narrow such a provision so that apartment conversions would not pop up all over the CG zones, staff suggested some language for their consideration and the following is what they submitted in the attached email:

Senior Housing in existing buildings, three- or more-stories in height (or former hotel buildings?), as a special exception use. Conditions of approval would be:

1. Each unit must meet the definition of a dwelling unit;
2. The facility must be adapted for handicap accessibility either partially (meaning 50%) or in its entirety;
3. The facility should include common areas for socialization opportunities for the residents;
4. Such facilities should be convenient to public transportation and services.

Mr. Raj Patel and Mr. Bharat Patel will be present at the October 10 meeting to answer any questions you may have about their request.

**Planning Commission
MINUTES – Workshop Meeting**

**October 10, 2018
City of Hagerstown, Maryland**

Staff requested that the Planning Commission make a determination as to whether the design is consistent with what was approved, and if not, narrowing it down to what is workable. Staff believed the proposal looks more like a contemporary office building in a residential neighborhood and believed it is getting away from a renovation and more like retrofitted new construction.

Planning Commission members agreed that one of the key features of this building is the cornice line on the Potomac Avenue side of the building. Members felt this element is essential to the look and feel of the building. Ms. Plott noted that there is damage against the roof, so this element would need to be rebuilt regardless. Commission members suggested moving one or several of the pediment elements to above the entrance way. Some members were concerned that the proposed canopies bring a more commercial feel to the neighborhood, but in the end agreed that the modern canopies would be acceptable.

The developer was advised to:

- Maintain the cut block on the two side facades.
- Incorporate elements of the historic cornice line in the new design.
- Embed the revised design into the site plan.

**2018 Land Management Code Text Amendments – Recommendation
to Mayor and City Council, Case No. ZT-2018-01.**

(The staff report and other documentation is in the meeting file.) The ten-day comment period yielded comments from various parties.

Devonte

- ~~Dante~~ Dinkins. Mr. Dinkins would like to create a live/work space with a dormitory component. His concern is with the requirement for 24-hour on-site management. His model would have management being handled by a property management company that would most likely not be on site. Staff did not recommend changing the ordinance to allow unsupervised rooming houses. What is being proposed by Mr. Dinkins would be difficult to enforce.
- Raj Patel and Bharat Patel. The Patels were present to discuss with the commission alternatives for the “tower” section of the former Clarion Hotel on the Dual Highway. The Patels are having difficulty finding another hotel use for the front portion of the building which is under a condominium regime. Hotels do not want another hotel adjacent to their new hotel. The Patels are proposing senior living in the “tower.” Their attorney advised them that it would be a nonmedical residential care facility for the

**Planning Commission
MINUTES – Workshop Meeting**

**October 10, 2018
City of Hagerstown, Maryland**

elderly. A common area for guests would be provided and guests would be limited to senior citizens. Staff and commission members agreed that “senior living” is more of a high-density residential use which is not permitted in the CG zoning district; only nursing homes are permitted in this district. Staff stated that this needs to be a general conversation not specific to any one property because it would affect all CG-zoned properties.

The Planning Director provided a memo (copy in the meeting file) that states the hotel would probably need to combine a few hotel rooms to create a living space that would meet the requirements. Commission members felt this proposal defeated the purpose of the zoning district, but encouraged Mr. Patel to attend the public hearing before the Mayor and Council.

- Staff received an inquiry from a property owner in the Oak Hill Historic District about whether very large houses in the Oak Hill Historic District could be broken up into apartments. Staff analyzed the request and the area and discovered there are only 13 houses larger than 4,000 square feet in that historic district. The apartments would not have to be condominiums. Mansion house apartments are permitted in RMED (Residential – Medium Density) and RO (Residential – Office) historic districts and the CC-MU but not in RMOD. The house in question was not built as an apartment building. The number of units would be based on the square footage of the house (one unit per 4,000 square feet). Commission members were not in favor of this proposal because of the potential impact on the surrounding neighborhood.
- Supportive Living Homes/Group Homes. As a result of comments from Scott Rose, at Way Station (comments in meeting file), staff proposed adjustments to bring the ordinance language into compliance. Commission members asked to schedule a special meeting so these changes can be discussed with the Planning Director. Commission members agreed to a special meeting on Wednesday, October 24, 2018, at 7:00 p.m., to discuss the supportive living homes/group homes text amendments proposed by Scott Rose.

Proposed 2019 Planning Commission Meeting Schedule.

- MOTION:** (Wheeler/Thomas) I make a motion to approve the Planning Commission schedule for the following year.
- DISCUSSION:** The October workshop meeting will be held on October 2 to avoid a conflict with Yom Kippur.
- ACTION:** APPROVED (Unanimous)

**Planning Commission
MINUTES – Special Meeting**

**October 24, 2018
City of Hagerstown, Maryland**

Douglas S. Wright, Jr., chair, called the special meeting to order at 7:00 p.m., on Wednesday, October 24, 2018, in the Conference Room, Fourth Floor, City Hall. Also present were commission members S. McIntire, J. Stone, R. Thomas, and J. Wheeler. The following staff members were present: K. Maher, Director of Planning and Code Administration; S. Bockmiller, Development Planner/Zoning Administrator (late); M. Flick, Planner; and D. Calhoun, Secretary.

**Land Management Code Text Amendments – Continue Discussion
from October 10 Meeting, Case No. ZT-2018-01.**

(See October 5 memo in meeting file). Ms. Maher clarified the proposed amendments that were made to address fair housing statute challenges with regard to group homes. Staff developed a proposal based on a law seminar Ms. Maher attended at the American Planning Association conference this year. Prior to the public review meeting on the proposed text amendment package, staff sent letters to affected agencies and feedback was received from Scott Rose of Way Station. Mr. Rose indicated that staff's language does not go far enough and explained the different levels of group homes recognized by the State of Maryland. In addition the separation requirements proposed by staff would not hold up under a challenge. Ms. Maher made revisions to the text amendments based on discussions with Mr. Rose and the City Attorney. (Mr. Bockmiller arrived.)

The proposed definition for "Group Home, Halfway House, and Alternative Living Unit" incorporates the state parameters for these uses and includes a requirement that the facility be licensed with the State of Maryland. Commission members were satisfied with that protection. Ms. McIntire pointed out that whether a use is regulated is dependent on whether the facility accepts insurance. As proposed, the definition would preclude group homes that do not accept insurance. Commission members were in support of the requirement for supervision. Ms. Maher indicated that if a non-licensed group home sought zoning approval, the City would need to provide a "reasonable accommodation" to approve it.

Concerning the communication from Christian Wright with regard to 33 Summit Avenue, Mr. Stone was concerned the proposal was for a drug treatment facility. Mr. Bockmiller stated that his understanding was that the proposed use was for medical offices. Ms. Maher stated that the proposed amendments would not permit a methadone clinic in this location.

Commission members had no objections to the text amendments as proposed in the packet material.

**Planning Commission
MINUTES – Special Meeting**

**October 24, 2018
City of Hagerstown, Maryland**

Staff asked the commission to recognize Raj Patel and his attorney, William Wantz. Mr. Patel and Mr. Wantz asked to speak with the commission about a possible amendment to the language that concerns rooming houses, in particular hotels in the CG zoning district. They requested the commission consider an amendment that would allow rooming houses containing 16 or more units as a special exception. A unit in a rooming house that was formerly a hotel would consist of a bedroom and private bath with a common kitchen on site. Per the Fire Code, cooking is not permitted in rooms in a rooming house. The current proposal would require a live-in manager and social services counseling. The counseling requirement was included to help the people who are using hotels as permanent housing to get back on their feet.

Commission members were in favor of eliminating the requirement for on-site counseling services for rooming house residents; however, the requirement for 24-hour on-site management was retained. Commission members believed that allowing larger rooming houses in the CG district as a special exception would help the larger facilities become more productive. Some members were concerned that hotels with a large number of rooms could be converted to rooming house uses and questioned whether there should be a cap on the number of rooms per facility. Mr. Stone was in favor of caps on a case-by-case basis as part of the special exception request. The size of the building will define the size of the use in that there will be parking requirements and minimum requirements for the size of rooms.

MOTION: (Stone/Thomas) I move that we recommend approval of the package of text amendments to the Mayor and Council.
DISCUSSION: None.
ACTION: APPROVED (Abstain - McIntire)

Adjourn.

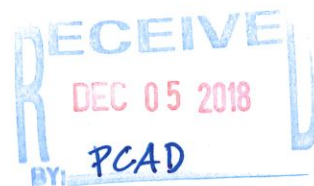
It was moved and seconded that the meeting adjourn (6:25 p.m.).

11/14/18
Approved

DC Calhoun
Debra C. Calhoun - Secretary

Kathleen Maher

From: Sassan Shaool <SShaool@washcodevelopments.com>
Sent: Wednesday, December 05, 2018 2:04 PM
To: Kathleen Maher
Subject: Multi family in CR district



Hello Kathy-

I would like the Mayor and Council to consider including in the amendments to allow for multi family housing in the CR district when it applies to a mix use building or mix use development.

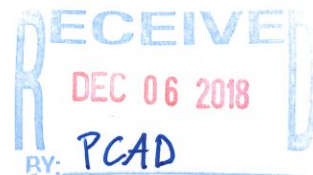
The market is changing rapidly and I believe the CR zoning guidelines are too ridged and outdated. We need maximum flexibility and this amendment would be a big 1st step.

Thanks
Sassan Shaool

Sent from my iPhone

Kathleen Maher

From: Jason Divelbiss <jdivelbiss@divelbisslaw.com>
Sent: Wednesday, December 05, 2018 9:11 PM
To: Kathleen Maher
Cc: David Lyles (dlyles@lylesventures.com)
Subject: Re: LMC Amendments



Kathy —

My biggest concerns with the proposed requirement in Sec. 4.9 of the LMC Amendments that every “staked apartment building” be considered “one dwelling” and thus be constructed on a lot of record are as follows:

- Requiring each apt. building to be constructed and located on its own lot will invariably require a community design that contains more public roadways (in order to provide each lot with the requisite road frontage) and as a result contains less parking (because of the need to reduce paved area) and fewer community amenities (because of the need to maximize the valuable land area), both of which are generally more important in the design of a multi-family community; and

- Having each apt. building on a separate lot will expose the community to the risk of being divided up and sold to separate owners thus reducing the overall cohesiveness of the community and increasing the importance of underlying private covenants and restrictions which are notoriously unreliable over time and difficult to enforce. Stated differently, having each apt. building on a separate lot essentially makes it a transferable commodity prone to varying levels of maintenance and upkeep, rental standards, and general commitment to the multi-family community as a whole.

I really appreciate you and Steve giving David and I the heads up on these text amendments even though we only have a preliminary concept on the drawing board at this point.

Talk to you soon.

Jason Divelbiss
Attorney at Law

JD Law Company, Inc.
11125 Bemisderfer Road
Greencastle, PA 17225
717-593-7200 / 301-791-9222
jdivelbiss@divelbisslaw.com

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From: Stephen Bockmiller
Sent: Friday, October 05, 2018 12:08 PM
To: Devonte Dinkins
Subject: RE: Land Management Rooming House

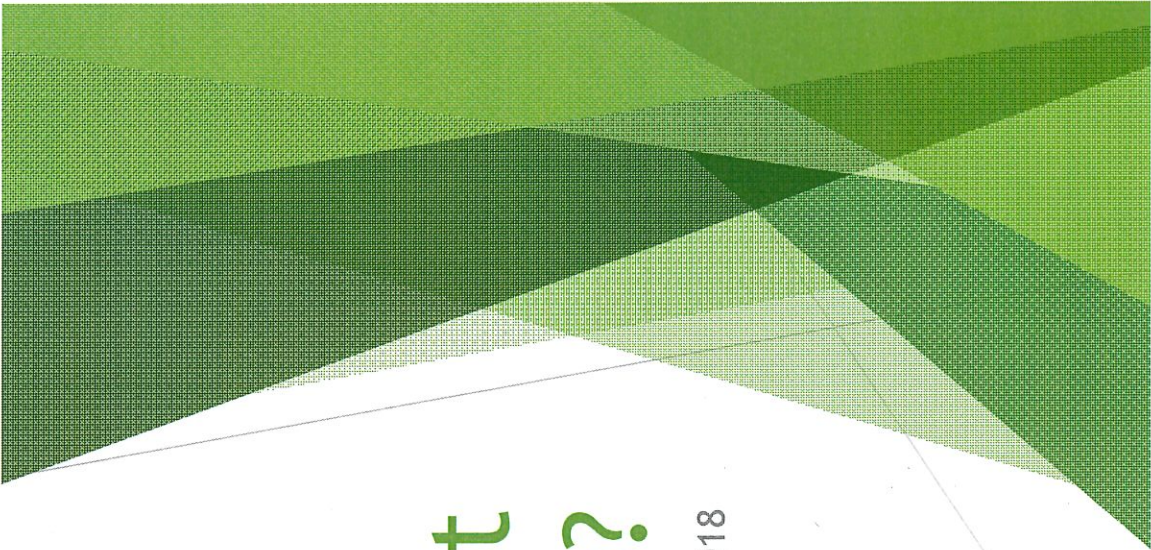
Requested be
included in record
on 12/4/18.

Good Morning Mr. Bockmiller,

The only change I recommend is that if the property has less than 8 occupants, that the 24hour services can be contracted with a property management company and does not have to be on-site. This may be a financial burden for owners.

Legit Management
240 South Potomac Street Suite 100D
Hagerstown, MD 21740
202.642.3947<tel:(202)%20642-3947> Direct
[https://ci3.googleusercontent.com/proxy/iLz_C1GdwpPD_UTLunUi4mFpj8hG-SWYvNffvS6a7a3CVvBScuA7lqymeOElYhOCHQeiFDW0sK8wisAn3aeLrd1WJhurP_WJHZxyQV4EKJqzJQRfjlrNdBpde2zkO3g5e3dx92nWy3Vdv8fXacPsWpOTaqmD1yb0z7x5IPO74k1DpUcv5q8X7OXdh9uP0rc9Up8r5dNQcgLZSgo=s0-d-e-1-ft#https://docs.google.com/uc?export=download&id=0B3klvF1SXglddm5yRmNaa1ltV1E&revid=0B3klvF1SXglcdcOFqVWRXUTJOQVNhWWNIIdUFik24vbzkrTHdjPQj]
www.theLegitManagement.com<<http://www.legitmanagement.com/>>

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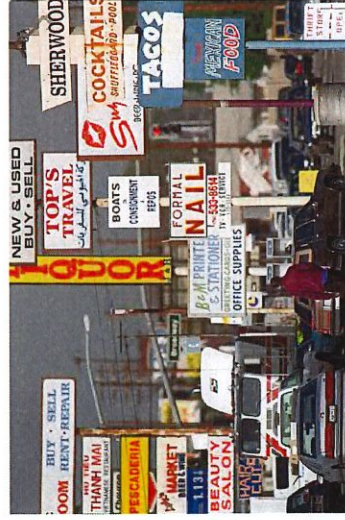
Why Do Localities Adopt Codes to Control Signs?

