

**Article 4  
ZONING ORDINANCE  
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**ARTICLE 4  
ZONING**

**A. General Provisions.**

1. **Title.** This article shall be known and may be cited as the "Zoning Ordinance, City of Hagerstown."
2. **Interpretation.** In interpreting and applying this ordinance, its provisions shall be held to be the minimum requirements for promoting the public health, safety, comfort, convenience and general welfare, except that when the provisions imposed by any statute, other ordinance, rule, regulation or permit or by any easement, covenant or agreement are more restrictive than the provisions of this ordinance, the provisions of such statute, other ordinance, rule, regulation, permit, easement, covenant or agreement shall be applicable.

In interpreting the appropriateness of proposed uses, the North American Industry Classification System (U.S. 2002) (NAICS) will be considered along with other factors to determine similarity to delineated uses in the zoning districts. It is to be used as a guide, and not a default interpretation of the intent and purpose of this Ordinance and is non-binding upon the Zoning Administrator.

The regulations set forth herein are designed to be uniform for each class or kind of use throughout an entire district. In any case where it is not clear from the provisions of this ordinance that a proposed use is intended to be prohibited in a district, the provisions of that Section setting forth the uses permitted in that district shall prevail, and if the proposed use is not one in the list of those permitted, it shall be prohibited as though it were included in the prohibitions.

3. **Essential Utility Equipment.** Essential utility services, public and private, including but not limited to water, wastewater, electric, natural gas, telephone and cable television utilities shall be permitted in any district as authorized and regulated by law and ordinances of the City of Hagerstown. This provision shall not apply to the construction of wind turbines and solar arrays. Regulations pertaining to the erection or installation of wireless communications antennas, poles, and towers are specified in Article 4, Section Q.
4. **Definitions.** Article 3 of the Land Management Code shall govern all definitions as they apply to this Article.
5. **Applicability.** All departments, officials and public employees of the City of Hagerstown 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 ordinance.
6. **Compliance With This Article.** Except as hereinafter specified, no land, building, structure or premises shall hereafter be used and no building or part thereof or other structure shall be located, erected, reconstructed, extended, enlarged, converted or altered

except in conformity with the regulations herein specified for the district in which it is located.

However, in any residential district, for existing dwellings and new construction of single-family dwellings, any lot recorded among the land records of Washington County prior to the effective date of this ordinance shall be deemed to meet the lot area and width requirements of the district.

- 7. Variances Not Required When Subdividing Existing Dwellings.** When a lot is subdivided which contains more than one (1) dwelling legally created at the time of their construction, and the sole purpose of the subdivision is for transferring ownership of individual units, no bulk regulation variance will be required when the new lots will not comply with current lot area, lot width and/or building setback requirements.
- 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 ordinance.
  - 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 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.
- 9. Amendment of the Zoning Ordinance and/or Map.** The Mayor and City Council may from time to time amend, supplement, change, modify or repeal this ordinance including the Zoning Map.

  - a. Generally; Findings for Reclassification.** Such regulations, restrictions and boundaries may from time to time be amended, supplemented, modified or repealed. Where the purpose and effect of the proposed amendment is to change the zoning classification, the Mayor and City Council shall make findings of fact in each specific case, including but not limited to the following matters: population change, availability of public facilities, present and future transportation patterns, compatibility with existing and proposed development for the area, the recommendation of the Planning Commission and the relationship of such proposed amendment to the jurisdiction's plan; and may grant the amendment based upon a finding that there was a substantial change in the character of the neighborhood where the property is located or that there was a mistake in the existing zoning classification. A complete record of the hearing and the votes of all the members of the Council shall be kept.
  - b. Restriction Upon Acceptance of Application for Reclassification.** An application for a reclassification shall not be accepted for filing by the Mayor and City Council if the application is for the reclassification of the whole or any part of land the reclassification of which has been denied by the Council on the merits

within twelve (12) months from the date of the Council's decision.

**c. Source of Proposals.** Proposals for amendment, supplement, change, modification or repeal may be initiated by the Mayor and City Council on its own motion, by the Planning Commission or by petition of one (1) or more owners of property to be affected by the proposed amendment. Forms available from the Planning and Code Administration Division shall be used for this purpose.

**d. Effective Date and Notice.** No such amendment, supplement, change, modification or repeal shall become effective until at least ten (10) days after one (1) review and one (1) public hearing are held. One (1) review shall be held by the Planning Commission within forty-five (45) days of receipt of application and recommendation of findings forwarded to the Mayor and City Council. One (1) public hearing shall be held by the Mayor and City Council who shall determine if the amendment, supplement, change, modification or repeal shall be granted at which time the parties in interest and citizens shall have an opportunity to be heard. Notice for the public hearing shall be given, as follows:

(1) Legal Notice. Notice of the time and place of the public hearing, together with a summary of the proposed regulation, restriction or boundary, shall be published in at least one (1) newspaper of general circulation in the city once each week for two (2) successive weeks, with the first such publication of notice appearing at least fourteen (14) days prior to the hearing.

(2) Written Notice. Send written notices of hearing to other interested persons, organizations or agencies at the Council's discretion.

(3) Additional Notice. Except for a Historic District or Landmark, when the proposed hearing concerns a Zoning Map change altering the classification of fewer than twenty-five (25) lots of record, the following additional notice is required:

(a) Posting in a conspicuous place on the property involved a notice of pending action containing the same information as in Subsection d, (1), above, such posting to take place at least fifteen (15) days prior to the date fixed for public hearing.

(b) Giving written notice of the time and place of such hearing sent by certified mail to the applicant and to the owners of property contiguous to or opposite the property affected.

**10. Rules of Interpretation of District Boundaries.** Where uncertainty exists as to the boundaries of districts as shown on the official Zoning Map, the following rules shall apply:

**a.** Boundaries indicated as approximately following the center lines of streets, highways or alleys shall be construed to follow such center lines.

- b. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- c. Boundaries indicated as approximately following city limits shall be construed as following city limits.
- d. Boundaries indicated as following railroad lines shall be construed to be midway between the right-of-way lines.
- e. Boundaries indicated as approximately following the center lines of streams, lakes or other bodies of water shall be construed to follow such center lines.

**11. Zoning Districts.**

- a. For the purpose of this ordinance, zoning districts are hereby established as follows:

**AT District** (Agricultural Transition)  
**RMOD District** (Residential - Moderate Density)  
**RMED District** (Residential - Medium Density)  
**RH District** (Residential - High Density)  
**RO District** (Residential - Office)  
**N-MU** (Neighborhood - Mixed Use)  
**CC-MU District** (City Center - Mixed Use)  
**CL District** (Commercial Local)  
**CG District** (Commercial General)  
**CR District** (Commercial Regional)  
**POM District** (Professional Office - Mixed)  
**I-MU** (Industrial - Mixed Use)  
**IR District** (Industrial Restricted)  
**IG District** (Industrial General)

**PUD District** (Planned Unit Development) *(An Overlay District)*  
**Conversion District** *(An Overlay District)*  
**Local Conversion District** *(An Overlay District)*  
**Historic District** *(An Overlay District)*  
**Landmark** *(An Overlay District)*

- b. For the purpose of this article, the zoning districts established by Subsection a above shall be shown on the city Zoning Map adopted and incorporated herein in its entirety as a part of this ordinance.
- c. The regulations as set forth in this article within each district shall be minimum regulations except as hereinafter provided.

**12. 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".
- b. Annexation of Inventoried Historic Properties.** When County-designated historic districts and County inventory properties are annexed into the City, they will be annexed with a landmark overlay or be considered City Potential Landmarks. If demolition is proposed for any such Potential Landmarks, the review process in Section T.6 must be followed. Landmarks are subject to Section T of this Article.

**13. Effective Date of Adoption.**

This Article was adopted as Chapter 68 (Zoning) by the Mayor and City Council, effective March 3, 1977, and subsequently amended. Effective September 26, 2008, this Article was reformatted for structural purposes with minor amendments and incorporated into this Chapter. It shall be interpreted to be the Ordinance as adopted on March 3, 1977 and subsequently amended. The Comprehensive Zoning Plan implementing the policies of the 2008 Comprehensive Plan was implemented in several stages. This Ordinance shall be interpreted that any use made nonconforming by any of the several map amendments part of this Comprehensive Zoning Plan shall have an effective date of nonconformity of the last Ordinance amending the map for this process, being November 10, 2010.

**14. Violations and Penalties.**

The treatment of violations of this Ordinance, and penalties for those violations shall be in accordance with Article 8 of this Chapter.

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**B. AT (Agricultural Transition) District.**

**1. Purpose.**

The purpose of the AT District is to enable agricultural uses to continue on newly annexed land, if desired by the property owner, as a temporary use until such time that the land is re-zoned for development.

All lands within this district proposed for development shall be rezoned to another district to accommodate that development, in accordance with the policies and procedures set forth in this Ordinance. The Planning Commission and the Mayor and City Council shall consider the policies and recommendations of the Comprehensive Plan when re-assigning zoning classification for AT land for development.

When the property is to be given another classification, whether there was a mistake in assigning the AT classification and/or whether changes in the character of the neighborhood have occurred may be taken into consideration. However, a finding of mistake or change in character of the neighborhood shall not be required.

**2. Principal Permitted Uses.**

Principal permitted uses in the AT Zoning District shall be as enumerated in Section Z of this Article.

**3. Special Exception Uses, as provided for in Section U, Subsection 8.**

Special exception uses in the AT Zoning District shall be as enumerated in Section Z of this Article. Special exception uses shall be reviewed and governed by the provisions of Section U, Subsection 8 of this Article.

**4. Accessory Uses.**

- a. Accessory buildings and uses customarily incidental to any principal permitted use or authorized special exception use.
- b. Living quarters for persons employed on the premises in connection with farming operations.
- c. The parking and storage of commercial vehicles directly and regularly used in the furtherance of farming or other permitted commercial activities on the property. In addition, one commercial vehicle used in the furtherance of off-site employment by a resident of the property may be parked and stored on the property.
- d. Home workstations, subject to the requirements of Section K.10 of this Article. The requirements shall not be relaxed for residences in zoning districts where commercial uses may be enumerated as a permitted use in that district.

**5. Maximum Building or Structure Height.**

Thirty-five (35) feet. Agricultural silos shall not be subject to this maximum height requirement.

**6. Minimum Lot Area, Lot Width and Yard Requirements.**

<b>AT District Dimensional Requirements (Minimum)</b>								
	<b>Lot Area (sq. ft.)</b>	<b>Lot Width (ft.)</b>	<b>Lot Area Per Dwelling Unit (sq. ft.)</b>	<b>Front Yard Depth (ft.)</b>	<b>Rear Yard Depth (ft.)</b>	<b>Min. Aggregate Width of Side Yards (ft.)</b>	<b>Minimum Width of Side Yards (ft.)</b>	<b>Number of Side Yards Required</b>
Dwellings, single-family detached	Existing	Existing	N/A	40	50	20	10	2
Other principal-permitted or conditional uses	3 acres	Existing	N/A	50	50	100	40	2

**7. Subdivision Prohibited.**

No lot or parcel in the AT District shall be subdivided.

C. Reserved.

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**D. Residential Zoning Districts.**

**1. Purpose.**

The purposes of the various residential zoning districts are as follows:

- a. RMOD District.** To provide areas for moderate-density residential development.
- b. RMED District.** To provide areas for medium-density residential development.
- c. RH District.** To provide for areas of high-density residential development. Also permitted are businesses of a type which serve nearby residents.
- d. RO District.** To provide for office uses in residential neighborhoods containing large houses to make continued use of these properties feasible; and to provide a buffer between residential and commercial areas.

**2. Uses.**

**a. Permitted and Special Exception Uses.**

Uses in these districts shall be permitted, permitted by special exception in accordance with general and specific performance criteria found in Section U of this Article, Subsection 8, or not permitted, as enumerated in Section Z of this Article.

**b. Special Exception Use Conditions.**

No special exception use shall be granted by the Board of Zoning Appeals unless the use is found to be in accordance with the following requirements:

- (1) The off-street parking requirements of Section O.
- (2) The specific performance criteria of individual special exception uses (if applicable) as found in Section U.8.a.(7) of this Ordinance.
- (3) The site plan requirements of Section S, Subsection 2, if applicable, following the Board's granting of the special exception.

**c. Accessory Uses.**

The following accessory structures and uses shall be permitted in residential zoning districts:

- (1) Private detached garages and accessory buildings subject to limitations in Subsections D.4 and D.5.b., below.
- (2) Uses and structures customarily and incidental to any principal-permitted use or authorized special exception.

- (3) Home day-care of up to four (4) children, not including the children or relatives of the resident provider (not permitted in an apartment dwelling unit).
- (4) Use of detached accessory residential garages by non residents of the property, provided:
  - (a) The use shall be limited to parking of vehicles and personal storage that does not involve generation of noise from the garage, and shall not be used for storage for any commercial or institutional purpose, and
  - (b) Two (2) off-street parking spaces are provided for each dwelling on the subject property for each non-owner-occupied dwelling on the property.
- (5) Home workstations, subject to the requirements of Section K.10 of this Article. The requirements shall not be relaxed for residences in zoning districts where commercial uses may be enumerated as a permitted use in that district.
- (6) See Section K of this Article regarding fowl and farm animals.

**3. Parking Requirements.**

**a. When New Parking is Required.**

Off-street parking shall be provided in accordance with Section O of this Ordinance. However, in the RO District, existing residential buildings shall not be altered or modified for the purpose of creating additional residential units unless two (2) parking spaces per unit for all the units in the building can be provided or created in the rear yard of the property or in the rear yard of contiguous property under perpetual easement.

**b. Parking and Storage of Unregistered Vehicles.**

Motor vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any property in a residential or mixed-use district used for residential purposes other than in completely enclosed buildings. This provision shall also apply to residential elements of PUD Developments.

**c. Parking and Storage of Commercial Vehicles.**

One (1) commercial vehicle shall be permitted to be parked on a transient basis on a residential lot or parcel, provided:

- (1) The vehicle is currently registered, displays valid license plates, and is regularly used by a resident of the property to commute to and from and used in the course of their employment, and

- (2) The vehicle may be an automobile, pick-up truck, sport utility vehicle or van up to 3/4 ton, and
- (3) The vehicle does not exceed twenty (20) feet in length. Tow trucks (including “rollback trucks”) are not permitted.
- (4) In the parking lots of multi-family developments, commercial vehicles shall be permitted to be parked in accordance with subsections a.(1) through (3) above, provided that only those spaces that are available after providing two (2) parking spaces for each dwelling unit on the property are used.
- (5) Vehicles used by publicly supported emergency responders (fire, police, EMS) shall not be subject to the limitations of this provision.

**4. Height Limitations.**

No principal permitted structure shall exceed the following:

Zoning District	RMOD	RMED	RH	RO
Height	3 stories or 35 feet	3 stories or 35 feet	5 stories or 60 feet	3 stories or 40 feet

No accessory structure shall exceed one story in height.

**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 (see next page). Yards shall be measured and determined in accordance with the standards set forth in Section K.6 of this Ordinance.

**a. Bulk Requirements Chart and Regulations.**

<b>Residential District Dimensional Requirements (Minimum)</b>								
	Lot Area (sq. ft.)	Lot Width (ft.)	Lot Area Per Dwelling Unit (sq. ft.)	Front Yard Depth (ft.) (or to established line on same side of street for infill)	Rear Yard Depth (ft.)	Min. Aggregate Width of Side Yards (ft.)	Minimum Width of Side Yards (ft.)	Number of Side Yards Required
Single-family dwellings, <b>RMOD District</b>	7,500	50	7,500	25	35	15	4	2
Single-family dwellings, <b>RMED and RO Districts</b>	5,000	40	5,000	15	30	N/A	5	2
Single-family dwellings, <b>RH District</b>	4,000	40	4,000	15	30	N/A	5	2
Two-family dwellings <b>RMOD District</b>	10,000	75	5,000	25	35	20	10	2

<b>Residential District Dimensional Requirements (Minimum)</b>								
	<b>Lot Area (sq. ft.)</b>	<b>Lot Width (ft.)</b>	<b>Lot Area Per Dwelling Unit (sq. ft.)</b>	<b>Front Yard Depth (ft.) (or to established line on same side of street for infill)</b>	<b>Rear Yard Depth (ft.)</b>	<b>Min. Aggregate Width of Side Yards (ft.)</b>	<b>Minimum Width of Side Yards (ft.)</b>	<b>Number of Side Yards Required</b>
Two-family dwellings <b>RMED, RH, and RO Districts</b>	8,000	50	4,000	15	30	N/A	5	2
Single-family semi-detached dwellings, <b>RMOD District</b>	5,000	37.5	5,000	25	35	N/A	10	1
Single-family semi-detached dwellings, <b>RMED, RH and RO Districts</b>	3,000	25	3,000	15	30	N/A	5	1
Townhomes	7,500	20	2,500	15	30	N/A	8 (or to established line in neighborhood, if less)	
Mansion Apartments in existing buildings	Existing	Existing	N/A, with 1 unit per 1,500 gross sq. ft. of floor area of building	Existing	30 or existing building	20 feet or existing	10 feet or existing	2 or existing
Courtyard, new construction Mansion House, and Stacked Apartment units	20,000	100	2,700	0	20 (35 when adjacent to RMOD and RMED)	N/A	10	2
Schools	20,000	75	N/A	25	50	50	25	2
Hospitals	5 acres	N/A	N/A	150	50	200	75	2
Churches, Nursery Schools, Day-Care Centers, and Funeral Homes	20,000	75	N/A	25	50	20	10	2
Other permitted or special exception uses in <b>RMOD and RH Districts</b>	20,000	100	N/A	25	40	20	10	2
Other permitted or special exception uses in <b>RMED and RO Districts</b>	15,000	80	N/A	25	20	20	10	2
Mobile Home Parks (see Section D, Subsection g.)								
Accessory Buildings*	N/A	N/A	N/A	25	5	8	4	2

\*Accessory buildings located within three (3) feet of a principal structure shall be considered part of the principal building for setback purposes. Accessory buildings on the same lot located within three (3) feet of another accessory building shall be considered cumulatively as if they were attached for bulk regulations purposes.



**b. Detached Garages and Accessory Buildings.**

Private detached garages for not more than three (3) motor vehicles and accessory buildings cumulatively totaling not over nine hundred (900) square feet. In addition to such buildings, accessory buildings shall be permitted that are cumulatively not more than two hundred forty (240) square feet in area.

**c. Lot Averaging on Residential Infill Lots.**

Where at least sixty-six (66%) percent of all lots on the same side of the same street block as the subject lot have been developed:

- (1) The front yard setbacks of the subject lot shall conform to the average established front yard setbacks, and
- (2) The side yard setbacks of the subject lot shall not be less than the average side yard setbacks, and
- (3) For single-family residences, the lot area and width requirements shall be not less than the average lot area and width of all lots on that side of the same street block.

**Lot Averaging Not to be Used For Lot Area and Width on Two-family and Semi-Detached Dwellings.** Regardless of whether sixty-six (66%) per cent of the block has been developed, for the construction of two-family and semi-detached residences, the lot area and widths of the subject lot shall conform to the minimum lot area and width requirements established for the zoning district.

**d. Projections into Yards on All Dwellings and Additions to the Rear of Semi-Detached Dwellings and Townhouses.**

- (1) If attached to the main building, a one- (1-) story, open porch, with or without a roof may extend into a front yard not more than thirty (30%) percent of the existing front yard depth.
- (2) Projections such as bay windows, chimneys, entrances, vestibules, balconies, eaves, and leaders may extend into any required yard not more than four (4) feet, provided that such projections (excepting eaves) are not over ten (10) feet in length and no closer than four (4) feet to any property line.
- (3) If attached to the dwelling, a one- (1-) story open deck without a roof may extend into the required rear yard not more than thirty-five (35%) percent of the required setback.
- (4) No addition shall be made to the rear of an existing semi-detached dwelling or townhouse unless a three- (3-) foot setback is provided along the interior lot line (in the case of a semi-detached dwelling or end-unit townhouse) or each side lot line (in the case of an interior townhouse) adjacent to the addition.

This provision may be waived by the Zoning Administrator provided that the applicant obtains a non-exclusive perpetual access and maintenance

easement from the adjacent property owner along the interior property line that is at least three (3) feet wide and running the full length of the proposed addition. The easement may be written in such a way where it specifically preserves the adjacent owner's right to build their own addition within the easement area.

**e. All Public Street Frontages Are Front Yards.** On corner lots and through lots, all sides of a lot adjacent to streets shall be considered front yards, but only the side of the lot opposite the frontage of the building shall be considered the rear yard.

**f. Townhouse Developments.**

(1) Streets, storm water management facilities, and parking lots shall be excluded from the required lot area.

(2) The minimum horizontal distance between facing walls of any two (2) buildings on one (1) lot shall be twenty five (25) feet.

(3) Where common open space is provided for a townhouse development in the RO District, the minimum lot size may be reduced to two thousand (2,000) square feet provided the gross density does not exceed fifteen (15) dwelling units per acre.

**g. Stacked and Mansion Apartment Developments.**

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) building was constructed prior to October 1, 1956;

(2) building shall be at least four thousand five hundred (4,500) square feet in area; and

(3) number of units is limited to one (1) per one thousand five hundred (1,500) square feet of floor area as reflected on Department of Assessments and Taxation assessment records.

(4) Except in the CC-MU Zoning District, the property shall be located in a locally designated historic district or in a designated landmark.

(5) 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 Section E.6.a.

**h. Mobile Homes.**

Mobile homes shall be permitted outside of a mobile home park only when the dwelling is placed on and secured to a fully enclosed masonry foundation as set forth in the building code.

The following minimum requirements shall be observed for mobile home parks:

(1) Minimum Area of Park: ten (10) acres

- (2) Building Setbacks :
  - (a) From external public street right-of-way and property lines: fifty (50) feet
  - (b) Rear of unit to rear of unit: sixty (60) feet
  - (c) Between structures: twenty (20) feet
  - (d) From surface of internal access roads fronting pad: ten (10) feet
  - (e) Across an internal access road between structures: forty (40) feet
  - (f) Minimum lease area on which a home can be located: one thousand (1,000) square feet

Covered entryway steps may project not more than five (5) feet from the unit; and decks without roofs may be added to a unit provided that a distance of at least ten (10) feet is maintained between the deck and other mobile homes or decks thereof.

- (3) Individual accessory buildings (sheds) are not permitted on individual dwelling pads. Common storage facilities for use by residents may be designed into an overall park site plan.
- (4) A heavy landscaped buffer, dominated by evergreen plantings, shall be installed in an area not less than twenty (20) feet in width in all areas subject to the setback required in (2)(a) above.
- (5) Parking shall be prohibited on driveways unless designed to a width that allows two (2) vehicles to pass in addition to the designated parking lane.
- (6) Parking of boats, campers, trailers, recreational vehicles and other similar vehicles shall be prohibited on the individual unit lease area. The developer may design and designate a common parking area within the mobile home park for such vehicle parking and storage.
- (7) No camper, recreational vehicle or similar vehicle shall be interpreted as a mobile home for the purposes of this subsection.

**i. Construction On Lots That Do Not Front Public Streets.**

On lots in residential zoning districts that do not front a public street, one (1) garage, residential in size and scale, shall be permitted as a principal use, provided:

- (1) The lot shall front on an existing paved alley.
- (2) The garage shall not exceed nine hundred (900) square feet in area;
- (3) The garage shall not exceed one (1) story in height;

- (4) The garage shall be designed architecturally and so located to appear to be an accessory structure in the neighborhood in which it is located; and
- (5) The garage may be used by an owner or lessee for parking and personal use storage only. The garage shall not be used for business or institutional purposes and shall not generate activity other than the delivery or retrieval of vehicles or personal materials stored in the garage.
- (6) No outdoor storage of any kind is permitted.
- (7) The garage shall not be constructed closer than five (5) feet to any property line or alley right-of-way.

**j. Distance Requirements on Commercial and Private Membership Outdoor Swimming Pools.**

The following setback requirements for the pool shall be required:

- (1) Distance of pool to property lines: seventy-five (75) feet.
- (2) Any existing dwelling: one hundred twenty-five (125) feet.

**6. Cluster Development.**

- a. Description.** Clustering is an alternative type of development in the RMOD Zoning District which provides for reduction in minimum lot size for residential development. It permits a reduction in the size of individual lots while maintaining the maximum gross density allowed in the district in which it is located. This land development technique involves siting clusters of home sites on smaller lots than those permitted under conventional development regulations with the remaining “saved” land being retained as common open space.
- b. Use of Open Space.** The permanent, common open space, legally dedicated through subdivision plat recordation and deed restriction, can be used for natural conservation and/or recreational facilities for benefit of the residents of the development. Such open space may also be made available for the use and enjoyment of the general population if public dedication of the open space is accepted by the Mayor and City Council.
- c. Site Design Criteria.**
  - (1) Subdivision Approval for Cluster Development.
    - (a) No cluster development may be constructed except in accordance with a Development Plan and Final Subdivision Plat approved by the Planning Commission under the Subdivision Regulations.

- (b) Wherever the yard and lot dimensional requirements are less than those required in non-cluster developments, they shall be shown and identified on the Development Plan and Final Subdivision Plats.
- (2) Open Space.
- (a) Lot reduction shall be compensated for by the provision of one (1) square foot of open space for each square foot of area that each lot in the subdivision is reduced below non-cluster lot area requirements, providing such minimum open space is configured for the use and enjoyment of the residents of the subdivision as the Planning Commission determines to be suitable to meet the intent of this Ordinance. Such open space shall not be comprised of accumulations of leftover remnants of land on the site, but shall constitute meaningful contiguous areas of land which provide for the preservation of significant natural features on the land, and/or provide recreational amenities for the use of the residents of the development. The Planning Commission must be furnished satisfactory evidence as a condition of approval that such open space area will be continued and that perpetual maintenance is provided for.
  - (b) Up to twenty-five (25%) percent of this area may be designated forest retention areas intended to meet the requirements of the Forest Conservation Ordinance, provided that at least seventy-five (75%) percent of the forest conservation requirement is being met within the development (retention, afforestation and street trees). The Planning Commission may consider a deviation from this forest conservation standard to allow up to fifty (50%) percent of open space area designated for forest retention areas intended to meet the requirements of the Forest Conservation Ordinance, provided that one hundred (100%) percent of the Forest Conservation requirement is being met within the proposed development.
  - (c) "Open space" does not include public or private streets, rights-of-way, or off-street parking.
  - (d) The open space shall be either publicly or privately owned. A deed with covenants or other legal arrangements shall specify ownership of the cluster open space; method of maintenance; responsibility for maintenance; maintenance taxes and insurance; compulsory membership and compulsory assessment provisions; guarantees that any association formed to own and maintain cluster open space will not be dissolved without the consent of the Planning Commission and any other specifications deemed necessary by the Planning Commission. Unless specifically agreed to by the Mayor and Council, approval of the cluster open space does not commit the City to maintenance of the cluster open space.

(3) Buffer Zones.

Buffer zones shall, where appropriate, be included to prevent or minimize adverse impacts from adjoining areas having different types or densities of development by providing separation and barriers to objectionable views, glare, and noise. Several types of buffers may be required by the Planning Commission.