November 30, 2018

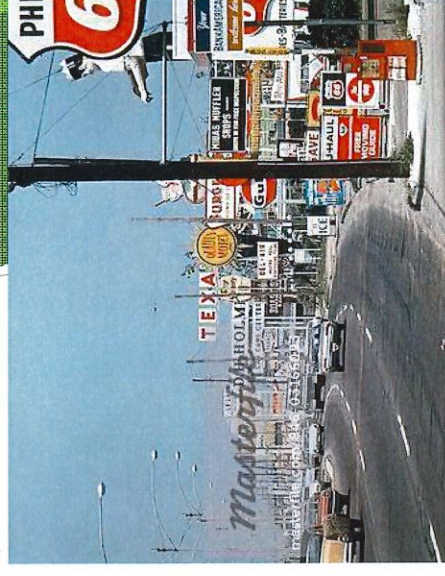
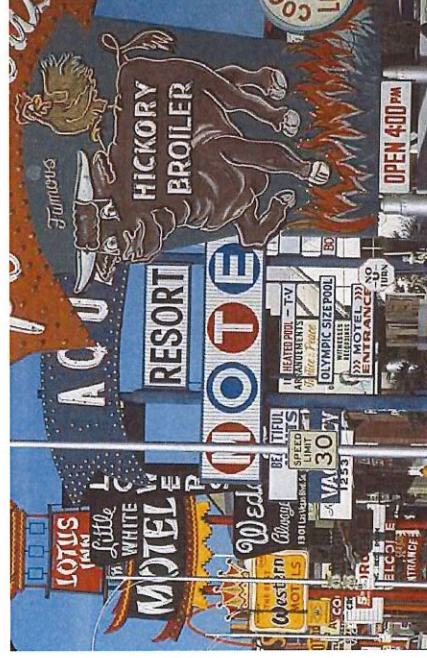


[illegible]

Permanent Signs



©randie/Michael Macor



Local Examples of Temporary Blade Signs



LAND MANAGEMENT CODE

2018 COMPREHENSIVE UPDATE PROPOSALS

October 24, 2018

Introduction and narrative in normal black type.
Existing text to be unchanged in normal blue type.
~~Existing text to be deleted in normal blue strikeout.~~
Proposed new text in blue bold italics.

The various proposed amendments are categorized under the following themes:

1. Protecting neighborhood character and enhancing safety in our community
 2. Increasing housing choices and diversity
 3. Expanding economic opportunity and permitting greater flexibility in the code
 4. Setting clear expectations for the public and investors
 5. Improving resiliency from environmental hazards
 6. Providing suitable locations for social and medical services at intensities consistent with the character and density of the surrounding neighborhoods
 7. Streamlining the process and clean-ups to the code
 8. Updating Sign regulations to be consistent with Supreme Court direction
-

The following are the proposed 2018 Land Management Code amendments:

1. Protecting neighborhood character and enhancing safety in our community

- 1.1 Require a pedestrian sidewalk from front doors of buildings to public sidewalks along streets.

Article 5. Subdivision and Land Development

I. Site Plan Standards.

4. Landscaping Plan and Parking Area Design Requirements.

h. Parking Design and Landscape Standards.

- (10) Every off-street parking area shall be developed and maintained in accordance with the following requirements:

(d) Pedestrian walkways and sidewalks shall be provided to and from all paved parking areas and shall be designed to serve on-site principally permitted uses and accessory uses for which there is pedestrian demand. Such walkways and sidewalks shall be protected from vehicular overhang and movement by curbs or other method approved by the City Engineer. Security lighting within the aforementioned pedestrian areas used at night shall be illuminated at a level not less than 0.5 candle power. Upon review of the area to be illuminated, if it is classified as a Special Security area by the City, an increased level of illumination may be considered and studied.

(e) *Pedestrian walkways and sidewalks shall be provided between public sidewalks along public streets and the main pedestrian entrance of buildings or units of buildings.*

(f) (e) In order to allow for the passing of handicapped pedestrians and wheelchairs, pedestrian walkways shall be five feet in width.

- 1.2 Define and regulate campgrounds.

Article 3. Definitions (new definition)

CAMPING/CAMPGROUND – An area used for transient occupancy by camping, usually but not always in tents, camp trailers, travel trailers, or similar movable or temporary sleeping quarters of any kind. (Zoning)

Article 4 - Zoning

Section Z - Land Use Chart

Camping and Campgrounds

Permitted district(s): **AT** only by special exception.

- 1.3 The Police Department request that the Planning Commission incorporate Crime Prevention Through Environmental Design (CPTED) standards into the site plan design standards in the Land Management Code.

Article 5 – Subdivision and Land Development

Section I - Site Design Standards

12. Crime Prevention Through Environmental Design Principles

All commercial and residential development should be designed to incorporate CPTED principles as a means of reducing opportunities for criminal activity to occur. Simple measures can be taken that will provide greater visibility through natural surveillance onto public spaces and areas, controlled access to private areas, and creating a sense of ownership of space. Through such measures, the built environment can be designed and managed to make it an undesirable place for criminal activity. Site engineers and building architects should consider the following CPTED design strategies when developing site plans and architectural plans for commercial and residential development in Hagerstown:

- a. *Allow natural observation from public and neighboring areas by orienting the building entrance towards the street, making landscape and fence materials near entrances and parking lots visibly permeable, and locating open space areas near streets or other areas visible to the public;*
- b. *Prepare a lighting plan in accordance with Illuminating Engineering Society of America Standards and ensure that parking lots, pedestrian routes and building entrance areas are well lit;*
- c. *Avoid blind corners and hidden recesses along pathways and beside building entrances;*
- d. *Avoid placement of large trees, garages, utility structures, fences, and gutters next to second story windows or balconies;*
- e. *Limb up trees and keep shrubs to 24 inches or lower around play areas and within street edge and driveway edge buffer areas to allow visibility into the site from public areas;*
- f. *Where large expanses of parking are proposed, provide surveillance such as security cameras.*

- 1.4 Amendments to control the potential for proliferation of front yard parking pads when they can be to the side or rear of a dwelling.

Article 4. Zoning

O. Off-Street Parking Requirements

1. Purpose and Applicability

- d. **Off-Street Yard Parking for Residential Development** ~~Front Yards Not to Be Dominated by Vehicle Parking~~

On all existing improved residential ~~properties~~ lots and lots in new residential development, the following off-street parking design requirements shall apply:

- (1) **parking areas shall be solid paved surfaces or permeable pavers;**

- (2) *rear yard parking garages or parking pads are the preferred off-street parking system;*
- (3) *driveways accessing the lot from a front or side street, driveways shall be one vehicle in width; accessed off of a front or side street. This shall not preclude driveways of sufficient depth to contain multiple vehicles or access to rear yard parking pads or garages.*
- (4) *driveways serving front-loaded garages from front and/or side streets shall be permitted to be as wide as the garage; two vehicles in width when constructed to access a front loaded two-car garage.*
- (5) *for lots without garages and without the ability to provide rear yard parking, front yard parking pads or turn-arounds of single-vehicle-width driveways shall be permissible provided the parking area does not exceed 50% of the front yard area.*

Article 5 – Subdivision and Land Development

G. Required Improvements in Subdivisions

7. Driveway Entrances, and Sidewalks and Off-Street Yard Parking

At the end of the paragraph add – *For all subdivided residential lots, the following off-street parking design requirements shall apply:*

- (1) *parking areas shall be solid paved surfaces or permeable pavers;*
- (2) *rear yard parking garages or parking pads are the preferred off-street parking system;*
- (3) *driveways accessing the lot from a front or side street shall be one vehicle in width;*
- (4) *driveways serving front-loaded garages from front and/or side streets shall be permitted to be as wide as the garage;*
- (5) *for lots without garages and without the ability to provide rear yard parking, front yard parking pads or turn-arounds of single-vehicle-width driveways shall be permissible provided the parking area does not exceed 50% of the front yard area.*

- 1.5 Create process by which the zoning administrator may revoke a zoning certificate. Other jurisdictions have such procedures and this can be helpful in enforcement activities.

Article 1. General Provisions

J. Permits and Certificates.

No development shall occur on any property within the City until the applicable permits, approvals and certificates for such activity or development have been issued and approved by the officials with the authority to approve the same. *The Zoning Administrator shall have the authority to revoke an issued zoning certificate or zoning approval of a building permit in accordance with Article 4, Section S.1.g.*

Article 2. Authoritative Boards and Review Agencies

E. Zoning Administrator and Administration of this Chapter.

2. No Approval Unless in Conformance with this Chapter.

All departments, divisions, officials and public employees of the City of Hagerstown which are vested with the duty or authority to issue permits or licenses shall issue no permit or license for any use, building or purpose if the same would be in conflict with the provisions of this Chapter. *The Zoning Administrator shall have the authority to revoke an issued zoning certificate or zoning approval of a building permit in accordance with Article 4, Section S.1.g.*

Article 4. Zoning

S. Zoning Permit and Site Plan Requirements.

1. Zoning Permits

g. Zoning Permit Revocation.

A zoning certificate (including zoning approval of a building permit) may be revoked by the Zoning Administrator if the recipient of the certificate fails to develop or maintain the property in accordance with the plans submitted, the requirements of this Chapter, the list of permitted uses as found in Section Z of this Article, an approved site plan, or any other requirement lawfully imposed in connection with the issuance of the zoning certificate or zoning approval of the building permit.

The Zoning Administrator shall provide the recipient of the zoning certificate or other zoning approval ten (10) days of notice of intent to revoke the certificate and shall inform the recipient of the alleged reasons for the revocation. Such notice is not required if, in the opinion of the Zoning Administrator, the violation is an immediate threat to property or public safety. If the certificate is revoked, the Zoning Administrator shall provide the holder of the zoning certificate a written statement of the decision and the reason therefore. The holder may appeal such decision to the Board of Zoning Appeals in accordance with the procedures for administrative appeal.

Article 8. Appeals, Violations and Penalties

A. General Provisions and Penalties

7. *Revocation of Zoning Approval.*

Per Article 1, Section J and Article 2, Section E.2, the Zoning Administrator shall have the authority to revoke a zoning certificate or other zoning approval in accordance with the requirements of Article 4, Section S.1.g.

2. Increasing housing choices and diversity

- 2.1 Adjust the building size and area per dwelling unit requirements for mansion house apartments and consider a second form of similar division to allow entire floors of buildings to be used as “over-under” flats.

Article 4. Zoning

D. Residential Districts

5. Minimum Lot area, Locational, Lot Width and Yard (Setback) Requirements.

g. **Stacked and Mansion Apartment Developments and Over-Under Flats.**

- (1) Mansion house apartments in existing buildings in locally designated historic districts in the RMED, RO and CC-MU Districts shall be permitted only under the following conditions:
 - ~~(1) (a)~~ The building was constructed prior to October 1, 1956;
 - ~~(2) (b)~~ The building shall be at least ~~4,500~~ **4,000** square feet in area; and
 - ~~(3) (c)~~ The number of units is limited to one per ~~1,500~~ **1,000** square feet of floor area as reflected on Department of Assessments and Taxation assessment records.
 - (4) (d) Except in the CC-MU Zoning District, the property shall be located in a locally designated historic district or in a designated landmark.
 - ~~(5) (e) In the CC-MU Zoning District, these provisions shall be in addition to the minimum requirements for the size of units, based on number of bedrooms, found in Subsection E.6.a.~~ **Units created meet the following minimum square footage area requirements:**
 - Efficiency Unit: 500 square feet.**
 - One-bedroom Unit: 650 square feet.**
 - Two-bedroom Unit: 800 square feet.**
 - Three-bedroom Unit: 1,000 square feet.** (Structure would also be affected by proposal 4.11 (see proposal))
 - (f) **Off-street parking shall be provided in accordance with Section O of this Article. The Board of Zoning Appeals shall not grant a variance to this requirement.**

- (2) *Mansion House over-under flats in existing residential buildings in the RMED, RO and CC-MU District shall be permitted only under the following conditions:*
- (a) *The building was constructed prior to October 1, 1956; and*
 - (b) *The building shall be at least three stories above grade in height, not including attics; and*
 - (c) *The area of the building shall be at least 2,500 square feet of floor area as reflected on Department of Assessments and Taxation assessment records, and*
 - (d) *The interior space of the building shall be so configured that the entirety of each floor shall be used for one dwelling unit (except for interior stair towers and landings); and*
 - (e) *One dwelling unit is permitted for each floor of the building (not to include basements); and*
 - (e) *Units created meet the following minimum ~~square footage~~ area requirements:*
 - Efficiency Unit: 500 square feet.*
 - One-bedroom Unit: 650 square feet.*
 - Two-bedroom Unit: 800 square feet.*
 - Three-bedroom Unit: 1,000 square feet.* (Structure would also be affected by proposal 4.11 (see proposal)
 - (f) *Off-street parking shall be provided in accordance with Section O of this Article. The Board of Zoning Appeals shall not grant a variance to this requirement.*
 - (g) *Over-under flats shall only be permitted in the RMED District when the property is also located in a locally-designated historic district.*

Article 4 (Zoning)

Section D (Residential Districts)

Subsection 5 (Minimum Lot Area, Locational, Lot Width and Yard (Setback) Requirements)

Amend setback and lot area chart as follows:

Mansion Apartments in Existing Buildings (with 1 unit per ~~1,500~~ **1,000** gross square feet of floor area of the building) **and Mansion Over-Under Flats in Existing Buildings**

Article 4 (Zoning)

Section Z (Land Use Chart)

Use	RMED	RO	CC-MU
<i>Mansion House Over-Under Flats, subject to the requirements of Section D.5.g(2)</i>	P	P	P

Article 4 (Zoning)

Section O (Off-Street Parking Requirements)

Subsection O.4 (Required Number of Parking Spaces)

Apartment dwellings

Two spaces per unit, *except for mansion house apartment over-under flats, which shall provide 1.5 spaces per unit.* If over 25 units....

- 2.2 Amend the text to allow vacant storefront space in non-conforming mixed-use buildings to be re-used as one dwelling unit, with Special Exception approval of the Board of Zoning Appeals.

4. Zoning

Section M. Maintenance, Expansion, Expiration, Confirmation and Change of Non-conforming Uses

12. *Expansion of Nonconforming Residential Uses in Non-conforming Mixed-use Building. A valid and legal nonconforming mixed-use structure in any residential district where mixed-use structures are not permissible may convert the vacant ground floor commercial space to a single residential unit. Such a proposal shall be subject to review and approval of the Board of Zoning Appeals through the process set forth in the change or expansion of a nonconforming use, which shall specifically find that the proposal is not detrimental to the local community and the general welfare.*

The Board of Zoning Appeals application shall include exterior building elevations illustrating how the commercial front shall be renovated to convert the appearance of the commercial area to residential in appearance consistent with the architectural design and appearance of the rest of the structure.

Should the Board of Zoning Appeals approve the application, the exterior modifications shall be completed in accordance with the approval provided by the Board, including any conditions of approval that may be required.