- (a) Landscaping and buffer strips may be required to reduce noise or visual impacts between developments.
- (b) Common open space, if appropriately located, may be used in satisfying buffer requirements, provided that the open space is adequately landscaped to prevent or minimize the adverse effects of the proposed development.

(4) Cluster dimensional requirements.

- (a) Lot area requirements shall be based on the average for the entire development.
- (b) Maximum number of townhouse units per building: eight (8).
- (c) The minimum lot area, lot width and yard requirements for dwellings in cluster subdivisions shall be in accordance with the requirements set forth in the following chart.

<b>Cluster Subdivision Minimum Dimensional Requirements Schedule</b>									
	Minimum Lot Size Permitted in Non-Cluster	Min. Lot Area (sq. ft.)	Lot Width (min. ft.)	Min. Lot Area Per Dwelling Unit (sq. ft.)	Front Yard Depth (ft.)	Rear Yard Depth (ft.)	Min. Aggregate Width of Side Yards (ft.)	Minimum Width of Side Yards (ft.)	Number of Side Yards Required
Single-family dwellings	7,500	5,000	40	5,000	15	30	10	4	2
Two-family	10,000	5,000	65	2,500	15	30	10	4	2
Triplex	6,000 (A)	4,500	65	1,500	15	30	10	5	2
Quadraplex	8,000 (A)	6,000	65	1,500	15	30	10	5	2
Townhouse	3,500	1,500	20	1,500	10	30	10 between buildings	5	1 (end unit)
Accessory	N/A	N/A	N/A	N/A	15	5	N/A	4*	N/A

**NOTES:**

(A) Triplexes and quadraplexes permitted in cluster developments only. This shall be applied as if they were permitted in other districts, and in accordance with the provisions of Subsection 6.c(2) above.

\* Accessory structure side setback shall not apply on lots containing attached dwellings, along the lot line containing a party wall if the accessory structure is a garage attached to another garage on the adjacent property or a storage shed attached to another storage shed on the adjacent property.

**7. Zero Lot Line Development.**

Zero lot line development as defined in this Chapter, is not permitted within the limits of the City of Hagerstown.

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**E. Mixed Use Districts.**

**1. Purposes.**

The purposes of the mixed-use districts are as follows:

**a. CC-MU (City Center - Mixed Use)**

- (1) Promote development of a compact, pedestrian-oriented city center consisting of a diverse mix of residential, business, commercial, office, institutional, educational, and cultural and entertainment activities for workers, visitors, and residents;
- (2) Encourage pedestrian-oriented development within walking distance of transit opportunities at densities and intensities that will help to support transit usage and city center businesses;
- (3) Promote the health and well-being of residents by encouraging physical activity, alternative transportation, and greater social interaction;
- (4) Create a place that represents a unique, attractive, and memorable destination for visitors and residents; and
- (5) Enhance the community's character through the promotion of high-quality urban design.

**b. N-MU (Neighborhood – Mixed Use).**

- (1) Accommodate mixed-use buildings serving retail, service, and other uses on the ground floor and residential units above the nonresidential space;
- (2) Allow for commercial uses of a scale and intensity compatible with a residential neighborhood.
- (3) Allow for exclusively residential buildings of a scale and intensity compatible with the City's traditional neighborhood building design.
- (4) Encourage development that exhibits the physical design characteristics of pedestrian-oriented, storefront-style shopping streets;
- (5) Provide flexibility for adaptive re-use of old, non-residential buildings in these areas; and
- (6) Promote the health and well-being of residents by encouraging physical activity, allowing for transportation alternatives, and providing for interaction of uses during day and evening hours.

**2. Uses.**

**a. Permitted and Special Exception Uses.**

Uses in these districts shall be permitted, permitted by special exception in accordance with general and specific performance criteria found in Section U, Subsection 8, or not permitted, as enumerated in Section Z of this Article.

**b. Special Exception Uses.**

Compliance with use and development requirements. Any special exception use granted by the Board of Zoning Appeals shall only be approved when the use is found to be in accordance with the following requirements:

- (1) The off-street parking requirements of Section O of this Article.
- (2) The specific performance criteria of individual special exception uses (if applicable) as found in Section U.8.a.(7).
- (3) The site plan requirements of Section S, if applicable, following the Board's granting of the special exception.

**c. Accessory Uses.**

- (1) Uses and structures customarily accessory and incidental to any principal permitted use or authorized special exception.
- (2) Home day-care of up to four (4) children, not including the children or relatives of the resident provider (not permitted in an apartment dwelling unit).
- (3) Home workstations, subject to the requirements of Section K.10 of this Article. The requirements shall not be relaxed for residences in zoning districts where commercial uses may be enumerated as a permitted use in that district.

**3. Parking Requirements.** As applicable under Section O of this Article.

**a. Location.** Off-street parking spaces must be located to the rear of the principal building.

**b. Reduction.** A development can reduce the required off-street parking spaces up to fifty (50%) percent when it can be demonstrated, in a parking-traffic study, prepared by a traffic engineer, that use of transit or demand management programs, special characteristics or customer, client, employee or resident population will reduce expected vehicle use and parking space demand for their development, as compared to standard Institute of Transportation Engineers vehicle trip generation rates and city parking requirements. Approval of such reduction would be by the Planning Commission in the review and approval of the site plan for a development.

- c. **Small Commercial Exception.** No off-street parking is required for nonresidential uses in this district unless such uses exceed 3,000 square feet of gross floor area.

**4. Minimum and Maximum Height Requirements.**

**a. Height Limitation Chart.**

	N-MU	CC-MU
Height	4 stories	7 stories

**b. Special Exceptions for Height.**

The Board of Zoning Appeals may grant a special exception to increase the height of a building, pursuant to the general criteria for special exceptions found in Section U.8.a, as follows:

	N-MU	CC-MU
Maximum permitted height by Special Exception	6 stories	12 stories

**c. Minimum Height Requirements.**

All new principal structures shall be at least two (2) stories in height. The maximum permitted height of an accessory structure shall be two (2) stories or twenty-five (25) feet.

**5. Minimum Lot Width and Yard (setback) Requirements.**

**a. Minimum Bulk Requirements Chart.**

The minimum lot width and yard (setback) requirements for mixed-use districts shall be as stated in the following chart:

<b>Mixed-Use District Minimum Yard Requirements for All Buildings</b>					
Zoning District	Front Yard Depth (ft.)	Rear Yard Depth (ft.)	Minimum Aggregate Width of Side Yards (ft.)	Minimum Width of Side Yards (ft.)	Number of Side Yards Required
N-MU	0	5	0	0	0
CC-MU	0	0	0	0	0

Yards shall be measured and determined in accordance with the standards set forth in Section K.6 of this Ordinance.

**b. Maximum Setback Requirements.**

- (1) The maximum front and street side building setback may not exceed the average front yard depth of the nearest two (2) lots on either side of the subject lot or fifteen (15) feet, whichever is less.
- (2) If one (1) or more of the lots required to be included in the averaging calculation are vacant, such vacant lots will be deemed to have a yard depth of zero (0) feet.
- (3) Lots fronting a different street than the subject lot or separated from the subject lot by a street or alley may not be used in computing the average.
- (4) When the subject lot is a corner lot, the average setback will be computed on the basis of the two (2) adjacent lots that front on the same street as the subject lot.
- (5) When the subject lot abuts a corner lot fronting on the same street, the average setback will be computed on the basis of the abutting corner lot and the nearest two (2) lots that front on the same street as the subject lot. Calculating Setbacks Example:  $(12 \text{ ft.} + 8 \text{ ft.} + 12 \text{ ft.} + 0 \text{ ft.}) / 4 = 8 \text{ ft.}$
- (6) A portion of the building may be set back from the maximum setback line in order to provide an articulated facade or accommodate a building entrance feature, provided that the total area of the space created must not exceed one (1) square foot for every linear foot of building frontage.
- (7) In order to accommodate an outdoor eating area, a building may exceed the average front yard depth. However, in order to preserve the continuity of the streetwall, the building may be set back no more than fifteen (15) feet from the front or street side property line. The total square footage of an outdoor eating area that is located between a public sidewalk and the building facade may not exceed twelve (12) times the building's street frontage in linear feet.

**6. Residential Uses.**

**a. Minimum Unit Area Requirements.**

Single-family, two-family, mansion apartment house, courtyard apartments, stacked apartment units, and townhouse dwellings are permitted, provided any new units created meet the following minimum square footage requirements:

**Efficiency Unit:** five hundred (500) square feet

**One-bedroom Unit:** six hundred fifty (650) square feet

**Two-bedroom Unit:** eight hundred (800) square feet

**Three-bedroom Unit:** one thousand (1,000) square feet

**b. Minimum Facilities.**

Each newly created unit shall contain a complete kitchen and bathroom facility. A complete kitchen includes a room with a utility connection suitable for

servicing a range or oven, food preparation, refrigeration, and dishwashing area. A bathroom facility contains a sink, toilet, and a tub or shower.

**c. Densities.**

Residential densities in the mixed-use districts will vary based on the planning process, but it is anticipated that the average density in the City Center Mixed Use District will be between ten (10) and twenty-two (22) units per acre and the average density in the neighborhood mixed-use district will be between six (6) and ten (10) units per acre. Individual sites within the mixed-use districts may have much higher densities; however, the average for all properties in a single district is anticipated to be as stated above.

**7. Commercial Establishments in the Neighborhood Mixed Use District.**

**a. Maximum size.**

The gross floor area of an individual commercial establishment in a building built after February 25, 2010, shall not exceed fifteen thousand (15,000) square feet.

**b. Commercial Appearance.**

For new construction, a minimum of seventy (70%) percent of the street-facing building façade between two (2) feet and eight (8) feet in height above grade must be comprised of clear windows that allow views of indoor space or product display areas. For old, non-residential buildings which are adapted for mixed-use, the exterior of the building need not be modified to provide for the previously cited seventy (70%) window coverage requirement if such modifications would detract from the historic character of the building.

**c. Ground Floor Restriction.**

For new construction, commercial uses are restricted to the ground floor. This restriction does not apply to bed and breakfast inns.

**d. Commercial Uses in Upper Floors of Existing Buildings.**

For master planned projects containing multiple buildings, existing non-residential buildings may be adapted to include upper floor commercial uses; however, the total amount of commercial space in such master planned projects shall not exceed twenty (20%) of the total square footage for the entire development.

**8. Street Graphics.**

Regulation of street graphics shall be per Section I.3 of this Article.

**9. Projecting Street Graphics in the CC-MU Zoning District.**

Regulation of projecting street graphics shall be per Section I.3 of this Article.

**10. Development and Design Standards.**

**a. Facade Orientation.**

The facade of a building shall present a public view to the street or pedestrian corridor. It is preferred that new buildings and additions be architecturally compatible with the existing structures and that the exterior wall surfaces of each individual building be similar in architectural treatment and materials. For large new buildings, modulation should be incorporated in building designs to reduce overall bulk and mass. All rooftop equipment shall be located, screened or shielded so that its visibility is minimized from public view.

**b. Amenity Areas.**

Amenity areas are encouraged and should be considered as an integral component of site design. Amenity areas include, but are not limited to public plazas, courtyards, squares or small parks on the site. Examples of design elements that could be included in the amenity areas are seating walls, benches, outdoor dining/gathering areas, decorative fountains or water features, clock towers and/or garden areas.

**c. Pedestrian Orientation.**

Building design concepts should respond to the site plan by forming street edges and by encouraging active, safe street life. Buildings should recognize site patterns and help define entries to interior courtyards, building entrances, and public spaces.

**d. Traditional Neighborhood Design.**

Use architectural styles that are associated with traditional neighborhood design and multi-family design that delineates separation of the units. Commercial architectural styles should mimic the Main Street concept and take architectural styles from the City's traditional building designs.

**e. Parking and Pedestrian Lighting.**

Lights illuminating off-street parking, pedestrian or loading areas shall be arranged and installed so that no material glare or direct light shall spill over into adjacent parcels or shine upwards. Light standards for off-street parking and loading areas shall not exceed twenty (20) feet in height and shall be of a directional type capable of shielding the light source from direct view.

**f. Outside Storage.**

There shall be no outside storage of any equipment, materials or supplies.

**g. Drive-Through Facilities.**

Drive-through facilities and driveways for non-governmental activities are prohibited when directly accessed from public streets. No street curb cuts are allowed for lots that abut alleys.

**h. Parking Access.**

The preferred access for parking facilities is off of a public alley. Street curb cuts are prohibited unless the applicant can demonstrate the necessity for any proposed curb cut. Visible facades of parking structures shall be designed to be compatible with the architecture of the surrounding structures. The sidewalk level should contain commercial and/or retail space. Where commercial/retail uses are not feasible, other architectural features are encouraged along the street wall, such as murals, display panels, bas-relief, and masonry patterning.

**i. Preliminary Consultation Required.**

The developer shall submit a comprehensive concept plan for the development for the Planning Commission's review and approval before submitting a site plan or subdivision plan. The Planning Commission may grant modifications of the design provisions of this subsection, if requested in writing by the developer, when the Planning Commission is satisfied that the alternative proposed meets the intent of this subsection. The concept plan shall include a layout of the proposed development of the entire site and preliminary sketches of the exterior treatment of the buildings. Thorough documentation of and justification for any requested deviation from these standards shall be provided. The site plan for the proposed development and the buildings as constructed shall substantially conform with the concept plan approved by the Planning Commission.