- 2.3 Amend the text to allow Rooming Houses. Delete definition of Boarding or Rooming House and add new definition of Rooming House. Add use to Article 4, Section Z and Section K, and add parking requirements to Article 4, Section O:

Article 3 - Definitions

ROOMING HOUSE – *a facility with sleeping rooms to rent which contains shared bathroom and kitchen facilities in common areas of the facility for use of the residents. (Zoning)*

Article 4 – Zoning

Section Z. Chart of Permitted and Special Exception Uses

Use	RH	RO	CC-MU	CG
<i>Rooming House in existing buildings, subject to conditions in Sec. K.18</i>	<i>P</i>	<i>P</i>		<i>P</i>
<i>Rooming House in existing buildings outside the Smart Growth A&E District, subject to conditions in Sec. K.18</i>			<i>P</i>	
<i>Rooming House in existing buildings, over 16 rooming units, subject to conditions in Section K.18</i>				<i>SE</i>

Article 4 – Zoning

Section K. Supplementary Regulations

18. Rooming Houses.

Rooming Houses shall be permitted in existing buildings in zones identified in Section Z provided the facility complies with the following conditions:

- a. *Maximum of 16 rooming units per rooming house property, except a greater of number units may be possible in the CG district if approved by Special Exception by the Board of Zoning Appeals;*
- b. *Maximum of 3 residents per rooming unit;*
- c. *Minimum size of rooming units based on occupancy:*
 - i. *Minimum of 150 square feet for one person;*
 - ii. *Minimum of 200 square feet for two persons;*
 - iii. *Minimum of 320 square feet for three persons;*

- d. *Minimum of one bathroom containing at least one toilet, at least one sink and at least one bathtub or shower per four rooming units and not more than one flight of stairs between rooming units and bathroom;*
- e. *Cooking shall not be permitted in rooming units;*
- f. *Minimum of one kitchen per rooming house in a common area of the facility;*
- g. *24-hour per day on-site supervisor representing the owner;*
- h. *Meets off-street parking requirements for Group Quarters. The Board of Zoning Appeals shall not have the authority to grant a variance to this requirement.*

Section O, Off-Street Parking Requirements

Use	Required Spaces
<i>Group quarters, including rooming houses, dormitories, alternative living units, group homes, or halfway houses</i>	<i>One space per employee on largest shift plus one space for each sleeping room or one space for each two beds, whichever is greater.</i>

- 2.4 Modify how the code handles housing for disabled populations which may include in-house professional care-giver. Intent is to bring code into better alignment with Federal and State fair housing goals for protected classes and State Code provisions regarding local zoning approval of group homes. Maximum occupancy levels for each structure shall be determined by the Fire Marshal and Chief Code Official. Off-street parking requirements shall be as proposed for Rooming Houses.

Delete ‘residential facilities with in-house professional care for up to three residents with mental and/or physical disabilities’ from Article 3 and Article 4, Section Z.

Add ‘Group Home, Halfway House, and Alternative Living Unit’ to Article 3 and Article 4, Section Z as follows:

Article 3, Definitions

Group Home, Halfway House, and Alternative Living Unit – a dwelling unit licensed with the State of Maryland in which individuals with disabilities may be provided care or treatment in a homelike environment. The Health Article of the Code of the State of Maryland provides specific parameters for these different types of congregate housing which may result in smaller numbers of residents for specific facilities and those requirements will supersede this ordinance. For the purposes of administering the Land Management Code and consistent with State code provisions, the following maximums shall apply:

1. *An alternative living unit accommodates up to 3 residents and is deemed a single-family residence and is allowed where single-family homes are allowed.*
2. *A small group home or halfway house accommodates up to 9 residents and is deemed to be a single-family residence and is allowed where single-family homes are allowed.*
3. *A large group home or halfway house accommodates 10-16 residents and is deemed to be a multi-family residence and is allowed where multi-family residences are allowed.*

Article 4, Zoning, Section Z, Chart of Permitted and Special Exception Uses

Use	RMOD	RMED	RH	RO	N-MU	CC-MU	CL	C & LC	PUD
-----	------	------	----	----	------	-------	----	--------	-----

<i>Alternative Living Unit, Small Group Home, Small Halfway House</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>
<i>Large Group Home or Large Halfway House</i>			<i>P</i>		<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	
<i>Large Group Home or Large Halfway House – only if PUD development contains multi-family dwelling units</i>									<i>P</i>
<i>Large Group Home or Large Halfway House – only in pre-1956 apartment buildings</i>	<i>P</i>								
<i>Large Group Home or Large Halfway House – only in Mansion House apartment buildings</i>		<i>P</i>		<i>P</i>					

3. Expanding economic opportunity and permitting greater flexibility in the code

- 3.1 Permit photographers and artist studios in industrial districts, since they are service uses and/or, in a way, light manufacturing or assembly and not inconsistent with those districts, and also because the LMC already allows artist live-work space in industrial districts.

Article 4. Zoning

Z. Use Chart (listed districts are only those that are proposed to be added. None are to be removed.)

Photography Studios.

Artist Studios *N-MU* *CC-MU* *CL* *CG* *CR* *I-MU* *IR* *IG* *Conversion* *LC*

- 3.2 Revise the definition of Brewpub to remove the ending clause ‘as an accessory activity.’

Article 3 – Definitions.

BREW PUB – A pub or restaurant that brews beer on the premises, ~~as an accessory activity.~~ (Zoning)

- 3.3 Add Distillery Pub and Wine Pub to use chart in same districts as Brew Pub and add definitions for each:

Article 3 - Definitions

DISTILLERY PUB – a pub or restaurant that manufactures alcoholic spirits, such as rum, vodka, gin, etc., on the premises. (Zoning)

WINE PUB – a pub or restaurant that manufactures wine on the premises. (Zoning)

Article 4 – Zoning, Section Z – Chart of Permitted and Special Exception Uses.

Use	N-MU	CC-MU	CL	CG	CR	Conv
Drinking Places and Brew Pubs, <i>Distillery Pubs, and Wine Pubs</i> within the Smart Growth A&E District.		<i>P</i>				

Drinking Places and Brew Pubs, <i>Distillery Pubs, and Wine Pubs</i> outside the Smart Growth A&E District	SE		SE	P	P	SE
--	----	--	----	---	---	----

- 3.4 Modify the way use separation distances are measured for multi-use properties such as shopping centers.

Article 4. Zoning, Section A. General Provisions

11. Measuring distances between Land Uses. Unless otherwise stated in this Article, when measuring required minimum distances between certain uses, that distance shall be measured on a straight line from the nearest point of the units of land on which the uses occupy. *For single-use properties, the distance is measured on a straight line from the nearest point of the property boundaries between the uses. See below illustration. For multi-use properties, such as shopping centers, that distance shall be measured on a straight line from the nearest point of the land or building unit occupied by the use on the multi-use property.* If any part of the ~~two properties-land or building units~~ are less than the required distance, the proposed new use will not comply with the distance requirement between uses. [Administrative Note: see illustration on page 4-6.]

- 3.5 The following amendments widen the potential for reuse of POM zoned structures.

Article 4. Zoning

Section F. Commercial Zoning Districts

Subsection 2. Uses

b. Performance Standards

(5) Uses identified in the POM District...

(a) Not exceed 25% of the gross floor area of the building (*except restaurants*)

(b) not exceed in the aggregate 20% of the gross floor area of a *group of adjacent buildings under common ownership or a group of buildings designed and approved as a unified development or business park*, as designated on the approved site plan(s) *or subdivision development plan*.

(c) No change.

(d) Retail ~~and restaurant~~ uses shall not be the sole occupant of a structure.

(e) No change.

- 3.6 Change the “construction prior to” date in the Conversion and Local Conversion Districts from 1956 to 1977, and allow this provision in large, one-story structures.

Article 4. Zoning.

J. Overlay Zones.

2. Conversion District.

a. Purpose.

The purposes of this district are to stimulate the adaptive reuse of existing, nonresidential, multistory *and large, one-story* structures, to maintain and increase the City's assessable base, to expand business and employment opportunities, and to protect residential neighborhoods from excessive traffic odors, fumes, noise, and light. The Conversion District provides an alternative development concept for underutilized structures while protecting the general health, safety, welfare, and aesthetics through the commitment to an approved development concept plan. Such structures must be in existence prior to *March 7, 1977* ~~October 1, 1956~~.

Article 4. Zoning.

J. Overlay Zones.

3. Local Conversion District.

e. General Requirements.

- (2) The development shall be for an existing, nonresidential or mixed use structure, constructed before **March 7, 1977** ~~October 1, 1956~~, in which all proposed uses will be contained, except:

- 3.7 Include “wedding chapel” in with descriptions of religious sanctuaries.

Article 4. Zoning.

Z – Use Chart (“Use” column)

Religious sanctuaries (8131) (church, synagogue, mosque, **wedding chapel** etc.) with traditional accessory uses, provided all setback, parking and other regulations are met without variance or waiver and reuse of existing structures comply with setbacks.

- 3.8 Adjust the standard by which the vesting of a PUD plan is accomplished, since the existing vesting definition of a Planned Unit Development is overly restrictive.

Article 4. Zoning

J. Overlay Zones

1. Planned Unit Developments (PUD)

e. General Requirements for a Planned Unit Development

- (5) The owners or developers must indicate that they plan to begin construction of the development within three years after final approval. If construction does not begin within three years, the zoning of the site shall revert to its previous classification unless a time extension is requested by the developer and agreed to by the Planning Commission. If an appeal is pending on approval of a PUD, the three year clock will not start until the conclusion of the appeal process. For the purposes of this section, construction shall mean the complete sub-grade grading of **fifty percent (50%)** of all streets, construction of primary storm water management facilities and the connection of all required utilities to the PUD tract, ***unless some alternative definition is incorporated by the Mayor and City Council into the Ordinance rezoning the property to include a PUD Overlay.***

- 3.9 Increase the approval and renewal period for plans from two to three years to match changes made by the Soil Conservation District. Amendments to Chapters 209 (ESD), 213 (Stormwater Management) and 216 (Streets and Sidewalks) will also be necessary.

Article 4. Zoning

S. Zoning Permit and Site Plan Requirements.

2. Site Plan Requirements and Duration.

d. Expiration.

A site plan shall be considered void if the required permits are not secured and substantial construction accomplished within two years of the date the site plan is approved. ***A site plan shall expire in three years, unless re-approved by the Planning Commission and relevant agencies.***

Article 5. Subdivision and Land Development

C. Subdivision of Land Procedure.

6. Development Plan Approval.

c. Signature and Effective Period of Plan.

If the Planning Commission approves the Development Plan, approval of the Development Plan shall be noted by the Zoning Administrator signing and retaining as many copies as he or she may determine to be necessary for public use and record after any outstanding issues or conditions of approval are resolved by the applicant. The Zoning Administrator shall distribute signed copies to relevant agencies as set forth by Office policy. The Zoning Administrator may sign as many copies as the applicant deems necessary for their purposes. Approval of a Development Plan shall in no way constitute approval of the Final Plat.

Development Plan approval shall be effective for a period of ~~two~~ **three** years, and such additional **three year** periods as may be specifically approved in writing by the Commission.

Article 5. Subdivision and Land Development.

1. Site Plan Standards.

2. Site Plan Submission Procedure.

g. Expiration.

~~A site plan shall expire if the required permits are not secured and substantial construction accomplished within two years of the date the site plan is approved.~~ **Site plan approval shall be effective for a period of three years, and such additional three year periods as may be specifically approved in writing by the Commission.**

3.10 Provide more flexibility in the design waiver provisions for the Planning Commission.

Article 5. Subdivision and Land Development

Section A. General Provisions

6. Modification.

Where the Commission finds that ~~extraordinary~~ **unnecessary** hardships may result from strict compliance with these Regulations, or where the Commission finds that **modification of these standards is in the public interest or in the interest in achieving the best quality of development design quality**, or **protects** environmentally sensitive features worthy of preservation ~~that will otherwise be damaged or be~~ destroyed, it may vary the ~~Regulations provisions found in Sections E and G of this Article~~, so that substantial justice may be done and the public interest secured, provided that such modification will not have the effect of nullifying the intent and purpose of these Regulations.

~~A modification may be granted where the hardship is created by the physical character of the property, including irregular dimensions and topography, or by other extraordinary situation or condition of such property, or by the use or development of property immediately adjacent thereto. Personal or self-inflicted hardship shall not be considered as grounds for the issuance of a modification.~~

The applicant must establish that the request will meet one or more of the following conditions:

- (a) **Avoid an undue hardship that was not self-created and that results from the peculiar and uncommon conditions of the property;**
- (b) **Avoid a clearly unreasonable requirement that would not serve any valid public purpose;**
- (c) **Allow an alternative standard that is clearly proven by the applicant to provide equal or better results;**
- (d) **Allow a layout or improvements that would clearly be more in the public interest than what would occur if the modification were not granted;**
- (e) **Remove a requirement that is not appropriate, especially because of the small size of the proposed subdivision; or**
- (f) A modification may also be granted where necessary for preservation of environmentally sensitive features.

Where a modification is granted, the Commission may attach such conditions and safeguards as are deemed necessary to protect general public interest or the character of the neighborhood, and may require a guarantee or bond to assure compliance.

3.11 Add 'Multi-purpose arenas for sporting events, entertainment, and other assembly events' and delete 'promoters of performing arts, sports or similar events with or without facilities' and modifying where the use is permitted as follows:

Article 4, Zoning

Section Z, Chart of Permitted and Special Exception Uses

Use	CC-MU	CG	CR	INST	IR	IG	PUD
Promoters of performing arts, sports and similar events with or without facilities	P				P	P	
<i>Multi-purpose arenas for sporting events, entertainment, and other assembly events</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>			<i>P</i>

4. Setting clear expectations for the public and investors

- 4.1 Insertion of clarification language relating to public improvements not needing certain variance actions.

Article 4. Zoning

U. Board of Zoning Appeals - Applications, Notice, Powers and Duties.

10. Variance Exception for Public Improvements.

There are occasions ~~in a case where the City of Hagerstown, Washington County Commissioners or the State of Maryland may enter~~ enters into an arrangement to purchase part of a property in the furtherance of public interest (street right-of-way, park land, public building, etc.). ~~When and~~ the land remaining to the owner is less than minimum lot standards for the district in which it is located, ~~or~~ a building is left closer to a property line than would otherwise be permitted *by setback requirements, reduction of parking spaces below current minimum standards, or the development would no longer comply with other bulk requirements of this Article (or be driven further into noncompliance)*, the property owner nor the City, County or State shall be required to apply for and obtain variances for the proposed subdivision of that land.

- 4.2 Improve parking design by requiring concrete or asphalt paving of parking areas in front of and on side of buildings and any parking area that is available to the general public.

Article 5. Subdivision and Land Development.

I. Site Plan Standards.

4. Landscaping Plan and Parking Area Design Requirements.

h. Parking Design and Landscape Standards.

- (10) Every off-street parking area shall be developed and maintained in accordance with the following requirements:

- (a) All off-street parking areas shall be paved with a stable, dust-free surface conforming to City standards or other method approved by the City Engineer. *Any new commercial or residential driveway and/or parking area shall be improved with Asphalt, concrete, or similar solid (non-gravel) method approved by the City Engineer. When:*
- (1) *located to the front or side of an existing or proposed use;*
 - (2) *adjacent to a public street right of way, or*
 - (3) *the parking area is intended for the use of the public visiting such location.*

- 4.3 Minor correction to the use chart that clarifies that apartments are permitted in existing and new buildings subject to performance requirements in Section F (Commercial Districts).

Article 4. Zoning

Section Z. Use Chart

Dwelling, ~~new construction~~ mansion house apartment and stacked apartments, *both new construction and conversion of existing buildings*, subject to minimum lot area requirements and criteria in Subsection F.5.b. Note: Only column filled is CL.

- 4.4 Change a reference to “minor site plans” to “minor subdivisions” in Article 5.

Article 5. Subdivision and Land Development.