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**F. Commercial Zoning Districts.**

**1. Purpose.**

The purposes of the various commercial zoning districts are as follows:

- a. CL (Commercial - Local).** To provide for the daily shopping and business needs of nearby residents and workers by permitting retail and service uses which are compatible in use and scale with the adjacent residential neighborhood.
- b. CG (Commercial - General).** To provide locations for businesses of a general nature to serve the community.
- c. CR (Commercial - Regional).** To provide for commercial uses customarily found in a regional shopping center.
- d. POM (Professional Office - Mixed).** To provide locations for offices, medical offices, research and development, institutional uses, certain industrial uses, and limited support retail. Retail and service uses are secondary and should generally serve the businesses and employees in the office area including personal services, restaurants, day-care and other similar support services. These uses should be met in ways that do not substantially increase peak-hour traffic. It is anticipated that projects within this zoning classification will be planned and designed as a unified development.

**2. Uses.**

**a. Permitted and Special Exception Uses and Performance Standards.**

Uses in these districts shall be permitted, permitted by special exception in accordance with general and specific performance criteria found in Section U, Sub-Section 8, or not permitted, as enumerated in Section Z of this Article.

**b. Performance Standards.**

- (1) Size limitation on retail trade in the CL and CG Districts and restaurants in the CL District.
  - (a) In the CL District, retail trade shall not exceed 5,000 gross square feet in area per establishment, and restaurants shall not exceed 3,000 gross square feet per establishment.
  - (b) Retail trade in the CG district shall not exceed the following:
    - (i) Seventy-five thousand (75,000) square-foot maximum floor area for freestanding building.
    - (ii) One hundred fifty thousand (150,000) square-foot maximum floor area for shopping centers with a seventy-five thousand (75,000) square-foot maximum floor area for any individual unit.

(2) Development of Destination Retail Uses.

In the CR District, any development containing a “destination retail use” shall be subject to design and maintenance standards cited in Article 5, Section I, Subsection 5.

(3) Maintenance of Abandoned Destination Retail Use Buildings.

Any freestanding building over seventy-five thousand (75,000) square feet in area which is vacated by its owner shall be maintained during its period of vacancy to the following minimum standards:

- (a) The property shall be kept clear of trash;
- (b) Parking lot lights shall be illuminated during the evening business hours of the surrounding commercial area;
- (c) Commercial identification graphics shall be removed and the space behind them repainted;
- (d) Landscaped areas and parking lots shall be kept clear of weeds and be properly maintained;
- (e) Buildings shall be kept in good condition (painted areas kept in good condition, windows kept in good and clean condition, walls and other surfaces kept clear of graffiti and other staining elements, destruction caused by vandals repaired, etc.);
- (f) Leasing information shall be posted.

(4) Location Limitations for “Pawn Shops.”

- (a) Must maintain a five hundred (500) foot separation from any other personal care services or pawn shop; and
- (b) Must be located outside the boundaries of the Sustainable Community Area.

(5) Adult Entertainment Businesses in the CG Zoning District.

Adult entertainment businesses as defined in Article 3 are permitted in the CG Zoning district, provided no such use may be permitted within one thousand (1,000) feet of the boundary of property upon which exists any:

- (a) church
- (b) school
- (c) hospital
- (d) nursing home

- (e) park or
- (f) any multiple-family dwelling owned by public or quasi public authority and intended primarily for use by senior citizens or other similar land uses for human care and needs.

Adult entertainment businesses, as described above and defined in Article 3 shall not be construed as also being included in other references in this Ordinance to retail trade, movie theaters or performing arts centers.

- (6) Uses identified in the POM District in the Use Chart cited in Section Z as a permitted use, but marked with reference to this subsection shall:
  - (a) Not exceed twenty five (25%) percent of the gross floor area of the building, or
  - (b) Not exceed in the aggregate twenty (20%) percent of the gross floor area of a group of buildings designed and approved as a unified development, as designated on the approved Site Plan.
  - (c) Gasoline service stations (4471) are not permitted in the POM District, including incidental sales associated with a convenience store.
  - (d) Retail and restaurant uses shall not be the sole occupant of a structure.
  - (e) See Article 5, Section I, Subsection 7 regarding nonconforming commercial subdivisions.
- (7) Temporary outdoor principal use sales facilities, whether in the open or enclosed in a tent, established for the sole purpose of engaging in sales commerce are prohibited unless they are accessory to a civic special event, not to exceed ten (10) days in duration or are accessory to an otherwise permanent business operation conducted from buildings.
- (8) Conditions for Kennels in CG and CR Zoning Districts.
  - (a) Use area must be set back at least one hundred (100) feet from any nearby property containing a residential dwelling unit, religious organization's place of worship, educational service facility, residential care facility, hospital, assisted living facility or nursing home.
  - (b) Exterior exercise/play areas must be enclosed with solid fencing, at a minimum of six feet in height.
  - (c) The total number of dogs permitted at any one time shall not exceed one (1) dog per one hundred (100) square feet of combined interior/exterior lease area.
- (9) An automobile and/or truck sales facility shall:

- (a) Provide landscaped buffers for all parking and inventory display or storage areas in accordance with the requirements of Article 5 of this Code, both in required minimum buffer widths and required landscape plantings; and
- (b) Provide sufficient employee and customer parking and install signage indentifying parking for customers and employees, and provide adequate on-site traffic circulation for safe and orderly egress from and ingress to the site; and
- (c) All on-premise business identification signs shall be professionally designed and constructed for long-term use; and
- (d) The developer shall submit a site plan for review and approval in accordance with the provisions of Article 5. The type of site plan shall be consistent with the requirements of that Article based on the amount of land disturbance that is proposed. The Planning Commission may reduce or waive provisions of the landscaping and design requirements based on unique site conditions, practical difficulties, or presentation of an alternate plan that achieves the intent of the Ordinance requirements. Such use shall not commence until the site plan is approved and the improvements are completed. Vehicles will not be stored or displayed in buffer areas.
- (e) The provisions of this subsection shall not apply to any facility that is proposed for a location where the most recent use of the area to be used was a motor vehicle sales facility, however, all other requirements of the Land Management Code shall be met.

**c. Special Exception Uses.**

Compliance with Use and Development Requirements. Any special exception use granted by the Board of Zoning Appeals shall only be approved when the use is found to be in accordance with the following requirements:

- (1) The off-street parking requirements of Section O.
- (2) The specific performance criteria of individual special exception uses (if applicable) as found in Section U.8.a.(7) of this Article.
- (3) The site plan requirements of Article 5, Subsection S.2 if applicable, following the Board's granting of the special exception.

**d. Accessory Uses.**

- (1) Uses and structures customarily accessory and incidental to any principal permitted use or authorized special exception, including but not limited to garages used to store vehicles associated with a use permitted by right or special exception.

- (2) Home workstations, subject to the requirements of Section K.10 of this Article. The requirements shall not be relaxed for residences in zoning districts where commercial uses may be enumerated as a permitted use in that district.
- (3) Home day care of up to 4 children, not including the children or relatives of the resident provider (not permitted in an apartment dwelling unit).

**3. Parking Requirements.** As applicable under Section O of this Ordinance.

**4. Height Limitations.** No structure shall exceed the following:

**a. Height Limitation Chart.**

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

**b. Special Exceptions for Height.**

The Board of Zoning Appeals may grant a special exception to increase the height of a building, pursuant to the general criteria for special exceptions found in Section U.8.a., as follows:

	CG	CR
Maximum permitted height by Special Exception	6 stories or 90 feet	150 feet

**5. Minimum Lot Area, Lot Width and Yard (Setback) Requirements.**

The minimum lot area, lot width and yard (setbacks) requirements for commercial districts shall be as stated in the following chart:

**a. Bulk Requirements Chart.**

<b>Commercial District Dimensional Requirements for All Buildings</b>					
Zoning District	Front Yard Depth (ft.)	Rear Yard Depth (ft.)	Minimum Aggregate Width of Side Yards (ft.)	Minimum Width of Side Yards (ft.)	Number of Side Yards Required
CL	15	30	20	10***	2
CG	15	30	20	10***	0
CR	25	50**	40	20*	2

<b>Commercial District Dimensional Requirements for All Buildings</b>					
<b>Zoning District</b>	<b>Front Yard Depth (ft.)</b>	<b>Rear Yard Depth (ft.)</b>	<b>Minimum Aggregate Width of Side Yards (ft.)</b>	<b>Minimum Width of Side Yards (ft.)</b>	<b>Number of Side Yards Required</b>
POM	15	25****	20	10****	2

**NOTES:**

- \* 100 feet when adjoining a residential district.
- \*\* 20 feet when a pad site adjoins a CR development.
- \*\*\* 25 feet when adjoining a residential district.
- \*\*\*\* Where adjoining a residential district, the setback shall be one (1) foot for each foot of building height, but not less than thirty-five (35) feet

Yards shall be measured and determined in accordance with the standards set forth in Section K.6. of this Ordinance. Increased setbacks assigned when adjacent to residential zoning shall be applied when property is adjoining only, and is not to be applied across public street rights-of-way.

**b. Attached Units in Commercial Developments.**

A single building may be developed with zero (0) distance side setbacks for interior units, when attached to other units, provided that:

- (1) The building shall conform to the dimensional requirements for the district in which it is located.
- (2) A common access easement for all parking and drive areas shall be attached to the deed of each property.
- (3) A property owner association shall be established with respect to maintenance of the property.
- (4) Each unit and unit graphic shall be of consistent exterior design with regard to style, materials and color (except in the POM District, the appearance of which is regulated in Subsection 6 of this section).
- (5) Residential uses are not permitted in such a building.

**c. All Public Street Frontages Are Front Yards.**

On corner lots and through lots, all sides of a lot adjacent to streets shall be considered front yards, but only the side of the lot opposite the frontage of the building shall be considered the rear yard.

**6. Street Graphics in the POM Zoning District.**

Regulation of street graphics in the POM District shall be per Section I.2 of this Article.

G. Reserved.

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## H. Industrial Districts.

### 1. Purpose.

The purposes of the three industrial zoning districts are as follows:

- a. **IR (Industrial Restricted).** To provide locations for offices and light industrial uses which do not require special measures to control odor, dust or noise and which do not involve hazardous waste and whose environmental impacts are contained within the property limits.
- b. **IG (Industrial General).** To provide for those manufacturing, processing and storage uses which should be separated from other uses by reason of characteristics which may conflict with other uses. The exclusion of residential and commercial uses is intended to promote the economic welfare of the city by reserving especially suited areas for industry and by controlling the intermingling of incompatible uses.
- c. **I-MU (Industrial Mixed-Use).** To provide locations for light industrial parks, office parks, research and development facilities, hi-tech communication and technology facilities, trucking and distribution facilities, and minor commercial uses that support job centers.

### 2. Uses.

#### a. Permitted and Special Exception Uses.

Uses in these districts shall be permitted, permitted by special exception in accordance with general and specific performance criteria found in Section U, Sub-Section 8, or not permitted as enumerated in Section Z of this Article.

#### b. Conditions for Kennels in the I-MU Zoning District.

- (1) Use area must be set back at least one hundred (100) feet from any nearby property containing a residential dwelling unit, religious organization's place of worship, educational service facility, residential care facility, hospital, assisted-living facility or nursing home.
- (2) Exterior exercise/play areas must be enclosed with solid fencing, at a minimum of six (6) feet in height.
- (3) The total number of dogs permitted at any one time shall not exceed one (1) dog per one hundred (100) square feet of combined interior/exterior lease area.

#### c. Special Exception Uses.

Compliance with Use and Development Requirements. Any special exception use granted by the Board of Zoning Appeals shall only be approved when the use is found to be in accordance with the following requirements:

- (1) The off-street parking requirements of Section O.

- (2) The specific performance criteria of individual special exception uses (if applicable) as found in Section U.8.a.(7) of this Article.
- (3) The site plan requirements of Subsection S.2 if applicable, following the Board’s granting of the special exception.

**d. Accessory Uses.**

- (1) Uses and structures customarily accessory and incidental to any principal permitted use or authorized special exception.
- (2) Home workstations, subject to the requirements of Section K.10. of this Article. The requirements shall not be relaxed for residences in zoning districts where commercial uses may be enumerated as a permitted use in that district.
- (3) Home day-care of up to four (4) children, not including the children or relatives of the resident provider (not permitted in an apartment dwelling unit).

**3. Parking Requirements.** As applicable under Section O of this Ordinance.

**4. Height Limitation Chart.**

	IR	IG	I-MU
Height	60 feet	100 feet	9 stories or maximum of 100 feet

**5. Minimum Lot Area, Lot Width and Yard (Setback) Requirements.**

The minimum lot area, lot width and yard (setbacks) requirements for industrial districts shall be as stated in the following chart:

<b>Industrial District Dimensional Requirements for All Buildings</b>				
Zoning District	Front Yard Depth (ft.)	Rear Yard Depth (ft.)	Minimum Width of Side Yards (ft.)	Number of Side Yards Required
IR	50*	25*	25*	2
IG	50*	25**	25**	2
I-MU	35	25***	15***	2

**NOTES:**

- \* 100 feet when adjoining an “R” district.
- \*\* 200 feet when adjoining an “R” district.
- \*\*\* Where adjoining an “R” district, the setback shall be one (1) foot for each foot of building height, but not less than thirty-five (35) feet

Yards shall be measured and determined in accordance with the standards set forth in Section K.6. of this Article. Increased setbacks assigned when adjacent to residential zoning shall be applied when property is adjoining only, and is not to be applied across public street rights-of-way.

**6. All Public Street Frontages Are Front Yards.**

On corner lots and through lots, all sides of a lot adjacent to streets shall be considered front yards, but only the side of the lot opposite the frontage of the building shall be considered the rear yard.

**7. Industrial Performance Standards.**

The following industrial performance standards shall be met in the industrial districts for any industrial use prior to the issuance of a zoning permit:

- a. **Control of Smoke, Dust and Dirt, Fumes, Vapors, Gases and Odors.** The Maryland air pollution control standards shall be used to control the emission of smoke, dust, dirt, fly ash, fumes, vapors, gases or odors.
- b. **Control of Heat and Glare.** No use shall carry on an operation that will produce heat or constant glare which will adversely affect the uses of an adjacent property.
- c. **Vibration Control.** Machines or operations which cause vibration shall be permitted, but in no case shall any such vibration adversely affect the uses of an adjacent property.
- d. **Radiation of Electrical Emissions, Radioactivity or Electrical Disturbance.** Activities which may emit dangerous radioactivity beyond closed areas shall comply with state and federal codes. No electrical disturbances (except from domestic household appliances) shall be permitted to affect adversely at any point any equipment other than that of the creator of such disturbance.
- e. **Electric, Diesel, Gas or Other Power.** Every use requiring power shall be so operated that any service line, substation, etc., shall conform to the highest applicable safety requirements. They shall be constructed, installed, etc., so that they will be an integral part of the architectural features of the building or, if visible from abutting residential properties, shall be concealed by evergreen planting.
- f. **Wastewater and Waste Treatment.** All methods of wastewater and industrial waste treatment and disposal shall be approved by the Department of Utilities and shall be in accordance with all applicable regulations.
- g. **Storage of Materials.**
  - (1) No materials or wastes shall be deposited upon a lot in such form or manner that they may be transferred off the lot by natural causes or forces, nor shall any substance which can contaminate a stream or watercourse or otherwise render such stream or watercourse undesirable as a source of water supply or recreation or which will destroy aquatic life be allowed to enter any stream or watercourse.

- (2) All materials or wastes which may cause fumes or dust or which may be edible or otherwise attractive to rodents or insects shall be stored only if enclosed in containers which are adequate to eliminate such hazards.

**8. I-MU District Use Limitation, Development and Design Standards.**

**a. Limitations on Retail and Service Uses.**

Uses identified in the I-MU District in the Use Chart cited in Section Z of this Article as a permitted use, but marked with an asterisk shall:

- (1) Not exceed twenty five (25%) percent of the gross floor area of the building, or
- (2) Not exceed in the aggregate twenty (20%) percent of the gross floor area of a group of buildings designed and approved as a unified development, as designated on the approved site plan.
- (3) Gasoline service stations (4471) are not permitted in the I-MU District, including incidental sales associated with a convenience store.
- (4) Retail shall not be the sole occupant of a structure.

**b. Street Graphics.**

Regulation of street graphics in the I-MU shall be in accordance with Section I.2 of this Article.

**I. Street Graphics.**

**1. Prohibitions.**

The following types of graphics are not permitted:

- a. Animation, bare-bulbs, or flashing illumination or imagery. All lighting shall be steady, stationary, and/or shielded light sources directed solely onto the message.
- b. Roof-mounted graphics and temporary portable street graphics.
- c. Temporary signs, except banners for government, libraries, museums and other non-profit organizations to announce special events and exhibits.

**2. Street Graphics in the POM, I-MU, and AT Zoning Districts.**

Site plan applicants are required to present a Program for Graphics as part of a required site plan that integrates the design of street graphics 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 (1) freestanding street graphic at each exit and entrance. Dimensional and Design Requirements are as follows:

- a. Freestanding street graphics for entrances and single-use buildings:
  - (1) A ground mounted type.
  - (2) Maximum Height: ten (10) feet
  - (3) Maximum area: one hundred (100) square feet
  - (4) Construction: The style, color and materials consistent with the main structure.
  - (5) A single-use building shall have no more than one (1) freestanding street graphic installation.
- b. Freestanding Street Graphic for multi-use buildings:
  - (1) A multi-use building shall have no more than one (1) freestanding street graphic facing each street or highway on which the building has frontage.
  - (2) Maximum Height: fifteen (15) feet
  - (3) Maximum Width: ten (10) feet
- c. Wall Graphic:
  - (1) A multi-use building shall have no more than one (1) wall graphic facing each street or highway on which the building has frontage.
  - (2) Maximum Height: three (3) feet

- (3) Maximum Width: sixty (60%) percent of the wall on which the graphic will be mounted
- (4) For projects subject to a required site plan, the Planning Commission may consider exceptions for an established logo that will not fit within these dimensions on a case-by-case basis.

**d.** Projecting Graphics:

- (1) Maximum Height: two (2) feet
- (2) Maximum Width: four (4) feet
- (3) Maximum Projection (inches from building wall) or within two (2) feet of the curb line: fifty-two (52) inches
- (4) Minimum Vertical Clearance: eight (8) feet
- (5) Maximum Vertical Clearance: twelve (12) feet

**e.** Secondary changeable copy/image graphics:

- (1) Shall be located on the same base as the primary freestanding graphic.
- (2) Shall be subject to the total width and area maximums identified in the preceding subsections for POM and I-MU graphics.
- (3) Graphics which automatically change messages or copy electronically must be set to maintain the image for a minimum of ten (10) seconds and change to the next image within one (1) second or less.
- (4) All digital signs shall be equipped with automatic dimming capabilities that adjust the brightness to the ambient light at all times of the day and night.

**3. Street Graphics in the CC-MU, N-MU, CL, LC, and C Zoning Districts.**

- a.** Windows can have painted or etched lettering for the business.
- b.** Graphics shall be centered between architectural elements and shall be placed facing primary pedestrian streets.
- c.** Wall-mounted graphics shall not project more than six (6) inches from the building.
- d.** Building-mounted or wall graphics for retail shops shall be located in the store front area above the door height and below canopy, typically eight (8) feet above the floor.
- e.** Overhanging, building-mounted, or projecting graphics which hang from the canopy, arcade or building front are permissible. Such graphics shall not have an

area of more than eight (8) square feet or exceed two (2) inches in thickness. The bottom of the graphic should not be lower than eight (8) feet above the ground.

- f.** Channel letter height shall not exceed eighteen (18) inches. Larger first letters up to twenty-four (24) inches will be permitted.
- g.** Length of the graphic shall not be more than two-thirds of the overall leased facade area. Each graphic is calculated separately and shall conform to all applicable maximum area limitations. Calculated maximum areas are not transferable to other facades. No more than two (2) facades, per business, may have graphics.
- h.** Graphics displayed on awnings are allowed.
- i.** A multi-use building shall have no more than one (1) freestanding street graphic installation facing each street or highway on which the building has frontage, limited to a maximum height of ten (10) feet and a maximum area of forty (40) square feet.
- j.** Projecting graphics:

  - (1) Before any projecting graphic, as defined in Article 3, over two and one-half (2½) square feet shall be placed or altered in size or location a building permit and a zoning certificate must be issued.
  - (2) Size. A total graphic area of eight (8) square feet shall be allowed for each storefront tenant of multi-use buildings. A total graphic area of thirty-six (36) square feet shall be allowed for no more than one (1) vertically oriented sign per street frontage for single-use buildings or to identify upper floor tenants in multi-use buildings. For the purposes of computing the allowable area, it will be the sum of the area of one (1) face of the graphic.
  - (3) Location. No graphic shall project more than fifty-two (52) inches from the building wall or within two (2) feet of the curb line. A vertical clearance of at least eight (8) feet shall be provided below all parts of a graphic. Graphics for storefront tenants in multi-use buildings shall be positioned to hang below the second floor of the building. Graphics for single-use buildings or upper floor tenants in multi-use buildings may be positioned above the first floor of the building.
  - (4) Advertisement. No graphic shall be erected on a site or remain on a site that advertises an activity, business, product, or service no longer produced or conducted on site. No graphic may remain on a site for more than thirty (30) days if that sign advertises an activity, business, product or service no longer conducted or produced on that site. Upon removal of any graphic, all unused brackets and conduits also shall be removed. All holes or other damage shall be patched or repaired and shall be painted as necessary to match the existing wall surface.
  - (5) Nonconforming graphics. Projecting signs existing at the time of the enactment of this subsection and not conforming to its provisions, but

which did conform to previous laws, shall be regarded as nonconforming signs which may be continued if properly maintained as provided by any other relevant ordinance. Nonconforming signs which are structurally altered, relocated or replaced shall comply immediately with all provisions of this subsection.

- (6) Secondary changeable copy/image graphics:
  - (a) Shall be located on the same base as the primary freestanding graphic.
  - (b) Shall be subject to the total width and area maximums identified in the preceding subsections for graphics.
  - (c) Graphics which automatically change messages or copy electronically must be set to maintain the image for a minimum of ten (10) seconds and change to the next image within one (1) second or less and shall be locked in a single image between the hours of 10:00 p.m. and 6:00 a.m.
  - (d) All digital signs shall be equipped with automatic dimming capabilities that adjust the brightness to the ambient light at all times of the day and night.

**4. Street Graphics in the CG, CR, IR, and IG Zoning Districts.**

- a. Freestanding street graphics:
  - (1) No more than one (1) graphic installation per street frontage for single-use buildings and no more than one (1) per street frontage for multi-use buildings and shopping centers.
  - (2) Maximum height of thirty (30) feet.
  - (3) Maximum area of one hundred (100) square feet.
- b. Wall graphics:
  - (1) A multi-use building shall have no more than one (1) wall graphic facing each street or highway on which the building has frontage.
  - (2) Maximum Height: three (3) feet
  - (3) Maximum Width: sixty (60%) percent of the wall on which the graphic will be mounted
  - (4) For projects subject to a required site plan, the Planning Commission may consider exceptions for an established logo that will not fit within these dimensions on a case-by-case basis.
- c. Projecting graphics:



- (1) Before any projecting graphic, as defined in Article 3, over two and one-half (2½) square feet shall be placed or altered in size or location a building permit and a zoning certificate must be issued.
- (2) Size. A total graphic area of eight (8) square feet shall be allowed for each storefront tenant of multi-use buildings. A total graphic area of thirty-six (36) square feet shall be allowed for no more than one (1) vertically oriented sign per street frontage for single-use buildings or to identify upper floor tenants in multi-use buildings. For the purposes of computing the allowable area, it will be the sum of the area of one (1) face of the graphic.
- (3) Location. No graphic shall project more than fifty-two (52) inches from the building wall or within two (2) feet of the curb line. A vertical clearance of at least eight (8) feet shall be provided below all parts of a graphic. Graphics for storefront tenants in multi-use buildings shall be positioned to hang below the second floor of the building. Graphics for single-use buildings or upper floor tenants in multi-use buildings may be positioned above the first floor of the building.
- (4) Advertisement. No graphic shall be erected on a site or remain on a site that advertises an activity, business, product, or service no longer produced or conducted on site. No graphic may remain on a site for more than thirty (30) days if that sign advertises an activity, business, product or service no longer conducted or produced on that site. Upon removal of any graphic, all unused brackets and conduits also shall be removed. All holes or other damage shall be patched or repaired and shall be painted as necessary to match the existing wall surface.
- (5) Nonconforming graphics. Projecting signs existing at the time of the enactment of this subsection and not conforming to its provisions, but which did conform to previous laws, shall be regarded as nonconforming signs which may be continued if properly maintained as provided by any other relevant ordinance. Nonconforming signs which are structurally altered, relocated or replaced shall comply immediately with all provisions of this subsection.

**d.** Secondary changeable copy/image graphics:

- (1) Shall be located on the same base as the primary freestanding graphic.
- (2) Shall be subject to the total width and area maximums identified in the preceding subsections for graphics.
- (3) Graphics which automatically change messages or copy electronically must be set to maintain the image for a minimum of ten (10) seconds.
- (4) All digital 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. Street Graphics in the R Zoning Districts for Permitted Non-Residential Uses (excluding home work stations).**
- a. Freestanding street graphics:**
- (1) No more than one (1) graphic installation per street frontage for single-use buildings and no more than one (1) per street frontage for multi-use buildings and shopping centers.
  - (2) Maximum height of ten (10) feet.
  - (3) Maximum area of thirty-six (36) square feet.
- b. Wall graphics:**
- (1) A multi-use building shall have no more than one (1) wall graphic facing each street or highway on which the building has frontage.
  - (2) Maximum Height: three (3) feet
  - (3) Maximum Width: sixty (60%) percent of the wall on which the graphic will be mounted
  - (4) For projects subject to a required site plan, the Planning Commission may consider exceptions for an established logo that will not fit within these dimensions on a case-by-case basis.
- c. Projecting graphics:**
- (1) Before any projecting graphic, as defined in Article 3, over two and one-half (2½) square feet shall be placed or altered in size or location a building permit and a zoning certificate must be issued.
  - (2) Size. A total graphic area of eight (8) square feet shall be allowed for each storefront tenant of multi-use buildings. A total graphic area of thirty-six (36) square feet shall be allowed for no more than one (1) vertically oriented sign per street frontage for single-use buildings or to identify upper floor tenants in multi-use buildings. For the purposes of computing the allowable area, it will be the sum of the area of one (1) face of the graphic.
  - (3) Location. No graphic shall project more than fifty-two (52) inches from the building wall or within two (2) feet of the curb line. A vertical clearance of at least eight (8) feet shall be provided below all parts of a graphic. Graphics for storefront tenants in multi-use buildings shall be positioned to hang below the second floor of the building. Graphics for single-use buildings or upper floor tenants in multi-use buildings may be positioned above the first floor of the building.
  - (4) Advertisement. No graphic shall be erected on a site or remain on a site that advertises an activity, business, product, or service no longer produced or conducted on site. No graphic may remain on a site for more

than thirty (30) days if that sign advertises an activity, business, product or service no longer conducted or produced on that site. Upon removal of any graphic, all unused brackets and conduits also shall be removed. All holes or other damage shall be patched or repaired and shall be painted as necessary to match the existing wall surface.

- (5) Nonconforming graphics. Projecting signs existing at the time of the enactment of this subsection and not conforming to its provisions, but which did conform to previous laws, shall be regarded as nonconforming signs which may be continued if properly maintained as provided by any other relevant ordinance. Nonconforming signs which are structurally altered, relocated or replaced shall comply immediately with all provisions of this subsection.