I. Site Plan Standards.

4. Landscaping Plan and Parking Area Design Requirements.

b. Applicability.

These standards shall apply to any development or redevelopment proposals requiring approval by the Planning Commission (or by staff in the case of administrative approvals). Improvements associated with single-family residences, simplified plats, and minor ~~site plans~~ **subdivisions** are exempt.

- 4.5 Add language clarifying that a nonconforming use cannot be expanded to another property.

Article 4. Zoning

M. Maintenance, Expansion, Expiration, Confirmation and Change of Nonconforming Uses.

5. Change and Expansion of Nonconforming Use.

Structural alterations of a building or structure or the use of a parcel, lot or tract of land which does not conform to the provisions of this article shall be allowed only if the building or structure to be altered or the parcel, lot or tract of land to be used is in conformance with the requirements of the zoning district in which it is located.

However, upon application, the Board of Zoning Appeals may approve the structural alteration of a building or structure or the use of a parcel, lot or tract of land which is not in conformance with the provisions of this article. The cumulative effect of the alteration(s) or extension(s) shall not exceed 35% of those existing buildings or structures and parcels devoted to a nonconforming use. The 35% maximum shall be applied to new buildings and additions as related to the cumulative existing area of buildings and shall be applied to new uses of land as related to the cumulative existing area used for the specific purpose of the expansion. Parking, landscaping and other areas shall not be included in determining the 35% maximum of building and land use expansion areas, however parking areas may be enlarged by up to the same 35% figure in order to provide additional parking for the enlarged use.

No nonconforming use shall be enlarged, expanded or extended to an adjacent property on which no part of the nonconforming use is located.

- 4.6 Add language that prohibits accessory structures in front of the front façade of a dwelling.

Article 4. Zoning.

D. Residential Zoning Districts.

5. Minimum Lot area, Locational, Lot Width and Yard (Setback) Requirements.

The minimum lot area, lot width and yard (setbacks) requirements for residential districts shall be as stated in the following chart. Yards shall be measured and determined in accordance with the standards set forth in Subsection K.6 of this Article.

- a. Bulk Requirements Chart and Regulations. See chart on following page.
- b. Detached Garages and Accessory Buildings.
Private detached accessory buildings cumulatively totaling not over 900 square feet.
No detached accessory building shall be located forward of the primary front façade of any dwelling. The Board of Zoning Appeals shall not grant a variance to this requirement.

- 4.7 Modify definition of Earth Tone for clarity in its application in the Subdivision and Land Development Ordinance (SALDO) (Article 5).

Article 3 - Definitions

EARTH TONE – ~~a color scheme that draws from a color palette of browns, tans, greys, greens, oranges, whites and reds. The colors in an earth tone scheme are muted and flat in an emulation of the natural colors found in soil, moss, trees and rocks. Many earth tones originate from clay earth pigments of muted tones~~ **of natural colors found in soil, sand, moss, trees and rocks, such as shades of umber, ochre, and sienna, cream, olive and slate. (SALDO)**

Modify the SALDO Site Plan Standards for Architectural Design of Commercial Development to allow ‘brighter colors may be used sparingly to accent architectural features and for signage.’

*Article 5 (Subdivision and Land Development)**Section I,**Subsection 6 (4) (b).*

- (b) The commercial building or shopping center (including buildings located on out lots) shall be constructed of high-quality natural materials finished in low reflectance, earth tone colors and finishes. Materials may include brick, wood, stone, tinted textured concrete masonry units, architectural concrete block or other material approved by the Planning Commission. **Brighter colors may be used sparingly to accent architectural features and for signage.**

- 4.8 Modify provisions for stealth-design freestanding Wireless Communication Facilities to include language regarding height provisions and to require the ‘fall zone’ setback as is required for non-stealth towers.

*Article 4. Zoning,**Section Q. Wireless Communication Facilities (WCF)**Subsection 4. Development Standards**b. WCF, attached, or With Support Structure, of Stealth Design in Any Zoning District.*

(2) Height. ~~There are no height restrictions.~~ **A wireless communications facility constructed in a stealth application in accordance with this section shall be subject to the same height limitation as would apply to the building or structure if it were not being used to contain a telecommunications facility, unless a variance is approved by the Board of Zoning Appeals.**

(3) Setback. The setback requirement is the same as for the underlying zoning district; **unless the stealth structure is a disguised tower or pole, camouflaged as something such as a tree, flagpole or other item not subject to a height or setback limitation imposed by this Ordinance, in which case the tower shall be setback a minimum distance from any property line equal to 125% of the proposed tower height.**

- 4.9 Require that each new dwelling be located on its own lot. The City Council requested that the Commission review this issue. This will require all future dwelling buildings to be on their own lot, with the possibility of individual ownership. The only circumstances that this would impact development of condominium units in any appreciable way is that it would preclude the creation of townhouse condominiums.

*4. Zoning**Z. Use Chart*

One dwelling, single-family detached, **per lot**, subject to minimum lot requirements.

One dwelling, two family, **per lot**, subject to minimum lot requirements.

One dwelling, semi-detached, **per lot**, subject to minimum lot requirements.

One dwelling, townhouse, **per lot**, subject to minimum lot requirements.

One dwelling, new construction mansion house apartment building, *per lot*, subject to minimum lot area requirements.

One dwelling, stacked apartment building, *per lot*, subject to minimum lot area requirements.

Article 5 (Subdivision and Land Development)

Section E (Subdivision Design Principles and Standards)

Subsection 2, new item “s”:

s. One Dwelling Structure Per Lot.

The Zoning Ordinance, in most cases, limits lots to containing no more than one dwelling structure per lot. This shall not preclude condominium subdivision when applicable. Consult the applicable sections of Article 4.

Renumber existing s (Open Space) and t (Rear Yards of Townhomes) according.

- 4.10 Increase minimum tract size required for a Planned Unit Development (PUD). With the various use mix, roadway, setback, open space and forest conservation requirements that are placed on them, it is extremely difficult to design a PUD in a 5 acre area and have a quality result.

Article 4. Zoning

Section J. Overlay Zones

Subsection 1. Planned Unit Developments (PUD).

b. Location

The PUD District may be established in the RMOD, RMED, RH, ~~CL~~, CG and CR Districts. The area proposed to be zoned as a PUD District shall have an area of at least ~~five (5) acres~~ *twenty (20) acres*.

However, the City shall not be precluded from considering amendments to PUD Districts that do not meet this requirement which existed before the adoption of this 20 acre minimum area requirement. The tract shall front on at least one public street that is rated by the City Engineer as a collector roadway or higher.

- 4.11 Expand the current requirement for minimum floor area requirements for dwelling units (implied to be apartment units) in certain districts, to be a uniform requirement for dwelling units of all types in all places within the city where dwelling units are permitted. Insert New Section K.18 as follows. Since some districts permit “live/work space” we also added the PEP standards for minimum square footage for those type uses as well.

Article 4. Zoning

Section K. Supplementary Regulations.

New Subsection 18. Minimum Size of Dwelling Units.

18. Minimum Size of Dwelling Units.

Effective (insert effective date of amendment), every new dwelling unit of any type created or constructed within the City of Hagerstown shall comply with the following minimum requirements for finished living area:

<i>Efficiency Unit:</i>	<i>500 square feet.</i>
<i>One-bedroom Unit:</i>	<i>650 square feet.</i>
<i>Two-bedroom Unit:</i>	<i>800 square feet.</i>
<i>Three-or-more bedroom Unit:</i>	<i>1,000 square feet.</i>
<i>Efficiency Unit with live/work space:</i>	<i>1,000 square feet.</i>
<i>One-bedroom Unit with live/work space:</i>	<i>1,300 square feet.</i>

Two-bedroom Unit with live/work space: 1,600 square feet.
Three-or-more bedroom Unit with live/work space: 2,000 square feet.

Since this would be a city-wide standard, the existing references to this requirement in the CC-MU, N-MU and CL Districts would be removed from Section E.6.a and F.5.b would be removed and replaced as follows (numbered accordingly):

All new residential units shall comply with the requirements of Section K.18.

The following provisions will be added to Section B (AT District), D (Residential Districts), H (Industrial Districts), J (Overlay Zoning Districts):

Article 4. Zoning
 Section B: AT (Agricultural Transition) Zoning District
 New Subsection 6. (Minimum Size of Dwelling Units)

- 6. Minimum Size of Dwelling Units.**
All new residential units shall comply with the requirements of Section K.18.

Article 4. Zoning.
 Section D. Residential Districts
 New Subsection 6. Minimum Size of Dwelling Units

- 6. Minimum Size of Dwelling Units.**
All new residential units, including those in cluster developments, shall comply with the requirements of Section K.18.

Renumber the subsection on Cluster Developments from #6 to #7.

Article 4. Zoning.
 Section H. Industrial Districts
 New Section 9. Minimum Size of Dwelling Units.

- 9. Minimum Size of Dwelling Units.**
All new residential units, including those in cluster developments, shall comply with the requirements of Section K.18.

Renumber existing #9 (Street Graphics) to #10.

Article 4. Zoning
 Section J. Overlay Districts
 Subsection 1 (Planned Unit Development), new subsection i(3):

- (3) Minimum Size of Dwelling Units.**
All new residential units, including those in cluster developments, shall comply with the requirements of Section K.18.

Article 4. Zoning
 Section J. Overlay Districts
 Subsection 2 (Conversion Overlay), new subsection k

- k. *Minimum Size of Dwelling Units.*
All new residential units, including those in cluster developments, shall comply with the requirements of Section K.18.

Article 4. Zoning

Section J. Overlay Districts

Subsection 3 (Local Conversion Overlay), new subsection i(7):

- (7). *Minimum Size of Dwelling Units.*
All new residential units, including those in cluster developments, shall comply with the requirements of Section K.18.

5. Improving resiliency from environmental hazards

- 5.1 Clarify the intent of the Floodplain Management Ordinance in regard to “subdivision access roads” and to increase performance standards for construction of roads, streets and driveways in floodplain areas.

Article 6. Floodplain Management Ordinance.

C. Requirements in All Special Flood Hazard Areas.

2. Subdivision Proposals and Development *Site Plan* Proposals.

a. In all flood zones:

- (1) Subdivision proposals and ~~development~~ *site plan* proposals shall be consistent with the need to minimize flood damage and are subject to all applicable standards in these regulations.
- (2) Subdivision proposals and ~~development~~ *site plan* proposals shall have utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (3) Subdivision proposals and ~~development~~ *site plan* proposals shall have adequate drainage paths provided to reduce exposure to flood hazards and to guide floodwaters around and away from proposed structures.
- (4) Subdivision proposals and ~~development~~ *site plan* proposals containing at least five lots or at least five acres, whichever is the lesser, that are wholly or partially in flood hazard areas where base flood elevation data are not provided by the Floodplain Administrator or available from other sources, shall be supported by determinations of base flood elevations as required in Subsection B.5 of these regulations.
- (5) ~~Subdivision access roads~~ *Public and private streets designed and constructed as part of the subdivision review process* shall have the driving surface at or above the base flood elevation *plus one foot*.
- (6) *Private streets, driveways, alleys, other vehicular access and motor vehicle parking areas designed and constructed as part of the site plan review process shall have the driving surface at or above the base flood elevation, unless a variance to the provisions of this Ordinance is approved by the Board of Zoning Appeals.*

b. In special flood hazard areas of non-tidal waters of the State:

- (1) Subdivision proposals shall be laid out such that proposed building pads are located outside of the special flood hazard area and any portion of platted lots that include land areas that are below the base flood elevation shall be used for other purposes, deed restricted, or otherwise protected to preserve it as open space.
- (2) ~~Subdivision access roads~~ **Public and private streets designed and constructed as part of the subdivision review process** shall have the driving surface at or above the base flood elevation **plus one foot**.
- (3) **Private streets, driveways, alleys, other vehicular access and motor vehicle parking areas designed and constructed as part of the site plan review process shall have the driving surface at or above the base flood elevation, unless a variance to the provisions of this Ordinance is approved by the Board of Zoning Appeals.**

6. Providing suitable locations for social and medical services at intensities consistent with the character and density of the surrounding neighborhoods.

- 6.1 Add new Institutional (INST) zoning district to the code. The purpose of the proposed new zoning district is to provide locations, most already existing, for large-scale institutional uses to serve the community. Currently large school campuses and medical campuses exist in the city on RMOD and RMED zoned properties and the code allows new such uses to be developed on any RMOD and RMED zoned land with a special exception from the Board of Zoning Appeals. It is proposed to rezone these RMOD- and RMED-zoned large school and medical campuses in the next comprehensive rezoning to INST and then modify the use chart in Article 4, Zoning, to modify where hospitals and nursing homes are permitted for consistency with the new zone and how other similar uses are permitted in the code.

The following are the proposed changes to Section F and Section Z in Article 4 to create the INST district and to identify permitted uses in the zone.

Article 4, Zoning

Section F, Commercial Zoning Districts

1. Purpose

- e. **INST (Institutional). To provide locations for institutional uses to serve the community. Examples of existing large-scale institutional uses include public school campuses, hospital and nursing home properties, recreational facilities with fields, parks, professional ball stadiums, cemeteries, etc.**

4. Height Limitations.

a. Height Limitation Chart

	CL	CG	CR	POM	INST
Height	2 stories or 35 feet	3 stories or 50 feet 60 feet	60 feet	100 feet	60 feet

b. Special Exceptions for Height

	CG	CR	POM	INST
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Maximum Permitted Height by Special Exception	6 stories or 90 feet	150 feet	<i>6 stories or 90 feet</i>	<i>6 stories or 90 feet</i>
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5. Minimum Lot Area, Lot Width and Yard (Setback) Requirements

a. Bulk Requirements Chart

Commercial District Dimension Dimensional Requirements for All Buildings Measured in Feet					
Zoning District	Front Yard Depth	Rear Yard Depth	Minimum Aggregate Width of Side Yards	Minimum Width of Side Yards	Number of Side Yards Required
CL	15	30	20	10***	2
CG	15	30	20	10***	0
CR	25	50*/**	40	20*	2
POM	15	25****	20	10****	2
INST	15	25****	20	10****	2

Notes: * 100 feet when adjoining a residential district
 ** 20 feet when a pad site adjoins a CR development
 *** 25 when adjoining a residential district
 **** where adjoining a residential district, the setback shall be one foot for each of building height, but not less than 35 feet

Article 4, Zoning

Section Z, Chart of Permitted and Special Exception Uses

Use	CG	POM	INST
Ambulance Services, fire protection, and police protection	P	P	P
Adult Day Care Services	P	P	P
Cemetery, columbarium and mausoleum for humans (not pet cemeteries) and crematoriums			P
Community Centers, including but not limited to cultural, civic, and educational centers	P		P
Continuing Care Retirement Community, on a minimum tract size of 20 acres			P
Fitness and Recreational sports centers	P	P#	P
Libraries	P		P
Commercial and private membership outdoor swimming pools, provided the pool meets the distance requirements cited in Section D.5.j.			P
Museums, except zoological parks	P		P
Primary and secondary schools, public and private, provided all setback, parking and other regulations are met without variance	P	P	P
Primary and secondary schools, public and private, for which setback, parking and other regulations cannot be met without variance	SE	SE	SE
Colleges, universities, trade and commercial schools, except primary and secondary schools	P	P	P
Private parks, playgrounds and community gardens			P
Public Administration, except correctional institutions publicly managed and privately managed	P	P	P
Public parks	P	P	P
Multi-purpose arenas for sporting events, entertainment, and other assembly events	P		P

Hospitals, including psychiatric, substance abuse and specialty hospitals	P	P	<i>P</i>
Ambulatory Health care services, with exception of outpatient substance abuse centers	P	P	<i>P</i>
<i>Outpatients Substance Abuse Centers, including disbursement of addiction treatment drugs– 500 foot separation from other centers and 1,000 foot separation from schools</i>	<i>P</i>	<i>P</i>	<i>P</i>
Nursing Homes, <i>Assisted Living Facilities, and Rehabilitation Centers</i>	P	P	<i>P</i>
Promoters of Performing arts, sports and similar events with or without facilities			<i>P</i>
Religious Sanctuaries with traditional accessory uses, provided all setback, parking and other regulations are met without variance or waiver and reuse of existing structures comply with setbacks.	P		<i>P</i>
Religious Sanctuaries other than those described in previous line, or not meeting all site design requirements	P		<i>P</i>
Temporary Contractor Staging facility, subject to provisions in Subsection K.13	P	P	<i>P</i>
Temporary Uses, subject to provisions in Section R	P	P	<i>P</i>

The addition of the new INST zone will require companion changes to distribute the zone where appropriate in the other sections of Article 4 and Article 5. The following are the proposed changes:

Article 4, Zoning

Section A, General Provisions – add INST to list of zoning districts in Subsection 12(a).

Article 4, Zoning

Section I, Graphics – add INST to POM row in dimensions charts for freestanding and wall-mounted graphics – Subsection 4, a and b.

Article 4, Zoning

Section J, Overlay Zoning Districts – add INST to Subsection 2 (b) for Conversion Districts.

Article 4, Zoning

Section K, Supplementary Regulations – add INST and POM to list of districts in Subsection 17, Outdoor Storage of Inventory, Merchandise and Supplies.

Article 4, Zoning

Section Q, Wireless Communications Facilities (WCF) – add INST to list of districts in Subsection 4.f.(2)(b) and to POM row in height maximum chart in (3). In addition, add POM and I-MU to Subsection 4.f.(2)(b).

Article 5, Subdivision and Land Development Ordinance (SALDO)

Section I, Site Plan Standards

Subsection 4.j. – add INST to POM row in buffer landscape standards chart.

Subsection 6.b. – add INST column to all design and performance standard charts and use POM standard.

Subsection 11 – add INST to list of districts for buffering of outdoor storage.

- 6.2 Modify how the code handles hospitals and nursing homes. Intent is to remove RMOD and RMED as permitted locations for such uses, since the new INST zone would incorporate the existing large RMOD/RMED parcels that currently contain hospitals and nursing homes and small parcels or mid-neighborhood parcels would not be suitable for such high intensity uses.

Article 4, Zoning

Section Z, Chart of Permitted and Special Exception Uses

Use	AT	RMOD	RMED	RH	RO	N-MU	CC-MU	CL
Hospitals, including psychiatric, substance abuse and specialty hospitals		SE	SE	SE	SE		P	SE
Nursing Homes and residential care facility for the elderly Assisted Living Facilities		SE	SE	SE P	P		P	SE

Use	CG	CR	POM	INST	I-MU	IR	IG	Conv	LC	PUD
Hospitals, including psychiatric, substance abuse and specialty hospitals	P	P	P	P	P					
Nursing Homes and residential care facility for the elderly Assisted Living Facilities	P	P	P	P	P					

- 6.3 Modify how the code handles social and medical services for disabled populations. Intent is to bring code into better alignment with Federal and State laws for protected classes. Proposed new medical services would be allowed where nursing homes are allowed and vocational centers would be allowed where light assembly is allowed. Maximum occupancy levels for assisted living facilities and rehabilitation centers shall be determined by the Fire Marshal and Chief Code Official.

Delete ‘transitional residential facilities with in-house professional care for up to three transitional residents being treated for substance abuse issues’ from Article 3 and Article 4, Section M and Article 4, Section Z.

Delete ‘residential care facility for the elderly’ and ‘social assistance – services for the elderly and persons with disabilities’ from Article 4, Section Z.

Delete ‘assisted living facility for the elderly and/or disabled’ in Article 3.

Add ‘*assisted living facility*’ and ‘*rehabilitation center*’ and ‘*outpatient substance abuse centers, including disbursement of addiction treatment drugs*’ and ‘*adult day care with vocational centers*’ to Article 3 and Article 4, Section D, Section M, Section O, and Section Z as follows:

Article 3, Definitions

Assisted Living Facility – a residential care facility for 10 or more persons licensed by Maryland Department of Health that provides housing and supportive services, supervision, personalized

assistance, and/or health-related services to meet the needs of residents who are unable to perform or need assistance in performing activities of daily living.

Rehabilitation Center – an in-patient rehabilitation center with specialized therapeutic programs to assist patients achieve the necessary functional independence to return home, usually following an acute medical or surgical hospitalization, including detox for substance addiction.

Outpatient Substance Abuse Center, including disbursement of addiction treatment drugs – an outpatient medical office for counselling and treatment of substance abuse, which may include disbursement of addiction treatment drugs.

Adult Day Care with Vocational Center – a facility providing day care for functionally impaired adults in a protective setting for periods of less than 24 hours per day which includes a vocational center for its clients.

Article 4, Section D, Residential Zoning Districts

5. Minimum Lot area, Locational, Lot Width, and Yard (Setback) Requirements.

Add the following to the chart:

	Lot Area	Lot Width	Lot Area Per DWU	Front Yard Depth	Rear Yard Depth	Min. Aggreg. Width of Side Yards	Min. Width of Side Yards	Number of Side Yards Required
<i>Nursing home, Assisted Living Facility, and Rehabilitation Center</i>	<i>1 acre</i>	<i>N/A</i>	<i>N/A</i>	<i>25 ft</i>	<i>50 ft</i>	<i>20 ft</i>	<i>10 ft</i>	<i>2</i>

Article 4, Section M, Maintenance, Expansion, Expiration, Confirmation and Change of Non-conforming Uses

Subsection 7, Change of Non-conforming Use to Another Use.

. . . The Board of Zoning Appeals is prohibited from changing a nonconforming use to any of the following uses:

- ~~i. Transitional Housing for Persons being Treated with Substance Abuse Issues~~
- i. *Nursing Home*
- j. *Outpatient Substance Abuse Centers, including disbursement of addiction treatment drugs*
- k. *Hospitals, including psychiatric, substance abuse and specialty hospitals*
- l. *Assisted Living Facility*
- m. *Rehabilitation Center*

Article 4, Section O, Off-Street Parking Requirements

Use	Required Spaces
Assisted Living Facility	One space for every three <i>four</i> beds plus one space per employee on largest shift
Nursing Homes	One space per 400 square feet of floor space <i>One space for every four beds plus one space per employee on largest shift</i>

Hospitals	One space per 1,000 gross square feet plus visitor parking as determined by the Planning Commission 4 spaces per bed.
Rehabilitation Center	One space for every four beds plus one space per employee on largest shift
Outpatient Substance Abuse Centers, including disbursement of addiction treatment drugs	The greater of four spaces per practitioner or one space per 200 square feet of net floor area. For any use established after the adoption of this provision, when by the conduct of the use large numbers of clients will arrive on site at the same time for regular administration of addiction treatment medications, the provider shall demonstrate to the Zoning Administrator that there is adequate parking supply to serve their clients.

Article 4, Section Z, Chart of Permitted and Special Exception Uses

Use	RH	RO	N-MU	CC-MU	CL	CG	CR	POM	INST
Nursing Home, Assisted Living Facility, and Rehabilitation Center	SE P	P		P	SE	P	P	P	P
Outpatient Substance Abuse Centers, including disbursement of addiction treatment drugs						P	P	P	P
Adult day care with vocational center				SE				SE	

Use	I-MU	IR	IG	Conv
Nursing Home, Assisted Living Facility, and Rehabilitation Center	P			
Outpatient Substance Abuse Centers, including disbursement of addiction treatment drugs	P			
Adult day care with vocational center	SE	P	P	P

- 6.4 Add ‘Continuing Care Retirement Community’ to Article 3 and Article 4, Section Z as follows:

Article 3, Definitions

Continuing Care Retirement Community – a retirement community with accommodations for independent living, assisted living and nursing home care, offering residents a continuum of care. All of the dwelling units and care facilities are typically owned by the provider. As a campus environment of varying levels of “step up” care or living, dwelling units for independent living within the campus shall not be required to be on individual fee-simple lots.

Article 4, Zoning

Section Z, Chart of Permitted and Special Exception Uses

Use	RH	INST	PUD
Continuing Care Retirement Community, on minimum tract size of 20 acres	P	P	P

7. Streamlining the process and clean-ups to the code

- 7.1 Remove the requirement for the zoning map to be recorded in the land records of the courthouse. Justification: This has never been done to our knowledge and is not required by State law.

Article 4. Zoning

A. General Provisions

8. Establishment of Districts, Filing of Map and Ordinance.

- a. Districts. The city is hereby divided into zones, or districts, as shown on the official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Chapter.
- b. **Map and Ordinance.** The official Zoning Ordinance and Map shall be filed in the office of the City Clerk for the City of Hagerstown, Maryland, among the official records **of the City.** ~~and shall be recorded among the plat records in the office of the Clerk of the Circuit Court for Washington County, Maryland, and among the Acts, ordinances and resolutions (incorporated towns) in the office of the Clerk of the Circuit Court for Washington County, Maryland.~~

- 7.2 Add ‘or she’ or ‘or her’ to any reference to the administrator of the ordinance, City Administrator, chairman, or property owner where currently only “he” or “his” are used.

Article 4, Zoning

Section T, Historic Review – add ‘or her’ to 4.c.(2)(c)

Section U, Board of Zoning Appeals – Applications, Notice, Powers and Duties – add ‘or her’ to 1.d. and 3; add ‘or she’ to 4.a

Article 5, Subdivision and Land Development Ordinance (SALDO)

Section H, Required Dedication of Expanded and Planned Street Right-of-Way – add ‘or her’ to 1.

- 7.3 Change references to “preliminary development plan” to “development plan” to be consistent with the standard labels the City uses, and to be consistent with Article 5.

Article 7. Forest Conservation

C. Forest Stand Delineation.

1. Criteria.

- a. When Submitted. A forest stand delineation shall be submitted before ~~preliminary subdivision~~ **development plan** ~~plat~~ 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.

Article 7. Forest Conservation.

D. Forest Conservation Plan.

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 ~~preliminary plan of subdivision~~ **development plan** or plan for a regulated activity and shall be considered complete if it includes the following components: Editor’s note: components omitted.
- c. When Submitted. The review of the preliminary forest conservation plan shall be concurrent with the review of the ~~preliminary~~ site plan **or subdivision development plan.**

- 7.4 Increase the Forest Conservation noncompliance penalty from 30 cents per square foot to 50 cents per square foot. Justification: Fee in lieu is now greater than the penalty rate. Should be the opposite. Amount has not been increased since the Ordinance was adopted.

Article 7. Forest Conservation.

A. General Provisions.

3. Application, Exemption and Declaration of Intent.

c. Declaration of Intent.

- (4) The Planning and Code Administration 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 ~~\$0.30~~ **\$0.50** per square foot of forest cut or cleared under the declaration of intent;

- 7.5 Change the term “graphic” to “sign” in the Article 3 and 4. Justification: Use of term ‘graphic’ is too confusing and most in the industry use the term ‘sign.’

- 7.6 Amend the definitions of “triplex” and “quadraplex” in Article 3 to reduce confusion with the definition of “townhouse”.

Article 3. Definitions

DWELLING, TRIPLEX – A building containing three dwelling units arranged or designed each with its own outside entrance and each separated by a party wall or walls extending vertically from the ground to the roof. *Unlike townhouses, which also permit structures with as few as three units, triplex dwellings may be arranged in quadrants, dividing a rectangular or square shaped building, whereas townhouses are arranged side-by-side. Triplexes are referred to only in provisions for cluster subdivisions. Blocks of three-unit townhouses shall not be interpreted as triplex dwellings in zoning districts where townhouses are permitted. (Zoning)*

DWELLING, QUADRAPLEX – A building containing four dwelling units, each with its own outside entrance and each separated by a party wall or walls extending vertically from the ground to the roof. *Unlike townhouses, which also permit structures with as few as four units, quadraplex dwellings may be arranged in quadrants, dividing a rectangular or square shaped building, whereas townhouses are arranged side-by-side. Quadraplexes are referred to only in provisions for cluster subdivisions. Blocks of four-unit townhouse buildings shall not be interpreted as quadraplex dwellings in zoning districts where townhouses are permitted (Zoning)*

- 7.7 Create signature block templates for planning staff signature of development plans, sketch plans and site plans in the appendix of Article 5.

Article 5. Subdivision and Land Development
Appendix

Sketch Plan:

Reviewed by the Hagerstown Planning Commission on (insert date) and authorized to proceed to development plan or site plan phase of review, subject to any conditions set forth in the minutes of the

Planning Commission and reflected in notations here-on. Review at this stage of development is conceptual. As such, approval of a sketch plan does not convey any vesting rights. The City of Hagerstown and other review agencies reserve the right to raise issues or concerns not detected in this sketch plan review.

FOR THE HAGERSTOWN PLANNING COMMISSION

Date

(Insert Name)
Planning and Code Administration Department

Development Plan:

Certificate of Approval. The Development Plan for Subdivision shown hereon complies with the Subdivision and Land Development Ordinance for the City of Hagerstown, Maryland, and other applicable provisions of the Land management Code, with the exception of such variances, if any, as noted on this Plat and in the minutes of the Hagerstown Planning Commission and/or Board of Zoning Appeals. This approval is valid for three years from date of signature, and may be renewed by the Planning Commission in accordance with the provisions of the Land Management Code. This plan shall be void should requisite permits not be obtained and substantial construction occur within two years of the date of signature.

All work shall be in accordance with this plan. Should the developer find need to deviate from this approved plan, the developer shall contact Planning staff for a determination whether the work is minor and can be approved by staff, or if the work is substantial enough to require revised plans and possible re-approval by the Planning Commission.

FOR THE HAGERSTOWN PLANNING COMMISSION

Date

(Insert Name)
Planning and Code Administration Department

Site Plan:

Certificate of Approval. The site plan shown hereon complies with the Subdivision and Land Development Ordinance for the City of Hagerstown, Maryland, and other applicable provisions of the Land management Code, with the exception of such waivers or variances, if any, as noted on this Plat and in the minutes of the Hagerstown Planning Commission and/or Board of Zoning Appeals. This approval is valid for three years from date of signature, and may be renewed by the Planning Commission in accordance with the provisions of the Land Management Code. This plan shall be void should requisite permits not be obtained and substantial construction occur within three years of the date of signature.

All work shall be in accordance with this plan. Should the developer find need to deviate from this approved plan, the developer shall contact Planning staff for a determination whether the work is minor and can be approved by staff, or if the work is substantial enough to require revised plans and possible re-approval by the Planning Commission.

FOR THE HAGERSTOWN PLANNING COMMISSION

Date

(Insert Name)
Planning and Code Administration Department

- 7.8 Require PDF plans of the final approved site plans, and of final as-built conditions.