**d.** Secondary changeable copy/image graphics:

- (1) Shall be located on the same base as the primary freestanding graphic.
- (2) Shall be subject to the total width and area maximums identified in the preceding subsections for graphics.
- (3) Graphics which automatically change messages or copy electronically must be set to maintain the image for a minimum of ten (10) seconds and change to the next image within one (1) second or less and shall be located in a single image between the hours of 10:00 a.m. and 6:00 p.m.
- (4) All digital signs shall be equipped with automatic dimming capabilities that adjust the brightness to the ambient light at all times of the day and night.

**J. Overlay Zones.**

**1. Planned Unit Developments (PUD).**

**a. Purpose.**

The purpose of the PUD District is to provide for planned development incorporating a variety of uses and density levels at appropriate locations within the City of Hagerstown which complement the urban nature of the city. The PUD District provides for a total development concept, including a variety of housing types, optimal open space, required public facilities and compatible commercial uses as a part of a detailed development plan. In return for added flexibility from the requirements of the underlying zoning district, PUD developments need to provide improvements to the overall quality of life for the city.

**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.

**c. Principal Permitted Uses and Special Exception Uses, In Accordance With Section S (Site Plan Requirements).**

(1) Uses in these districts shall be permitted, permitted by special exception in accordance with general and specific performance criteria found in Section U, Subsection 8, or not permitted as enumerated in Section Z of this Article.

(2) A PUD District shall be a mixed-use area and shall contain a mixture of residential types and commercial uses. Residential types shall be mixed among each other and not segregated into housing type pods.

**d. Accessory Uses.**

(1) Uses and structures customarily accessory and incidental to any principal permitted use or authorized special exception use.

(2) Home workstations, subject to the requirements of Section K.10 of this Article. The requirements shall not be relaxed for residences in zoning districts where commercial uses may be enumerated as a permitted use in that district.

(3) Home day-care of up to four (4) children, not including the children or relatives of the resident provider.

**e. General Requirements for a Planned Unit Development.**

Applications for planned development shall meet the following requirements:

- (1) The area proposed for a planned unit development shall be in one (1) ownership, or, if in several ownerships, the proposal shall be filed jointly by all the owners of the property included in the development plan.
- (2) The site shall be of a size and shape suitable for the development proposed.
- (3) The site is or can be served with public water and wastewater facilities.
- (4) The site shall be located adjacent to adequate highway facilities capable of serving existing traffic and that expected to be generated by the proposed development.
- (5) The owners or developers must indicate that they plan to begin construction of the development within two (2) years after final approval. If construction does not begin within two (2) 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.

**f. Application Procedures.**

The following procedures shall be followed with respect to all applications for PUD District zoning:

- (1) **Step I. Preliminary Consultation and Sketch Plan.** A preliminary consultation shall be held between the Planning Commission and the applicant or developer of the proposed planned unit development. The application for PUD District zoning shall be accompanied by a sketch plan prepared by a registered professional engineer, registered architect or landscape architect or registered land surveyor. The sketch plan shall be to scale and contain sufficient information to establish the identity of proposed uses, grades and approximate dimensions and locations of proposed structures, streets, parking areas, walkways, easements and property lines. It shall include the following information:
  - (a) Proposed development layout.
  - (b) Proposed reservations for parks, parkways, playgrounds, school sites and other open spaces.
  - (c) Proposed location of neighborhood business within the PUD areas, including all associated off-street parking.
  - (d) Types of dwellings and portions of the area proposed therefor.
  - (e) Proposed location of dwelling and parking areas.
  - (f) A tabulation of the total number of acres in the proposed project and the percentage thereof designated for each of the proposed dwelling types, neighborhood retail business, other nonresidential uses, off-street parking, streets, parks, schools and other reservations.

- (g) A tabulation of overall density per gross acreage.
- (h) Preliminary plans and elevations of the several dwelling types.
- (i) The Planning Commission may require that a traffic impact study be prepared and submitted as part of the review materials for the Planning Commission's public review meeting.

(2) **Step II. Planning Commission Review and Action.** The Planning Commission shall hold a review and make its recommendations to the Mayor and City Council in accordance with the Zoning Map amendment provisions enumerated in Section A.10 of this Article.

(3) **Step III. Mayor and City Council Action.** Again, in accordance with said Section A.10, the Mayor and City Council shall consider the recommendations of the Planning Commission and take formal action to approve or disapprove the PUD District Zoning Map amendment.

(4) **Step IV. Site Plan Review and Action.** Upon Mayor and City Council approval of a PUD District Zoning Map Amendment, the applicant shall prepare a detailed development plan in accordance with the site plan requirements delineated in Section S of this Article.

**g. Height Regulations.**

- (1) Maximum Height – Principal-permitted structure: sixty (60) feet
- (2) Maximum Height – Accessory structure: twenty-five (25) feet

**h. Off-Street Parking.**

There shall be two (2) spaces per dwelling unit for residential uses. Other uses shall be as delineated in Section O.

**i. Special Design Requirements.**

- (1) **Size.** The area proposed to be zoned as a PUD District shall have an area of at least five (5) acres.
- (2) **Density of Development and Minimum Lot Size.** There is no specific prescribed permitted residential density or minimum lot size for a PUD Development. However, additional open space designed to accommodate active recreational use in addition to that required in (3) below, shall be provided as follows, whether fee simple or condominium:

Use	For each square foot of lot area below the following lot area requirement	Requirement of Additional Open Space
Single-family, detached	7,500 square feet	1.0 square feet
Single-family, semi-detached	5,000 square feet	1.2 square feet
Two-family dwelling	10,000 square feet	2.5 square feet
Townhouse	2,500 square feet	1.5 square feet
Stacked Apartment, Courtyard Apartments, and Mansion Apartment House	2,000 square feet per dwelling unit	1.75 square feet

**(3) Open Space.**

- (a) Open space shall be so located and designed to complement the development and serve as an amenity to the development.
- (b) Common open space shall comprise not less than twenty (20%) percent of the total gross area.
- (c) Character-defining open space in the form of “town greens” and other traditional urban or village forms of open space shall comprise not less than 7.5% of the total gross area.
- (d) Forest retention required to meet the terms of Article 7 may occupy up to twenty-five (25%) percent of the required open space, provided it is not located in flood plains or other residual areas, and that wooded area is included in a comprehensive strategy for recreation and aesthetics within the development.
- (e) Such space shall include land area to be developed as recreational areas or which is designated for the common use of all occupants of the planned unit development but shall not include streets, storm water management facilities (unless specifically designed to be a community amenity or natural feature), off-street parking areas, or utility easements. Such open space shall not be comprised of accumulations of leftover remnants of land on the site, but shall constitute meaningful contiguous areas of land or a planned, coordinated strategy of distributed open space areas intended to enhance the urban/town experience subject to the approval of the Planning Commission based on reasons set forth in this Article.
- (f) Open space also should provide for the preservation of significant natural features on the land and/or provide recreational amenities for the use of the residents of the development. The Planning Commission must be furnished satisfactory evidence as a condition for approval that such open space area will be continued and that perpetual maintenance is provided for.

- (g) Open space will be for the benefit of the residents and visitors of the development, however, these features and amenities may be made available for use by the general public through dedication to and acceptance by the Mayor and City Council.

**(4) Maximum Allocation of Commercial Uses and Residential Uses.**

All planned unit developments shall include both commercial and residential elements with the following distributions:

**CG and CR District:** Minimum 35% of tract in residential use  
**All other base districts:** 20%-70% of tract in commercial use

The Mayor and Council may authorize deviation from the percentage standards of this subsection if the proposed development meets the intent of this Section.

- (5) **Compatibility with Neighboring Developments.** The perimeter of infill developments shall consider neighboring developments and established building patterns with regards to use, density, street orientation, and landscaping.

**(6) Setback Requirements.**

Use	Front	Side	Rear	Accessory Rear	Lot Width
Single-family	10 (a)	5	20 (b)	5	35
Semi-detached	10 (a)	5	20 (b)	5	25
Two-family	10 (a)	10	20 (b)	5	50
Townhouse	0 (c)	5	20 (b)	5	20 (d)
Stacked, Courtyard and Mansion House Apartments	10	10 (e)	20 (e)	5	75
Commercial	0	10	0	0	20
All Other	10	10	20	5	20

- (a) Porches and steps may extend no closer than five (5) feet to the front property line.
- (b) A twenty- (20-) foot rear setback is required to allow for a parking pad on the rear of the lot, accessed via an alley.



- (c) End unit townhomes located at public street intersections shall be so designed as to have their front facade oriented toward the side street.
  - (d) The Planning Commission may approve a design that includes townhouses without public street frontage fronting a common green, provided that the green is accepted by the City as a public park, and the design is acceptable to the Fire Marshal for the purpose of emergency access. Should the developer offer the green as a public park and the City accept it, the developer shall establish a fund with sufficient resources for the perpetual maintenance of the park, as may be determined by the City Engineer and convey the fund to City control.
  - (e) When stacked, courtyard, and mansion house apartment buildings will be adjacent to (or across alleys from) lots containing single-family, two-family, semi-detached or townhouse dwellings within or outside of the PUD, a thirty-five (35) foot setback shall be provided.
- (7) **Fences.** Picket and paddock fences, constructed of composite material or painted wood, and ornamental metal fences, up to three (3) feet in height are exempt from front setback requirements in the PUD District. Such fences used in a public use open space area (such as in a “green”) may be up to five (5) feet in height and are not subject to setback requirements if constructed in accordance with the above standards.
- (8) **Design Requirements.** A PUD Development shall be designed in accordance with design requirements as set forth in Article 5, Section E (Subdivision Design Principles and Standards).

**2. Conversion District.**

**a. Purpose.**

The purposes of this district are to stimulate the adaptive reuse of existing, nonresidential, multi-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 October 1, 1956.

**b. Location.**

The Conversion District may be located in the following districts: RMOD, RMED, RH, RO, CL, CG, POM, CC-MU, N-MU, I-MU, IR and IG.

**c. Permitted and Special Exception Uses.**

Uses in these districts shall be permitted, permitted by special exception in accordance with general and specific performance criteria found in Section U, Sub-Section 8, or not permitted as enumerated in Section Z of this Article.

**d. Accessory Uses.**

- (1) Uses and structures customarily accessory and incidental to any principal permitted use or authorized special exception.
- (2) Home workstations, subject to the provisions of Section K.10 of this Article.
- (3) Home day-care of up to four (4) children, except the relatives and children of the resident provider.

**e. General Requirements.**

- (1) The area proposed for a conversion district shall be in one (1) ownership, or, if in several ownerships, the proposal shall be filed jointly by all the owners of property included in the development plan.
- (2) The development shall be for an existing, nonresidential structure containing at least two (2) floors within which all proposed uses, except parking, will be contained.
- (3) The owners or developers must indicate that they plan to begin construction of the development within two (2) years after final approval. If construction does not begin within two (2) 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.
- (4) A site plan in accordance with Section S for entire area to be utilized shall be reviewed and approved by the Planning Commission prior to the use of the property.
- (5) A concept plan, as required in Subsection f, (2), shall be submitted with the application for a conversion district.

**f. Application Procedure.**

- (1) **Step 1.** Preliminary Consultation. The applicant may request a preliminary consultation with the Planning Commission prior to submission of an application.
- (2) **Step 2.** Concept Plan. A concept plan shall be submitted with the application. The concept plan shall include sufficient detail to determine consistency with this article. At a minimum, the concept plan shall show the building as existing and as proposed after development, landscaping, parking, and the following information:
  - (a) Proposed development layout.

- (b) Proposed reservations for parks, parkways, playgrounds, and other open spaces.
  - (c) A tabulation of the total number of acres in the proposed project and the percentage thereof for each structure, parking, open space, and other uses.
  - (d) A tabulation of the total square footage in the building, existing and proposed, plus the area and percentage for each residential or non-residential use within the structure.
  - (e) Plans, schematics, and elevations of the structure showing how the architectural theme of the building will be retained and the aesthetic environment of the neighborhood will be retained.
- (3) **Step 3.** Planning Commission Review and Action. The Planning Commission shall hold a review and make its recommendation to the Mayor and City Council in accordance with the zoning map amendment provisions enumerated in Section A.9 of this Article.
  - (4) **Step 4.** Mayor and City Council Action. In accordance with Section A.9, the Mayor and City Council shall consider the recommendations of the Planning Commission and take formal action to approve or disapprove the Conversion District Zoning Map amendment.
  - (5) **Step 5.** Site plan review and action. Upon Mayor and Council approval of a Conversion District Zoning Map amendment, the applicant shall prepare a detailed development plan in accordance with the site plan requirement delineated in Section S of this article and concept plan approved by the Mayor and City Council.

**g. Height.**

The height of any approved additions shall be in accordance with the height limitation of the base zoning district.

**h. Off-Street Parking.**

Off-street parking shall be as required under Section O, except that during review of the site plan, the Planning Commission may permit variation from the number of spaces required, provided such variation relates to the shared use of the parking spaces and is consistent with the approved conversion district concept plan and the special design requirements of this district.

**i. Special Design Requirements.**

- (1) In a residential district, commercial uses shall only be allowed when mixed with residential uses unless otherwise approved by the Mayor and City Council. The total floor area used by all commercial uses, whether principal permitted or by special exception, shall not exceed fifty (50%) percent of the existing structure's gross floor area, unless otherwise approved by the Mayor and City Council. In commercial and industrial

districts, residential uses are only permitted when mixed with non-residential uses.

- (2) Additions shall be designed consistent with the architectural theme of the structure and shall be located in the space least visible to the general public.
- (3) The CL maximum square footage requirements for retail trade and restaurants shall only apply where the underlying zoning district is Residential or CL.