Article 5. Subdivision and Land Development

I. Site Plan Standards

2. Site Plan Submission Procedure

New subsection h:

h. *PDFs of Plans Required.*

The developer shall provide to the City electronic PDF copies (or other format acceptable to the City) of the plans as approved by the Planning Commission, and upon completion of the project, such copies of as built conditions as may be required by the City.

h. i. **Properties in Violation at Time of Application or Processing.**

- 7.9 Provide more direct reference to the landscaping standards found in Article 5, Section I regarding landscaping of fences adjacent to public streets.

Article 4. Zoning

K. Supplementary Regulations

1. Fences and Walls

c. Buffers Required When Adjacent to Public Streets.

Fences or walls constructed in a commercial or industrial district adjacent to a public street shall provide a perimeter roadside buffer in accordance with Section S of this Article and Article 5, Section I.4.h(8). , and the appropriate buffer shall be located outside the perimeter of the fence. The Planning Commission has the authority to reduce or eliminate the buffer requirement outside of the fence based on individual and unique circumstances.

- 7.10 Cross reference the requirements of the site plan standards to improvements proposed as part of a development plan.

Article 5. Subdivision and Land Development

E. Subdivision Design Principles and Standards

2. Street Layout and *Subdivision* Designu. *Applicable Use of Site Plan Standards*

When a subdivision development plan serves as a site plan for improvements to lots, the applicable provisions of Section I shall be applied to the design of such improvements and incorporated into the development plan.

- 7.11 Correct notation editing errors for RO and POM uses in use chart. This corrects past editorial error.

Article 4. Zoning

Z. Use Chart

Administrative Support Services -

Add asterisk after the P in the RO District column

Hair Nail and Skin Care Stores -

Add hashtag after the P in the POM District column

- 7.12 Add car rental facilities to the design standards for car sales facilities. Justification: Add reference to rentals in performance criteria implied in the use chart.

Article 4. Zoning

F. Commercial Zoning Districts

2. Uses

b. Performance Standards

(8) An automobile and/or truck sales and/or *rental* facility shall:

(a) No change.

- (b) No change.
- (c) No change.
- (d) No change.
- (e) Add to the end *Automobile and/or truck rental, and the sale of recreational vehicles and/or boats shall not be permitted in the CL District.*
- (f) No change.

- 7.13 The terms “sketch plan” and “concept plan” are used throughout the Code interchangeably. Review the entire Land Management Code and make references to sketch plans apply only to the development review process and concept plan as only an exhibit in a zoning or rezoning application.

Article 3, Definitions

MASTER PLANNED PROJECT – change ‘concept plan’ to ‘sketch plan’

CONCEPT PLAN – a preliminary concept plan of the proposed development or use showing the developer’s desires in regard to the future development or use of land for consideration during review of a proposed rezoning, overlay district, or special exception. (Zoning)

SKETCH PLAN – add (Zoning and) to existing end reference to applicable article.

Article 4, Zoning

Section E, Mixed Use Districts – change ‘concept plan’ to ‘sketch plan’ in Subsection 10.i.

Section J, Overlay Zoning Districts – change ‘sketch plan’ to ‘concept plan’ in Subsection f (1).

- 7.14 Minor clarification of a section title to emphasize that bulk requirements in this section include maximums.

Article 4. Zoning,

Section E. Mixed Use Districts

5. Minimum *and Maximum* Bulk Requirements Chart

- 7.15 Minor clarification of the charts for thresholds of afforestation and conservation to align with State Code. In comparing our Ordinance with the State model, the State model calls out medium density residential areas separately. This has never been carried separately in our ordinance, but it is advisable to be seamless with the State model ordinance.

Article 7. Forest Conservation,

Section F. Afforestation

Subsection 1.a. Threshold Ratios. (Text omitted. Change only to chart).

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

Article 7. Forest Conservation,

Section G – Reforestation

Subsection 1.b. Reforestation for Cutting Below Threshold. (Text omitted. Change only to chart).

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

These changes have been presented to the Maryland Department of Natural Resources, and they have provided their concurrence that these changes are consistent with State Law.

- 7.16 Clarify the use chart use of NAICS code that automobile sales includes new and used cars, trucks, RVs, boats, motorcycles, snowmobiles and similar vehicles. NAICS reference currently refers only to new car sales.

Article 4 (Zoning),
Section Z (Use Chart)

Use
Automobile and truck sales, subject to performance standards found in Subsection F.2.b(8) (441110) , (4411 & 4412) , including motor vehicle rental or leasing when a principal use. Storage of for-sale inventory and rental fleets shall be calculated separate from requirements for customer and employee parking.

- 7.17 Provide direction on what the buffer landscape standard should be when a property is adjacent to the municipal boundary and County zoned property.

Article 5 (Subdivision and Land Development),
Section I (Site Plan Standards),
Subsection 2.j (Buffer Landscape Standards):

Add an asterisk note after the header “Adjacent Zoning:” that states:

When adjacent to the municipal boundary, apply the City’s zoning district that is comparable to the adjacent zoning outside of the municipal boundary.

- 7.18 Restructure the fence regulations in the Zoning Ordinance for clarity. There are sections below that were unchanged, but were moved around within this structure to accomplish a more logical flow.

Article 4 (Zoning)
Section K (Supplementary Regulations)
Subsection 1 (Fences and Walls)

1. Fences and Walls.

No fence or wall shall be constructed without first securing a zoning certificate from the Planning and Code Administration Department. The applicant shall submit a plan for the fence for review of the zoning certificate application. **The following standards shall apply:**

a. Visibility at Intersections. (NOTE: Expanding outline format. Assigning “a” is new.)

*With respect to corner lots, no fence, wall, gateway, ornamental structure, hedge, shrubbery and other fixtures, construction or planting shall exceed three (3) feet **in height in either direction back from the street corner (measured from the intersection of the street rights of ways) for a distance of 25 feet. This restriction applies to all corner lots in all zoning districts where front yards are required.*** ~~in height above the elevation of the nearest curb on a corner lot in all districts where front yards are required for a distance of 25 feet along both the front and side lot lines, measured from the point of intersection of the intersecting lot lines.~~

b. Height and Setback. (NOTE: Expanding outline format. Assigning “b” is new.)

The following maximum height limitation shall be applied to fences ~~that may be located within building setbacks.~~ [ADMINISTRATIVE NOTE: The letters in each box shown in parentheses correspond to notes and requirements in subsections shown below and on the following two pages.]

District	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)
Residential Zoning Districts [ADMINISTRATIVE NOTE: see illustration on next page] Not provided in this package.	3 feet (a) b(1)	6 feet (a)(b) b(1) and b(4)	6 feet (a)(b) b(1) and b(4)
Residential Uses in a Mixed-Use District	3 feet (a) b(1)	6 feet (a)(b) b(1) and b(4)	6 feet (a)(b) b(1) and b(4)
Commercial Zoning Districts	Not Permitted (c) c.2	8 feet (b) c(1)	8 feet (b) c(1)
Commercial and Industrial uses in a Mixed-Use District	Not Permitted (c) c.2	8 feet (b) c(1)	8 feet (b) c(1)
Industrial Zoning Districts, Including the I-MU District	10 feet (c) c.2	10 feet (b) c(1)	10 feet (b) c(1)

a. (1) Residential Districts and Residential Uses in Mixed Use Districts.

- (a) When a residential property in a residential zoning district fronts more than one public street, ~~a~~ **the** frontage on ~~a~~ **the** side street **and/or** street to the rear shall be treated as a side or rear setback for the purpose of fence location, provided ~~that~~ the fence is not ~~located~~ **installed** closer to the principal frontage along the side street than the rear façade of the dwelling.

This provision shall not apply when the side street or street to the rear is of a higher functional classification than the principal frontage, as determined by the City Engineer. **In such cases, the front yard fence limitations shall continue to apply.** (Administrative note: See illustration to be provided).

- (b) Front yard fences shall be constructed only of decorative metal, wood picket, **vinyl picket** or composite picket construction, with the spaces between the pickets being at least as wide as the pickets.
- (c) Chain link, wire, ~~vinyl~~, paddock, and post and rail fences are specifically prohibited ~~in front yards.~~ **within 25 feet of a street right of way.** On residential properties, chain link fencing shall be limited to no more than four

feet in height in side and rear yards. Barbed wire fences are prohibited. The Board of Zoning Appeals shall not grant variances to the requirements of this paragraph.

(2) Entrance Features.

Fences or walls which serve as entrance features to subdivisions or developments shall be limited to four feet in height.

(3) Specialty Features.

Specialty fences of a specific and unique purpose, typically not associated with a property boundary, may exceed the height limits of a particular zoning district, subject to Planning Commission approval of the fencing plan as part of the Site Plan or Subdivision Plan approval. Fences of this type may include, but are not limited to, those associated with athletic fields, tennis courts, swimming pools, commercial and industrial storage areas, *fencing surrounding telecommunications facilities*, and noise attenuation walls.

(4) When Adjacent to More Intense Uses.

(a) When a property in a residential or mixed-use zoning district used for residential purposes adjoins a CG, CR, POM, INST or I-MU district or adjoins a non-conforming commercial or industrial use similar in character to what would be permitted in the CG, CR, POM, *INST* or I-MU District, the fence in a side or rear yard may be eight feet in height. No landscaping outside the fence shall be required.

(b) When a property in a residential or mixed-use zoning district used for residential purposes adjoins an IR or IG zoned property or adjoins a non-conforming commercial or industrial use similar in character to what would be permitted in the IR or IG Districts, the fence in the side or rear yard may be ten feet in height. No landscaping outside of the fence shall be required. Such fence shall comply with the required front yard setback.

(5) Setbacks for Retaining Walls.

See subsection e, below.

c. Buffers.

~~b.~~ (1) When Adjacent to Less Intense Districts.

~~Where a property~~ *When properties* in the commercial, mixed use or industrial districts is adjacent to a residential district (and in industrial districts when the property is adjacent to a commercial or mixed use district), landscaping shall be provided in accordance with Section S of this Article and Article 5, Section I, ~~and the~~ *The* appropriate buffer shall be located outside the perimeter of the fence. The Planning Commission has the authority to reduce or eliminate the buffer requirement outside of the fence based on individual and unique circumstances.

~~e.~~ (2) Buffers Required When Adjacent to Public Streets.

Fences or walls constructed in a commercial or industrial district adjacent to a public street shall provide a perimeter roadside buffer in accordance with Section S of this Article and Article 5, Section I, ~~and the~~ **The** appropriate buffer shall be located outside the perimeter of the fence. The Planning Commission has the authority to reduce or eliminate the buffer requirement outside of the fence based on individual and unique circumstances. NOTE: Illustration to be provided.

~~f.~~ **d. Construction Standards and Materials.**

Fences shall be constructed of materials specifically designed and manufactured for fencing purposes.

- (1) *Fences shall be constructed of materials specifically designed and manufactured for fencing purposes.*
- ~~(1)~~ (2) Barbed wire is not permitted in or adjacent to residential, mixed use and commercial districts. Barbed wire fences are permitted in industrial districts provided the barbed wire is installed on top of a fence that is at least six feet in height.
- ~~(2)~~ (3) See Subsection K.1.a of this section regarding limitations on materials for fences in front yards in residential districts.
- ~~(3)~~ (4) The finished side of any fence shall face outward towards surrounding public street rights-of-way, public parks and public school properties.

~~g.~~ **e. ~~Safety Fences on Retaining Walls.~~ Retaining Walls and Safety Fences Thereon.**

- (1) **Setbacks.** In order to ensure that a retaining wall can be maintained or repaired without trespass onto adjacent property, when a retaining wall is constructed on a property that contains or is planned to contain a use other than a single-family dwelling, single-family semi-detached dwelling or two-family dwelling, and the wall faces away from the property, the wall shall be set back as follows:

Wall height:	24 to 48 inches above adjacent grade:	3 feet.
	More than 48 inches above adjacent grade	6 feet.

- (2) *Safety Fences on Retaining Walls. The provisions of this subsection regarding fences shall not ~~apply~~ be applied to those installed above retaining walls that are without integral safety railings or where safety railings are set back from the top of the wall by a minimum of three feet. However, safety railings made of fence materials shall comply with limitations on materials found in this subsection.*

- 7.19 Update the name of the relevant section of the State Code pertaining to annexations, which was revised in recent years.

Article 4 (Zoning)
 Section A (General Provisions)
 Subsection 13 (Newly Annexed Areas)
 13. **Newly Annexed Areas.**

- a. **Shall Be Assigned Zoning Classification.** All areas annexed to the City of Hagerstown after the effective date of this Ordinance shall be zoned in accordance with

the applicable resolution pertaining thereto as duly adopted by the Mayor and Council in accordance with the then applicable provisions of the Annotated Code of the Public General Laws of Maryland, ~~Article 23A entitled, "Corporations—Municipal, Section 19, Annexation."~~ *Local Government Article, Subsection 4-401 through 4-416 (Annexation).*

- 7.20 Create provisions for the Planning Commission to review and approve the commitment of land in City jurisdiction to meet the retention or reforestation needs of County or State forest conservation plans, and to require Planning Commission review of plans for public work that will clear City-approved forest conservation areas.

Article 7. Forest Conservation

Section A. General Provisions

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

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.*

- 7.21 Add definition for "private street" to make clear distinction from the driveway of an apartment complex and a driveway through a shopping center that serves as a frontage road. The prohibition on Private Streets would remain.

Article 3. Definitions

STREET, PRIVATE – A street privately owned and maintained that is used as the principal means of access to abutting lot or lots or more than two dwellings on a lot which a private way is exclusively located. The driveway network within a commercial development (including those traversing multiple properties with shared access and maintenance responsibilities), driveways through parking lots and driveways through multiple family dwelling developments shall not be considered a private street. (Zoning and Floodplain)

- 7.22 Add a new third sub-definition to the existing definition of “Adult Entertainment Business” to include live performance venues and regulate this use the same as other adult uses within the existing limitations of the Ordinance.

Article 3 – Definitions,
Definition of “Adult Entertainment Business”:

3. *A theater, concert hall, auditorium, or similar establishment characterized by activities which involve “specified sexual activities” and/or “specified anatomical areas” (as defined by this Article) engaged in by performers in live performances. (Zoning)*

- 7.23 In review of appropriate locations for Group Homes, Halfway Houses, and Alternative Living Units, staff discovered some errors and oversights from prior amendments on how the Use Chart in Article 4, Section Z handles the distribution of residential uses and mixed-use buildings. The follow proposal makes the appropriate corrections.

Article 4, Zoning
Section Z, Chart of Permitted Uses and Special Exception Uses

	RMED	RO	RH	CC-MU	N-MU	CL	C	LC	PUD
Mixed-Use Buildings of Commercial & Residential Uses		P	SE	P@	P@	P	P	P	P
Dwelling, Single-family, subject to minimum lot requirements	P	P	P	P@	P@	P	P	P	
Dwelling, Two-family, subject to minimum lot requirements	P	P	P	P@	P@	P	P	P	
Dwelling, townhouse, subject to minimum lot requirements	P	P	P	P@	P@		P		
Dwelling, mansion house apartments in an existing building, subject to performance requirements cited in Subsection D.5.g.	P*	P*		P*					
Dwelling, new construction mansion house apartment, subject to minimum lot area requirements		P		P@	P@	P	P	P	

8. Updating Sign regulations to be consistent with Supreme Court direction

SECTION 3 – SIGNS – see attached

9. Comprehensive Code Review and Correction of Cross Referencing

The breadth of the changes proposed in this package has the potential to create cross-referencing disconnects. In an Ordinance to Adopt, the Mayor and Council will need to direct Staff to make non-substantive corrections and changes to existing cross-references to ensure these changes do not create disconnects in the continuity and cross referencing of the document.

LAND MANAGEMENT CODE

2018 COMPREHENSIVE UPDATE PROPOSALS

REVISION OF SIGNS SECTION

October 24, 2018

Introduction and narrative in normal black type.
Existing text to be unchanged in normal blue type.
~~Existing text to be deleted in normal blue strikeout.~~
Proposed new text in blue bold italics.

This proposal is for the comprehensive revision of Section I of the Zoning Article to address recent legal decisions on sign regulations that are based on content, and to make other “housekeeping” adjustments to this Section.

Justification: It appears that the City’s regulations on signage would not withstand a legal challenge on the basis of a recent United States Supreme Court decision (*Reed v. Town of Gilbert, Arizona*). Code Enforcement has not been enforcing our regulations on temporary signage until we can adopt “Gilbert-compliant” revisions.

The amendments proposed herein are mostly drawn from Gilbert’s amendments to their own sign code after having lost a defense of their previously existing ordinance in the U.S. Supreme Court. A one sentence summary of the decision could be described as “regulation of signage can focus on size, number, and other non-message issues, but cannot in any substantial way address content.” A sign in someone’s front yard saying “protect the First Amendment” must be treated the same as a real estate sign posted advertising the property for sale. The Town of Gilbert’s new sign code is extensive (about 50 pages). Hagerstown does not have the resources to administer a 50-page sign code. The below suggested amendments are a consolidation of their adopted changes to fit within Hagerstown’s needs and ordinance structure.

At the Commission’s direction, all references to ‘graphics’ shall be changed to ‘signs.’

Article 4. Zoning
I - ~~Graphics~~. **Signs**.

New Subsection 1 – Purpose and Intent

It is the purpose of this Section to promote the public health, safety and general welfare through reasonable, consistent and non-discriminatory sign standards. The sign regulations in this Section are not intended to censor speech or to regulate viewpoints, but instead are intended to regulate the secondary effects of signs that may adversely impact aesthetics and traffic and pedestrian safety. These signs regulations are designed to serve substantial governmental interests such as traffic safety, enhancement of the beauty of the landscape and the unique character of the City’s commercial, mixed-use and residential areas, protect and increase property values within the City, protect the general public from damage and injury which may be caused by the faulty and uncontrolled construction of signs and to safeguard pedestrians and motorists of the City from damage or injury caused by the distractions and obstructions which are caused by improperly situated signs.

In order to preserve and promote the City of Hagerstown as a desirable community in which to live, visit, work, play and do business, a pleasing, visually attractive and safe environment is of foremost importance. The regulation of signs within the City is a highly contributive means by which to achieve this desired end. Further it continues to be the purpose of this Section to promote optimum conditions for serving signs owners’ needs and respecting their rights to identification while balancing the aesthetic and safety interests of the community. The regulation of signs within the City of Hagerstown is necessary and in the

public interest, and these regulations have been prepared with the intent of enhancing the visual environment of the City and promoting its continued well-being, and are intended more specifically to address:

- a. **Aesthetics.** Maintain and enhance the unique character, aesthetic environment, and quality of the City of Hagerstown, that will attract commerce, businesses, economic development, residents and visitors; to preserve, conserve, protect, and enhance the aesthetic quality and scenic beauty of all zoning districts of the City; and to assure that the benefits derived from the expenditure of public funds for the improvement and beautification of streets, sidewalks, public parks, public rights-of-way, and other public places and spaces, are protected by exercising reasonable controls over the physical characteristics and structural design of signs.*
- b. **Traffic and Pedestrian Safety.** Maintain and improve traffic and pedestrian safety through properly located signs; to regulate signs in a manner so as to not interfere with, obstruct the vision of, or distract motorists, bicyclists or pedestrians;*
- c. **Economic Development.** Promote economic development and the value of non-residential properties, through sensitivity to surrounding land uses and maintaining an attractive community appearance.*
- d. **Effective Communication.** Encourage signs which are clear and legible; to encourage the effective use of signs as a means of communication;*
- e. **Zoning District Considerations and Historical Character.** Encourage and allow signs that are appropriate to the zoning district in which they are located and to protect and enhance the historical character of the City’s commercial and residential historic district through compliance with adopted design guidelines for work in those historic districts;*
- f. **Identification of Goods and Services.** Aid the public and private sectors in effectively identifying the location of goods and services;*
- g. **Compatibility with Surroundings.** Allow signs that are compatible with their surroundings and aid orientation, while precluding the placement of signs that contribute to signs clutter or that conceal or obstruct adjacent land uses or signs; to preclude signs from conflicting with the principal permitted use of the site and adjoining sites; and to minimize the possible adverse effect of signs on nearby public and private property;*
- h. **Reduction of Visual Clutter.** Reduce visual clutter that may otherwise be caused by the proliferation, improper placement, illumination, animation, excessive height, and excessive size (area) of signs which compete for the attention of pedestrian and vehicular traffic;*
- i. **Property Values.** Protect property values by precluding, to the maximum extent possible, sign types that create a nuisance to the occupancy or use of other properties as a result of their physical characteristics such as their size (area), height, number, illumination and movement; and to protect property values by ensuring that the number of signs are in harmony with buildings, neighborhoods, and conforming signs in the area;*
- j. **Enforcement.** Enable the fair and consistent enforcement of these signs regulations; and to provide standards regarding the non-communicative aspects of signs, which are consistent with local, county, state and federal law.*

4.2. Minimum Standards, Prohibitions and Applicability.

- a. Minimum Standards.** (no changes to this subsection except for changing ‘graphics’ to ‘signs.’)
- b. Prohibitions.**

The following types of signs are not permitted:

- (1) Animation, bare bulbs, or flashing illumination or imagery. All lighting shall be steady, stationary, and/or shielded light sources directed solely onto the message.

The prohibition of bare-bulbs shall not prohibit the use of decorative neon tube lighting used:

- (a) in straight sections used only to highlight architectural features (and such use shall not be counted toward sign area), and/or
- (b) when formed into shapes with the intended use of signage (and such use shall be counted toward sign area).

- (2) Roof-mounted ~~graphics~~ **signs** and temporary portable ~~street-graphics~~ **signs**, except as permitted in Subsection 3.b(2) below.

- (3) Temporary ~~graphics~~ **signs**, except as enumerated in Subsection 6, below.

- (4) Streamers, pennants, ***flying banners, blade signs, signs that use fans or natural wind or air movement to generate movement***, and similar products are prohibited.

Moved to become section h of the Temporary Signs section. Renumber (5) through (9) here as (4) through (8).

- (5) ~~Graphics~~ **Signs** on or attached to stationary equipment, such as vehicles, trailers, storage containers, etc., when ~~signing~~ ***conveying information or a message*** is the apparent principle use of the equipment on either a temporary or permanent basis.

- (6) ~~Graphics~~ **Signs** placed in the public street or alley right-of-way of the City of Hagerstown, unless approved by the City of Hagerstown under Chapter 216, Streets and Sidewalks, of the Code. This provision does not apply to portable non-illuminated, changeable message board signs for businesses located in buildings with zero setback, as described in Subsection ~~23.b(2)~~ below.

- (7) ~~Graphics~~ **Signs** positioned so that it obstructs traffic visibility along streets as determined by the City Engineer.

- (8) Window ~~graphics~~ **signs** applied to the surface of a glass door that create a solid background ***over more than 50% of the glass surface*** which prevents views into occupied ~~storefront~~ ***commercial or institutional*** space.

- (9) ~~Graphics~~ **Signs** for Home Workstations, ***which by definition are accessory residential uses***.

- c. **Off-Premise Signs.** This section of Article 4 does not apply to ~~graphics~~ **signs** advertising products or businesses located off the premises where the ~~graphic~~ **sign** is located, commonly known as billboards or off-premise signs. Such ~~graphics~~ **signs** are regulated under Chapter 204, Signs.

2. 3. Measuring ~~Graphics~~ Signs and Building Frontages.

- a. **Procedures for Measuring ~~Graphics~~ Signs.**

Channel letter ~~graphics~~ **signs** (individual or raceway mounted): measure around outside edge of letters, but do not include descenders of letters. Logos shall be included in measurements for area maximums.

b. ~~Graphics~~ **Signs Excluded From Maximum Area Requirements.**

- (1) Window ~~graphics~~ **signs**. *When the property is located in a historic district or is a landmark property, see additional standards that are contained in the duly adopted Design Guidelines approved by the Historic District Commission and the Mayor and City Council.*
- (2) Portable non-illuminated, changeable message board ~~graphics~~ **signs** for street level ~~businesses~~ **occupants and uses**, provided:
 - i. The ~~graphic~~ **sign** must be placed within the vicinity of the entry door to the ~~storefront~~ **use and occupied space**;
 - ii. The ~~graphic~~ **sign** shall be taken in when the business **or use** is closed;
 - iii. The maximum size for these ~~graphics~~ **signs** is 6 square feet per side;
 - iv. The ~~graphics~~ **signs** shall be limited to one per business **or use**.
- (3) Wall-mounted directory ~~graphics~~ **signs** for multiple ~~tenant~~ **use** buildings, provided:
 - i. ~~Graphics~~ **Signs** shall be located beside the entry door;
 - ii. The maximum size for directory ~~graphics~~ **signs** is 12 square feet.
- (4) Entrance, exit, and other parking lot directional ~~graphics~~ **signs** along internal road or driveway networks of development.
- (5) Cornerstones not of an advertising nature built into or attached to a wall of a building.
- (6) Historic interpretive markers, *up to three per building or parcel, each not exceeding 6 square feet in area, and designed and constructed on the template used by the City of Hagerstown.*
- ~~(7) Subdivision or development identification signs.~~
- ~~(8)~~ (7) Government ~~graphics~~ **signs**: ~~Graphics~~ **Signs** of any size or shape erected by or under the direction of any governmental body or agency in any location for the purpose of promotion, identification, direction, safety, or convenience of the public. *However, unless pre-empted by State or Federal law, such signs are subject to review and approval by the Historic District Commission when located in a historic district or landmark overlay zoning district.*
- ~~(9)~~ (8) Theater Marquees in the CC-MU District: Historically, the theaters in the CC-MU district had **large** marquees projecting over the sidewalk to promote the **theater and the** theater's upcoming events. As marquee graphics are a character defining feature of downtown theaters and are crucial to their success, *and to the success of uses occupying historic former theaters which are character defining features of the Downtown Historic District*, the continued use of theater marquees in the CC-MU is a public goal. In order to allow that tradition to continue, approval of any new theater marquee and associated ~~graphics~~ **signs and any replacement or reconstruction of a marquee to serve the needs of a use reoccupying a building formerly used as a theater** will be by the Historic District Commission on a case by case basis considering *the historic nature of an existing building or, in the case of a new theater building*, the historic precedent for such signs in the downtown historic district.
- ~~(10)~~ (9) **Gasoline Price Signs As Required by Maryland Law**: *Maryland law requires the price of gasoline be posted on properties where it is sold, and sets minimum standards for such posting. Signs posting the price of gasoline shall not be included in the calculation of permitted sign area up to the minimum required by State Law. That which exceeds the minimum area required by State Law shall be included in the calculation of sign area.*

~~The minimum size and required posting of graphics informing the public of gasoline sales prices in accordance with Maryland law shall not be calculated for the purpose of maximum graphic area. That which exceeds the minimum required by Maryland law shall be included in the maximum graphic area.~~

(10) *Building or house address number sign, as may be required by City Code for emergency services purposes.*

c. **Procedures for Measuring Building Frontage.** Staff note: no change.

3. 4. **Maximum Number of ~~Graphics~~ Signs Permitted.**

- a. **Maximum Number of Signs.** No limitation on number of wall-mounted ~~graphics~~ **signs** provided ~~square footage of total~~ **the total area of all wall-mounted signs** falls within maximums prescribed for that district.
- b. **Multiple Occupant Buildings.** If ~~a~~ building contains multiple ~~tenants~~ **non-residential occupants** (e.g., office buildings, downtown commercial buildings), total wall mounted ~~graphic~~ **sign** area is limited to formula prescribed for the entire building (e.g., if cap for building is 30 square feet, the total for all signs must add up to 30 or less square feet in area).
- c. **Freestanding ~~Graphics~~ Signs.** No more than one freestanding ~~graphic~~ **sign** installation per building or shopping center per each street or highway on which the building has frontage. Each pad site in a shopping centers (correct plural reference) shall be permitted one freestanding ~~graphic~~ **sign** installation.

4. 5. **~~Graphic~~ Dimensional and Design Requirements for Signs.**

Site plan applicants are required to present a Program for ~~Graphics~~ **Signs** as part of a required site plan that integrates the design of ~~graphics~~ **signs** with the design of the building (and/or development) on which they will be displayed and with the surrounding area. An office park may display no more than one freestanding ~~graphic~~ **sign** to identify the park at each exit and entrance. The style, color and materials of ~~graphics~~ **signs** shall be consistent with other ~~graphics~~ **signs** on the property and with the main structure.

Regardless of whether a signs installation is part of a project that requires a site plan, dimensional and design requirements are as follows:

a. **Freestanding ~~Graphics~~ Signs.**

Zoning District	Maximum Height (feet)	Maximum Area (square feet)	Maximum area per installation for commercially-zoned sections of Dual Highway, Wesel Boulevard and Potomac Avenue north of Northern Avenue (square feet)
RMOD, RMED, RH*	10	36 for buildings set back 25 feet or less from the street, 48 for buildings set back more than 25 feet from the street.	NA
RO*, N-MU, CC-MU, CL, C, LC	10	40	NA
CG, CR, POM	30	100, <i>however the maximum area per installation for commercially zoned sections of Dual Highway, Wesel Boulevard and Potomac</i>	150

		<i>Avenue north of Northern Avenue shall not exceed 150.</i>	
AT, I-MU	10	100	NA
IR, IG	30	100	NA

* For permitted non-residential uses (excluding home workstations)

All permit applications for freestanding signs shall include a plan for landscaping the base of the sign, which shall include, but is not limited to, low lying shrubs, flower and other plantings. Such plantings shall be maintained and kept in presentable condition. Failure to maintain landscaping as approved as part of the permit for the sign shall constitute a violation of this Article.

b. **Flush, Wall-Mounted ~~Graphics~~ Signs.**

Zoning District	Maximum Cumulative Area 50 feet or less of building or strip store frontage (square feet)	Maximum Cumulative Area More than 50 feet of building or strip store frontage (square feet)
RMOD, RMED, RH*	1 per each linear foot of building frontage	1.5 per linear foot of building frontage
RO*, N-MU, CC- MU, CL, C, LC	1 per each linear foot of building frontage	1 per linear foot of building frontage
CG, CR, POM, IR, IG, I-MU, AT	1.5 per linear foot of building frontage	2 per linear foot of building frontage

* For permitted non-residential uses (excluding home workstations)

c. **Projecting ~~Graphics~~ Signs.** No graphic *sign* shall project more than 52 inches from the building wall or within two feet of the curb line. Dimensional and Design Requirements are as follows for all zoning districts, including non-residential uses in RH and RO Districts (not home workstations):

Maximum area for storefront or strip store tenant occupant	8 square feet
Maximum area for single-user building and for upper floor tenants occupant in multi-use buildings	No more than one 36-square foot vertically oriented sign per building frontage
Minimum vertical clearance	8 feet
Maximum vertical clearance	Below the second floor for storefront tenants occupants and below the roof line for upper floor tenants occupants and single-user buildings

d. *Each dwelling unit may have one (1) permanent wall or freestanding sign not to exceed three (3) square feet in size and not to exceed two (2) feet in height if placed as a freestanding sign. Such sign shall not be used as an off-premise sign as described herein and regulated in Chapter 204 of the City Code, nor shall be used to identify the presence of a residential accessory use home occupation.*

~~d. e.~~ **Secondary Changeable Copy/Image ~~Graphics~~ Signs.**

- (1) For freestanding graphic *sign* installations, secondary changeable copy/image graphics *signs* shall be located on the same base as the primary freestanding graphic *sign*.