**j. Lot Area Requirements.**

The minimum lot area for a Conversion District shall be twenty thousand one (20,001) square feet.

**3. Local Conversion District.**

**a. Purpose.**

The purposes of this district are to stimulate the adaptive reuse of existing, nonresidential and mixed-use structures embedded within densely developed residential districts and communities, to maintain and increase the city's assessable tax base, and to expand business and employment opportunities. The Local Conversion District allows for alternate forms of use and development for buildings and/or spaces that are part of or very close to residential uses in residential districts. Allowing such uses to fit into existing commercial and mixed use structures re-establishes the historically mixed use nature of the City's 19<sup>th</sup> and early 20<sup>th</sup> Century residential communities. The Local Conversion District provides an alternative development concept for underutilized structures while protecting the general health, safety, welfare, and aesthetics in the vicinity of the site through the commitment to an approved development concept plan. It is acknowledged that such uses will be outwardly commercial in nature and operation, but are reviewed individually to ensure the proposed use or uses and improvements are not an undue burden on the surrounding area.

**b. Location.**

The Local Conversion District may be located in the following districts: RMOD, RMED, RH and RO.

**c. Permitted and Special Exception Uses.**

Uses in the Local Conversion District shall be permitted, permitted by special exception in accordance with general and specific performance criteria found in Section U, Subsection 8, or not permitted as enumerated in Section Z of this Article.

**d. Accessory Uses.**

Uses and structures customarily accessory and incidental to those uses permitted by an approved concept plan for the adoption of the overlay district, unless prohibited by the adopted concept plan and/or the special design standards cited in Subsection j. below.

**e. General Requirements.**

- (1) The area proposed for a conversion district shall be in one (1) ownership, or, if in several ownerships, the proposal shall be filed jointly by all the owners of property included in the development plan.
- (2) The development shall be for an existing, nonresidential or mixed use structure, constructed before October 1, 1956, in which all proposed uses will be contained, except:
  - (a) outdoor dining areas and outdoor merchandise display, as regulated elsewhere in this provision; and
  - (b) additions, as permitted in Subsection j. below.
- (3) The owners or developers must indicate that they plan to begin construction of the development or commence the use within one (1) year after the overlay is approved. If the use does not commence within two (2) 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.
- (4) This overlay district shall only be used for buildings or parts of buildings that are oriented in appearance and access to a public street. This overlay district shall not be used for buildings and uses oriented predominantly toward an alley.

**f. Application Procedure.**

- (1) **Step 1.** Preliminary Consultation. The applicant may request a preliminary consultation with the Planning Commission prior to submission of an application.
- (2) **Step 2.** Concept Plan. A concept plan shall be submitted with the application. The concept plan shall include sufficient detail to determine consistency with this Article. At a minimum, the concept plan shall show the building as existing and as proposed after development, landscaping,

parking, signage, general nature of street furniture and the following information:

- (a) Proposed development layout.
  - (b) A tabulation of the total square footage in the building, existing and proposed, plus the area and percentage for each residential or non-residential use within the structure.
  - (c) Plans, schematics, and elevations of the structure showing how the architectural theme of the building will be retained and not unduly impact adjacent residential properties.
- (3) **Step 3.** Planning Commission Review and Action. The Planning Commission shall hold a review and make its recommendation to the Mayor and City Council in accordance with the zoning map amendment provisions enumerated in Section A.10 of this Article.
  - (4) **Step 4.** Mayor and City Council Action. In accordance with said Section A.10, the Mayor and City Council shall consider the recommendations of the Planning Commission and take formal action to approve or disapprove the Local Conversion District Zoning Map amendment.
  - (5) **Step 5.** Site Plan Review and Action. Upon Mayor and Council approval of a Local Conversion District Zoning Map amendment, the applicant shall prepare a detailed site plan or minor site plan in accordance with the site plan requirement delineated in Section S of this Article and the concept plan approved by the Mayor and City Council. The plan shall be subject to Planning Commission approval.

**g. Height.**

No increase in height is permitted, except in accordance with the height limitation in the underlying zoning district.

**h. Lot Area Requirements and Off-Street Parking.**

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

**i. Special Design Requirements.**

- (1) Additions shall be designed consistent with the architectural theme of the structure and shall be located in the space least visible to the general public.
- (2) No outdoor vending machines shall be permitted.
- (3) No outdoor storage of any kind is permitted except display of merchandise at convenience and grocery stores if historically part of a use on the subject property.
- (4) No outdoor dining or seating area for a restaurant shall be permitted in any of the rear yard area between the building and rear property line or within ten (10) feet of a side property line unless historically part of the on-site use.
- (5) Buildings of an industrial, warehouse or automotive service design shall be enhanced via architectural or cosmetic enhancement, site amenities, landscaping, and other strategies to achieve suitability for their new use(s) within a residential district and compatibility with the neighborhood.
- (6) Storefronts previously modified or enclosed shall be rehabilitated to reintroduce a storefront window display design.

**4. Historic Districts and Landmarks.**

**a. Location.**

The Mayor and City Council may designate an historic district or landmark as an overlay zone in any area of the City. The historic district and landmark designation can concurrently occur as an overlay with any of the other various districts.

**b. Criteria.**

Should a site, structure, or district meet any of the following criteria, it may be eligible for designation as an historic district or landmark:

- (1) Historical significance:
  - (a) has significant character, interest, or value as part of the development, heritage, or cultural characteristics of the city, county, state, or nation;
  - (b) is the site of an historic event;
  - (c) is identified with a person or a group of persons who influenced society; or

- (d) exemplifies the cultural, economic, social, political, or historic heritage of the city.
- (2) Archaeological significance: A site that yields, or scholarly research suggests it may be likely to yield, information important in prehistory or history, as the location of a significant event, occupation or activity, or structure, whether standing, ruined, or vanished.
- (3) Architectural significance:
  - (a) embodies the distinctive characteristics or a type, period, or method of construction;
  - (b) represents the work of a master craftsman, architect or builder;
  - (c) possesses high artistic value;
  - (d) represents a significant and distinguishable entity whose components may lack individual distinction; or
  - (e) represents an established and familiar visual feature of the neighborhood, community, or city, due to its singular physical characteristics or landscape.

**c. Procedure.**

The Historic District Commission is authorized and empowered, after making full and proper study, to recommend any site, structure, or district meeting any of the above criteria, within the limits of the City, as a proposed historic district or landmark and to determine the boundary lines of any such district or landmark. The recommendation shall be submitted to the Planning Commission for review and action. The Planning Commission shall make its recommendation to the Mayor and City Council in accordance with the Zoning Map Amendment procedures enumerated in Section A.10 of this Ordinance. The Mayor and City Council shall hold a review and take formal action to approve or disapprove the historic district or landmark Zoning Map Amendment.



**K. Supplementary Regulations.**

**1. Fences and Walls.**

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

**Visibility at Intersections.**

No fence, wall, gateway, ornamental structure, hedge, shrubbery and other fixtures, construction or planting shall exceed three (3) feet 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 twenty-five (25) feet along both the front and side lot lines, measured from the point of intersection of the intersecting lot lines.

**Height and Setback.**

The following maximum height limitation shall be applied to fences that may be located within building setbacks.

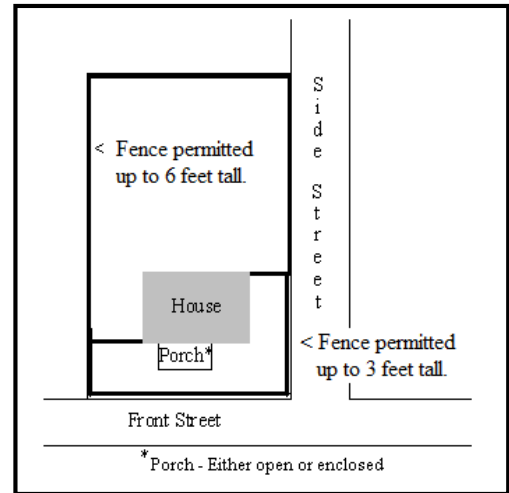
District	Front Yard	Side Yard	Rear Yard
Residential zoning districts	3 feet (a)	6 feet (a)	6 feet (a)
Residential uses in a mixed-use district	3 feet (a)	6 feet (a)	6 feet (a)
Commercial zoning districts	Not permitted (c)	8 feet (b)	8 feet (b)
Commercial and institutional uses in a mixed-use district	Not permitted (c)	8 feet (b)	8 feet (b)
Industrial zoning districts, including the I-MU district	10 feet (c)	10 feet (b)	10 feet (b)

- a. Residential Districts.** When a residential property in a residential zoning district fronts more than one (1) public street, a frontage on a side street 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 closer to the principal frontage along the side street than the rear facade of the dwelling. This provision shall not apply when the side street is of a higher functional classification than the principal frontage, as determined by the City Engineer.

Front yard fences shall be constructed only of decorative metal, wood picket or composite picket construction, with the spaces between the pickets being at least as wide as the pickets. Chain link, wire, vinyl, paddock and post and rail fences are specifically prohibited in front yards. On residential properties, chain link fencing shall be limited to no more than four (4) 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.

- b. When Adjacent to Less Intense Districts.** Where a property 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 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.



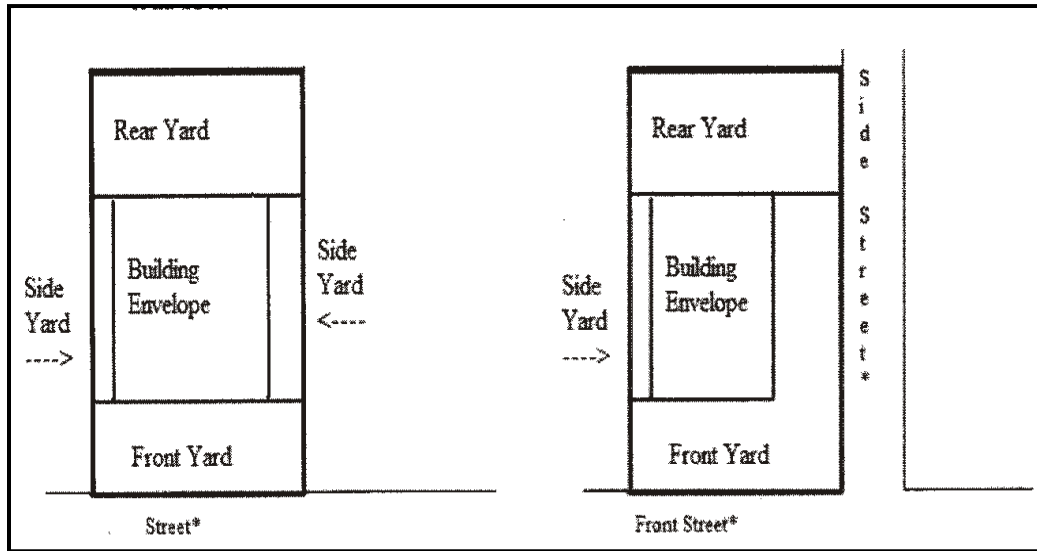
- c. Buffers Required When Adjacent to Public Streets.** Fences or walls constructed in a commercial or industrial district adjacent to a public street shall provide a perimeter roadside buffer in accordance with Section S of this Article and Article 5, Section I, and the appropriate buffer shall be 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.
- d. Entrance Features.** Fences or walls which serve as entrance features to subdivisions or developments shall be limited to four (4) feet in height.
- e. 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, and noise attenuation walls.
- f. Materials.** Fences shall be constructed of materials specifically designed and manufactured for fencing purposes.
- (1) 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 (6) feet in height.
  - (2) See Section K.1.a. on the previous page regarding limitations on materials for fences in front yards in residential districts.
  - (3) The finished side of any fence shall face outward towards surrounding public street rights-of-way, public parks and public school properties.

- g. The provisions of this subsection shall not apply to retaining walls without integral safety railings or where safety railings are set back from the top of the wall by a minimum of three (3) feet. However, safety railings made of fence materials shall comply with limitations on materials found in this subsection.

- 2. **Special Height Regulations.** The height limitations contained in the height regulations and yard requirements do not apply to belfries; steeples; spires; electric or communication poles or towers; electric transforming or switching equipment; radio, television, or radar towers; chimneys or smoke stacks; flagpoles; fire towers; cupolas; domes; monuments; penthouses or roof structures for housing stairways; or to tanks, ventilating fans, air conditioning equipment or similar equipment required to operate and maintain the building.

No penthouse or roof structure subject to this height limitation exception shall have a total area greater than twenty-five (25%) percent of the roof area, nor shall such structure be used for any purpose other than a use incidental to the main use of the building. The height limitations for wireless communications antennas, poles, and towers are specified in Section Q.

- 3. **Structures to Have Access.** Every dwelling hereafter erected or moved shall be located on a lot adjacent to a public street. For the purpose of this section, alleys do not constitute a public street.
- 4. **Flood Plain.** All uses in the flood plain as defined by the map entitled, "Flood Boundary and Floodway Map," and designated as Community Panel No. 240074-0001B, prepared by the United States Department of Housing and Urban Development, Federal Insurance Administration and delineated on the official zoning map, shall comply with Article 6 of this Chapter.
- 5. **Storm Water Detention and Retention Structures.** Design, buffering, location and other considerations for the construction of stormwater detention and retention structures are found in Article 5, Section I, of this Chapter and those Ordinances administered by the City Engineer for the purpose of governing design of such structures.
- 6. **Procedure for Measurement of Yards.**
  - a. **Front Yard.** Depth of required front yards shall be measured at right angles to a straight line joining the foremost points of the side lot lines. The foremost points of the side lot lines, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding.
  - b. **Rear Yard.** Depth of required rear yards shall be measured at right angles to a straight line joining the rearmost points of the side lot lines. The forward rear yard line of a required rear yard shall be parallel to the straight line so established.
  - c. **Side Yard.** Width of required side yards shall be measured at right angles to a straight line joining the ends of front and rear lot lines on the same side of the lot. The inner side yard line of a required side yard shall be parallel to the straight line so established.