- (2) Shall be subject to the total area maximums identified in the preceding subsections for ~~graphics~~ **signs**.
- (3) ~~Graphics~~ **Signs** which automatically change messages or copy electronically must be set to maintain the image for a minimum of ten seconds in residential districts and six seconds in all other districts. In the residential districts, such ~~graphics~~ **signs** shall be locked in a single image between the hours of 10:00 p.m. and 6:00 a.m. **Message changing shall be instantaneous. Also, see prohibitions in Subsection 2.b(1) above regarding flashing and animation.**
- (4) All digital ~~graphics~~ **signs** shall be equipped with automatic dimming capabilities that adjust the brightness to the ambient light at all times of the day and night.

5. 6. Temporary ~~Graphics~~ **Signs**.

The following requirements shall be applied to temporary signs. These regulations shall be applied separately from and in addition to more permanent signs as described in Subsection 4 above. Temporary ~~graphics~~ **signs** shall be non-illuminated and limited to the following types:

- a. ~~Construction graphics, which identify the architects, engineers, contractors and other individuals or firms involved with the construction occurring on the premises on which the graphic is displayed. Such graphics shall be removed upon issuance of a certificate of occupancy for the development.~~
- b. ~~Real estate graphics, advertising the sale, rental or lease of the premises or part of the premises on which the graphic is displayed. Such graphics shall be removed upon execution of a lease or contract of sale.~~
- c. ~~Political and social graphics announcing the candidates seeking public political office or other information pertinent thereto, or related to a ballot initiative, or promoting a social or political viewpoint.~~
- d. ~~Graphics advertising only the name, date, time and place of any bona fide fair, festival, bazaar or similar event, when conducted by a public agency or for the benefit of any civic, fraternal, religious or charitable cause; provided that all such graphics shall be posted no earlier than 30 days before the event and removed within 24 hours after the last day of the event to which they pertain. Such graphics shall not be posted on exclusively residential use properties unless the event is occurring on that property. Such graphics may contain the logo(s) of event sponsor(s).~~
- ~~e. Building mounted grand opening graphics for uses permitted by Section Z of this Article, provided that such graphics shall not be displayed more than one time for up to 10 days.~~
- f. ~~Seasonal decorations that serve no advertising purpose other than celebrating the holiday or observance.~~
- g. ~~Change of business name banners/hoods/covers over existing building mounted and freestanding graphics, while new graphics are being manufactured provided that such graphic or graphics shall not be displayed for more than eight weeks and shall not exceed the permitted graphic area for that site, subject to an approved building or zoning permit.~~
- h. ~~Yard sale graphics on properties containing legal residential uses, provided that such graphics shall be displayed only up to eight days before and on the day of the event and only on the property holding the event. The maximum graphic area shall be eight square feet.~~

- i. ~~Graphics for approved temporary businesses, subject to size limitations for that district, provided that all such graphics shall be removed when the temporary business approval expires.~~

a. *General Criteria for Temporary Signs.*

A temporary sign is unlawful if it does not meet the criteria established for the zoning district in which the temporary sign is located, as set forth and described in this subsection. However, these general criteria and limitations do not apply to portable non-illuminated, changeable message board signs, banner signs, flying banner signs, flags and umbrella signs which are separately regulated or prohibited elsewhere in this section.

<i>General Criteria for Temporary Signs</i>		
<i>Zoning District</i>	<i>RMOD, RMED, RH, RO and residential uses in PUD Development</i>	<i>All other zoning districts and non-residential uses in the RMOD, RMED, RH and RO zoning districts and commercial areas of PUD Development</i>
<i>Maximum number of signs per parcel</i>	<i>3</i>	<i>3</i>
<i>Maximum area of each sign</i>	<i>6 square feet</i>	<i>32 square feet</i>
<i>Height maximum for a freestanding sign</i>	<i>6 feet</i>	<i>6 feet</i>
<i>Height maximum for a wall sign (inclusive of a window sign)</i>	<i>6 feet</i>	<i>15 feet</i>
<i>Minimum setback from right of way</i>	<i>None, but shall be kept out of public rights of way.</i>	<i>None, but shall be kept out of public rights of way.</i>

Each residential use with at least one principal structure may place up to six offsite temporary signs on private property for the purpose of directing the public to a residential activity (e.g. real estate open house, garage/yard sale, estate sale). Said signs shall be displayed only during the hours that the residence is open for public inspection and shall not exceed 6 sq. ft. in area per graphic. The permission of the property owner shall be obtained before placing such signs.

- b. *Construction and Development Projects and the Sale of Unimproved Tracts of Two Acres or Greater Intended for Development. Signs associated with a construction project or residential development or subdivision, which identify the architects, engineers, contractors and other individuals or firms involved with the construction, and/or marketing agents associated with selling or leasing the premises under development shall be permitted on the premises. Also, signs placed on an unimproved tract that is for sale with the intent or potential for development shall also be permitted under this section. Such signs shall be removed upon issuance of a certificate of occupancy for the development. Signs advertising the tract for sale shall be removed upon settlement of the sale. Requirements are as follows:*

<i>Maximum Sign Area:</i>	<i>100 square feet per public street frontage</i>
<i>Minimum Distance from Rights of Way:</i>	<i>None</i>
<i>Lighting or Illumination Permitted:</i>	<i>No</i>
<i>Permitted in Public Rights of Way:</i>	<i>No, unless a license agreement is issued by the Department of Parks and Engineering</i>
<i>Movement or Animation Permitted:</i>	<i>No</i>

- c. *Temporary Banner Signs. Banner Signs are permitted in all zoning districts, but may be placed in residential zoning districts only in conjunction with non-residential uses. Banner signs are unlawful if they do not meet the criteria and limitations set forth in the following table: NOTE: This implies on-site only.*

<i>Temporary Banner Signs</i>	
<i>Maximum Number of Banner Signs Per Parcel or Use</i>	<i>One</i>
<i>Maximum Sign Area</i>	<i>Occupancies: Up to 5,000 sq. ft. - 40 square feet 5,001 sq. ft. to 15,000 sq. ft. – 80 square feet 15,001 sq. ft. to 50,000 sq. ft. – 120 square feet Greater than 50,001 sq. ft. – 180 square feet</i>
<i>Sign Height Maximum if displayed as a Freestanding Sign</i>	<i>8 feet</i>
<i>Minimum Sign Setback if displayed as a Freestanding Signs</i>	<i>3 feet</i>
<i>Minimum Spacing from any Other Sign (Temporary Sign or a Permanent Sign)</i>	<i>15 feet</i>
<i>Permit Required</i>	<i>As determined by Permits Office</i>
<i>Incorporation of Florescent Color or Exhibition of Florescence Allowed</i>	<i>No</i>
<i>Allowed on Public Sidewalk / Right of Way</i>	<i>No</i>
<i>Allowed within a Sight Visibility Triangle at an intersection (two streets or a driveway and a street)</i>	<i>No</i>
<i>Duration</i>	<i>No more than 120 days per year in the aggregate for all temporary banners.</i>
<i>Duration Allowed After Conclusion of an Event if the Sign Pertains to an Event</i>	<i>1 day</i>
<i>Lighting or Illumination Allowed</i>	<i>No</i>
<i>Movement Allowed</i>	<i>No</i>

- d. *Sign Walkers. It is the intent of this Ordinance not to regulate the use of sign walkers.*
- e. *Umbrella Signs. It is the intent of this Ordinance not to regulate the use of signs on umbrellas used in outdoor dining areas that are not in the public street right of way. Any use of the public ways for such purposes are subject to the authority of the Department of Parks and Engineering.*
- f. *Flags. Unless otherwise required by Maryland law or specified in this Section, a flag flown from a flagpole, bracket or stanchion conveying a commercial or corporate message shall not exceed twenty-four (24) square feet. The flag shall not require a permit or zoning certificate, however requirements for obtaining building permits may apply to the pole, bracket or stanchion.*
- g. *Offsite Temporary Signs on Private Property. Offsite temporary signs are permitted in all zoning districts on unimproved lots or parcels of 1 acre or more subject to the following:*
- | | |
|--|-----------------------|
| <i>Maximum Number of Signs Per Parcel:</i> | <i>one</i> |
| <i>Minimum Size of Unimproved Parcel Required:</i> | <i>one acre</i> |
| <i>Maximum Sign Height:</i> | <i>8 feet</i> |
| <i>Maximum Sign Area:</i> | <i>32 square feet</i> |
| <i>Minimum Distance from Public Rights of Way:</i> | <i>10 feet</i> |
| <i>Minimum Distance from Any other Sign:</i> | <i>100 feet</i> |

*Maximum Duration:**One year**Lighting, Animation or Movement Permitted:**No*

- h.* Temporary ~~graphics~~ **signs** not permitted in ~~this~~ Subsection 5 shall be removed within 180 days of ~~October 30, 2015~~. Staff note: Insert date of the adoption of this amendment. *[ADMINISTRATIVE NOTE: This date is April 27, 2016.* Staff note: insert date 180 days after the adoption of this amendment]

6. 7. Graduated Progress to Conformity and Prohibition of Electronic Message Boards on Nonconforming Freestanding ~~Graphics~~ Signs.

- a. Upon application, the Zoning Administrator may approve a replacement ~~graphic~~ **sign** unit on an existing freestanding ~~graphic~~ **sign** structure that contains multiple ~~graphics~~ **signs** exceeding the total permitted ~~graphic~~ **sign** area, provided that the new ~~graphic~~ **sign** does not exceed a proportionate share of the total permitted ~~graphic~~ **sign** area for the number of businesses on the property. When replaced later, existing ~~graphics~~ **signs** for other users on a property shall comply with this standard. When completed and all existing ~~graphics~~ **signs** are ultimately replaced, the collective area of the new ~~graphic~~ **sign** units shall not exceed the total permitted ~~graphic~~ **sign** area.
- b. No electronic ~~graphic~~ **sign** shall be added to an existing nonconforming freestanding graphic structure.

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

Topic:

Proposed Parking Rate Amendments – *Mayor Robert E. Bruchey, II*

Mayor and City Council Action Required:

Discussion:

Financial Impact:

Recommendation:

Motion:

Action Dates:

ATTACHMENTS:

File Name

proposed_parking_rate_amendments.pdf

Description

Parking Rate Amendments



CITY OF HAGERSTOWN, MARYLAND

Donna K. Spickler

City Clerk

One East Franklin Street • Hagerstown, MD 21740

E-mail: dspickler@hagerstownmd.org

Telephone: 301.766.4183 • TDD: 301.797.6617

TO: Mayor and City Council Members
Valerie Means, City Administrator

FROM: Donna K. Spickler, City Clerk 

SUBJECT: Proposed Parking Rate Amendments

DATE: December 6, 2018

The December 11, 2018 Work Session includes a discussion of Mayor Bruchey's proposed amendments to the parking rates that were approved on June 26, 2018.

A draft resolution amending the rates as proposed is attached for your information.

Thank you.



CITY OF HAGERSTOWN, MARYLAND

**A RESOLUTION AUTHORIZING THE CITY OF HAGERSTOWN
TO REVISE MONTHLY AND HOURLY PARKING RATES IN METERED SPACES ON STREETS AND
MUNICIPAL LOTS, AND OTHER PROPERTIES OWNED OR LEASED BY THE CITY
WITH SAID CHANGES EFFECTIVE ON THE DATES SET FORTH HEREIN**

RECITALS

WHEREAS, the Mayor and Council is the duly constituted legislative body for the City of Hagerstown, Maryland; and

WHEREAS, as the duly constituted legislative body, said Mayor and Council is authorized and empowered, pursuant to the Code of the City of Hagerstown, Maryland, Chapter 60, Article IV, Sections 60-35 Time Limits and Rules and 60-37 Municipal Lots, to establish the hourly and monthly rates for parking meters, parking lots, and other properties owned or leased by the City (collectively "Parking Facilities") ; and

WHEREAS, on June 26, 2018, the Mayor and Council passed a Resolution establishing new rates for the City's Parking Facilities; and

WHEREAS, the Mayor and Council has further considered and studied the rates in conjunction with the revenue requirements of the operation of the City's Parking Facilities, and in particular (1) the Student Rate for the University District Parking Deck and (2) the Bulk Discount Rate for the University District Parking Deck, the Rochester Lot, Market Lot and Central Lot; and

WHEREAS, the Mayor and Council deems it in the best interests of the citizens to revise the parking rates for those Parking Facilities enumerated in the previous paragraph.

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

1. That it adopts herein the foregoing Recitals and authorizes the City of Hagerstown to adopt the rates set forth below.
2. In accordance with City Code Section 60-35 B and 60-37 A and B, parking rates in those areas that are controlled by permit parking shall be as follows:

University District Parking Deck:

Student Rate.

January 1, 2019

\$15.00 per month

BE IT FURTHER RESOLVED by the Mayor and Council of the City of Hagerstown, Maryland, that bulk rate discounts of 10% and 25% will remain in effect (***and not be discontinued effective July 1, 2019, as was mandated by the June 26, 2018 Resolution R-18-27***) for the University District Parking Deck and the following parking lots, whereby payment shall be remitted by a single payer through a single payment for all spaces qualifying for a discount as follows:

University District Parking Deck, Rochester Lot, Market Lot, Central Lot

0 -9 Spaces	0% Discount
10 – 24 Spaces	10% Discount
25 >	25% Discount

BE IT FURTHER RESOLVED THAT this Resolution shall become effective immediately upon its approval.

WITNESS AND ATTEST
AS TO CORPORATE SEAL

MAYOR AND COUNCIL OF THE
CITY OF HAGERSTOWN, MARYLAND

Donna K. Spickler, City Clerk

Robert E. Bruchey, II, Mayor

Date of Introduction: N/A
Date of Passage: December 18, 2018
Effective Date: December 18, 2018

Prepared by:
SALVATORE & MORTON, LLC
City Attorneys

REQUIRED MOTION
MAYOR AND CITY COUNCIL
HAGERSTOWN, MARYLAND

DATE: December 18, 2018

TOPIC: Resolution: Revising Parking Facilities Rates and Fees

Charter Amendment

Code Amendment

Ordinance

✓ Resolution

Other

MOTION: I hereby move for Mayor and Council approval of a resolution approving specific revisions to the schedule of parking facilities rates and fees, effective January 1, 2019, or as herein noted per the schedule. *Any rate not specifically addressed in the attached resolution will be as approved in Resolution R-18-27, passed on June 26, 2018.*

DATE OF PASSAGE: DECEMBER 18, 2018