*Illustration of above explanation of front, side, and rear yards.*

All public street frontages are “front” yards. These two examples illustrate how yard requirements are determined, both in interior lots and corner lots. The area shown as “street” in these illustrations includes everything within the street right-of-way, not just the improved surface of the road.

**7. Yard Sales.**

Yard sales, as defined in Article 3, are permitted for all residential properties permitted by right, special exception or bona fide nonconforming use, as an accessory use to that dwelling provided there are no more than four (4) such yard sales in a calendar year, and each sale is no longer than three (3) consecutive days in duration.

**8. New Residential Development Sales and Leasing Facilities.**

The use of sales trailers or a constructed home as a model home and/or sales office shall be permitted for the purpose of marketing units for rent or sale within that development, provided that the type and location are shown on the approved site plan or development plan. Otherwise a site plan will be required.

**9. Use of Semi-Trailers, Sea-Containers and “PODS”.**

- a. Semi-trailers shall not be used for the purpose of storing material or merchandise on a property beyond that customarily associated with the use of the semi-trailer to transport goods. Every semi-trailer maintained on a property shall be kept roadworthy and currently registered and display valid license plates registered to that vehicle. Any semi-trailer made nonconforming by this Ordinance shall be brought into compliance within twenty-four (24) months of the effective date of this Ordinance or be removed from the property.

Use of a semi-trailer for a one-time or rare extenuating circumstance of business operations shall be permitted for a period of up to one hundred eighty (180) days on commercial properties in commercial and industrial zoning districts, provided the use of the semi-trailer(s) is located on existing paved or gravel surfaces, does not occupy required on-site parking and remains roadworthy and licensed as described above. This provision shall not be interpreted to permit serial use of semi-trailers for ongoing on-site storage or for use in repetitive circumstances. Semi-trailers may be used for on-site secure storage of building supplies and tools at an active construction site as long as construction is ongoing. When used at a construction site, the semi-trailer(s) shall be immediately removed when construction is stopped or is completed.

- b. Sea containers shall be used only in accordance with Chapter 184-9 of the City Code.
- c. PODS or other similar temporary storage units shall be permitted for periods of no more than thirty (30) days at a time, no more than one (1) at a time and no more than one (1) unit per property per year.

**10. Accessory Use Home Workstations.**

A home workstation is permitted as an accessory use in any legal dwelling. A home workstation does not involve any customers, clients, nonresident employees, supervisors, partners or co-workers visiting the property. However, the academic or artistic tutoring of individual students shall be permitted, provided no more than one (1) student is under instruction at one time.

There shall be no sign and no outdoor storage of any kind. Deliveries are limited to those made by the U.S. Postal Service and similar carriers in vehicles of a size that routinely serve residential areas and in a volume and frequency consistent with those deliveries made to a dwelling. There is no external evidence of any sort that the dwelling is used for any purpose other than that of a dwelling other than:

- a. the commercial appearance of one (1) vehicle used for commuting associated with the business, as limited by Section D, Subsection 3.c. of this Article in residential zoning districts; or
- b. the arrival and departure of individual students of tutors.

**11. Fowl and Farm Animals and Livestock.**

Except as may be permitted by the terms of the Agricultural Transition Zoning District, and zoning districts which specifically permit such use as part of another industry (such as slaughterhouses), the keeping of livestock, fowl and farm animals is not permitted within the City of Hagerstown. Livestock and farm animals include, but are not limited to horses, cattle, sheep, pigs or hogs, goats, alpaca, chickens, turkeys and similar animals. Such animals shall not be kept for any reason, including as household pets.

**12. Alternative Energy Sources/Generators.**

To obtain approval for a wind or solar energy system, the applicant shall submit a zoning permit application with a plan for review by the Planning and Code Administration

Division. Once the zoning permit is approved, the applicant may apply for proper permits from the Code Administration Office.

- a. **Small Wind Energy Systems** shall be permitted as an accessory use to any principal-permitted use in any zoning district.
- (1) No more than one (1) freestanding Small Wind Energy System shall be permitted on any individual property.
  - (2) The minimum setback from any property line for a Small Wind Energy System shall be:
    - (a) One and one-tenth (1.1) foot from the base of the structure to each property line for every one (1) foot in structure height (as measured from the lowest point along the base to the highest point of the support tower, the top of either the turbine device or the area swept by the rotor blades, whichever is greatest).
    - (b) In the event that the maximum permitted height for Small Wind Energy System cannot be achieved on a specific property, the maximum permitted height shall be controlled by the setback constraints. The Board of Zoning Appeals shall not issue a variance to the minimum required setbacks for a Small Wind Energy System.
    - (c) Location in the required front building setback is prohibited.
  - (3) No Small Wind Energy System shall have a rated maximum output in excess of fifteen (15) kilowatts of electricity. No variance to this electric generating capacity shall be granted by the Board of Zoning Appeals.
  - (4) No support tower for Small Wind Energy System shall be taller than one hundred (100) feet in height.
  - (5) All wind energy systems shall be designed such that the lowest point of the area that may be swept by the rotor blades shall have a clearance of not less than fifteen (15) feet above the base of the supporting structure. The supporting tower shall not be climbable for the first twelve (12) feet above the base of the structure. Any access doors to wind energy towers and electrical equipment shall be secured by safety locks.
  - (6) Guy wires used to support a Small Wind Energy System structure shall be set back at least ten (10) feet from all property lines and shall be secured to stationary anchors properly and securely mounted into the ground, not a tree or other structure on the property. Appropriate, but not excessive, reflective or visible painting or colored objects (such as flags, reflectors, or tapes) shall be placed on all guy wires within ten (10) feet of the ground in sufficient quantities or spacing to make them visible.
  - (7) Public Airports and Heliports: With respect to the Federal Aviation Administration (FAA): CRF Title 14, Part 77.13 defines the controlling

language for towers. The FAA must be notified when: a Wind Energy System is erected within 5,000 feet of a public use heliport that exceeds a 25:1 surface ratio; when requested by the FAA (applicant must contact FAA); when any construction or alteration is located on a public use airport or heliport.

- (8) All supporting towers for a Small Wind Energy System shall be specifically engineered to support a wind turbine. Steel lattice support towers shall be prohibited in all residential zoning districts. The use or modification of a supporting tower originally designed for a telecommunications antenna as a supporting tower for a Small Wind Energy System shall be prohibited. Supporting towers constructed of aluminum also shall be prohibited.
- (9) The applicant shall document that the proposed Small Wind Energy System shall not generate audible noise levels over 55 dBA at all property boundaries.
- (10) All Small Wind Energy Systems shall be designed with braking, governing, or feathering systems to prevent uncontrolled rotation, overspeeding, and excessive pressure on the tower structure, rotor blades, and system components.
- (11) To the maximum extent practicable under the applicable regulatory requirements, rotor blades for all Small Wind Energy Systems shall be designed with nonreflective (non-gloss) paints and materials to minimize the potential “flicker” or “strobing” effect of reflected sunlight on adjoining properties. The system also shall be designed or sited to minimize the potential impacts of rotor blade shadow strobing on nearby residential dwellings, where such siting flexibility exists.
- (12) No Small Wind Energy System shall be lighted or illuminated in any way that is not otherwise specifically required by the Federal Aviation Administration.
- (13) No Small Wind Energy System shall contain any lettering, advertisement, or signage of any kind, with the exception of any required or standard warning signage and not more than one (1) manufacturer label bonded to or painted upon the Wind Energy System.
- (14) Small Wind Energy Systems shall be designed and painted in a manner that is appropriate to minimize visual impacts on the area and setting.
- (15) To the maximum extent practicable, all on-site wiring or power lines necessary to control or transmit power from the Wind Energy System shall be placed underground or hidden from public view, except where necessary to connect the system with an above-ground power line.
- (16) Where a Small Wind Energy System will be connected to the electric power grid to permit “net-metering”, the applicant also shall provide an affidavit signed by the owner documenting that *“the owner will comply with all applicable utility notification requirements contained in the*

*Maryland net metering law and the system will comply with the Institute of Electrical and Electronics Engineers (IEEE) 1547 Standard for Interconnecting Distributed Resources with Electric Power Systems, as may be amended, and the applicable requirements promulgated by the Maryland Small Generator Interconnection Standards by the Maryland Public Service Commission.”*

- (17) When an approved Small Wind Energy System has ceased active production of electricity for a period of at least twelve (12) consecutive months, the owner of said property shall remove the Wind Energy System and supporting structure from the property.
  - (18) Small Wind Energy Systems that are proposed for location in historic districts shall be required to obtain a Certificate of Appropriateness from the Historic District Commission (HDC). The HDC may reject the application if found to compromise the historic architecture of a building or the historic environment of a site.
- b. Large Wind Energy Systems** shall not be permitted in any zoning district within the City.
  - c. Building-Mounted Wind Energy Systems** shall be permitted as an accessory use to any principal-permitted use in any zoning district.
    - (1) No more than one (1) Building-Mounted Wind Energy System with a rated maximum output of not more than fifteen (15) kilowatts of electricity shall be permitted on any individual property. No variance to this electric generating capacity shall be granted by the Board of Zoning Appeals.
    - (2) The highest part of the Building-Mounted Wind Energy System may not exceed ten (10) feet above the highest point of the roof in all zoning districts.
    - (3) Safety and aesthetic standards under Section 8.a. (ix) through (xviii) of this Article shall also apply to Building-Mounted Wind Energy Systems.
  - d. Ground-Mounted Solar Collection Systems.** Ground-Mounted Solar Collection Systems are permitted as an accessory use in any zoning district:
    - (1) In residential and mixed-use zoning districts and for residential uses in any other zoning district, Ground-Mounted Solar Collection Systems shall not occupy more than nine hundred (900) square feet of the lot, shall not be taller than ten (10) feet in height, and shall meet all setback requirements for accessory structures.
    - (2) In commercial and industrial districts, Ground-Mounted Solar Collections Systems shall meet the height and setback requirements for accessory structures in that district.



- e. **Building-Mounted Solar Collection Systems.** Building-Mounted Solar Collection Systems are permitted in any zoning district:
  - (1) Building-Mounted Solar Collection Systems may not exceed twelve (12) inches in height on gabled or hipped roofs or ten (10) feet on flat roofs.
  - (2) Building-Mounted Solar Collection Systems that are proposed for location in historic districts shall be required to obtain a Certificate of Appropriateness from the Historic District Commission (HDC).
  - (3) To the greatest extent possible, the finished material on the panels should be treated to reduce glare.

**13. Temporary Contractor Staging Facilities.**

When property is developed or redeveloped in an urban environment, it is very difficult or impossible to stage construction activities only on the property being developed or redeveloped. Therefore, the Zoning Administrator, upon request, receipt of property owner's authorization of the request and subsequent to notice provided to adjacent property owners fifteen (15) days in advance of a decision, may issue a zoning certificate for a temporary contractor staging facility in any zoning district, subject to the following requirements.

- a. The Applicant shall demonstrate that containing all construction staging activity cannot be accommodated only on the subject property.
- b. The Applicant shall demonstrate that the property selected is the most practical location for such staging activity, considering distance to the construction site, keeping potential impacts to as few adjacent properties as possible, access to and from the site and other considerations of the unique conditions of the property selected. The certificate shall be valid for a specified period of time, but can be renewed. The use shall be for an active construction site only. If construction is halted, the temporary staging facility must be cleared within five (5) business days.
- c. The Applicant shall provide a plan to the Zoning Administrator showing the use areas on the site, mitigation steps that may be taken to minimize impacts on surrounding properties and the measures that will be taken to return the property to the same or better condition that existed at the beginning of the use. Upon completion of the need for the staging area as part of the construction project, all materials, equipment, supplies, etc. shall be removed from the staging site within five (5) business days, and required remediation of the site conditions shall be completed within thirty (30) days.
- d. Parties aggrieved by the Zoning Administrator's decision whether to issue a zoning certificate for such use may appeal this decision to the Board of Zoning Appeals within thirty (30) days of the date assigned to the certificate.

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L. Reserved.

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

- 1. Confirmation of Nonconforming Use.** In the event that there is a nonconforming use in existence on the date of adoption of this ordinance, the owner or lessee of the premises in question may file with the Zoning Administrator a certification in writing of such form furnished by the Zoning Administrator and shall set forth fully the type of nonconforming use and all other applicable information in reference to the structure location and general use.
- 2. Restoration.** Nothing in this ordinance shall prevent the restoration of a nonconforming use, building or structure destroyed by fire, windstorm, explosion, act of public enemy, accident or for any other reason whatsoever, or prevent the continuance of said nonconforming use, provided that the owners of the property in question shall file with the Zoning Administrator a notice of intention to continue the nonconforming use within six (6) months of said destruction or damage, and provided further that said restoration or construction is commenced within one (1) year of the date of said notice of intention to continue the nonconforming use in question. In the event that said notice is not filed, then the nonconforming use in question shall be deemed to have been abandoned.
- 3. Expiration of Nonconforming Use.** Except as hereinafter provided, nonconforming uses, as defined herein, shall be allowed to continue in existence in perpetuity, provided that said use does not cease for any reason whatsoever through a period of two (2) years. If any nonconforming use of land shall cease for any reason whatsoever through a period of two (2) years said nonconforming use shall be deemed to have been abandoned, and the then applicable zoning provisions shall apply to the area in question.
- 4. Amortization of Certain Uses.**
  - a. Adult Entertainment Businesses.** Adult book, video and merchandise stores, adult motion picture theaters and adult mini motion picture theaters, situate in the zoning districts CL, CC-MU or CR (formerly the C-1, C-3/D-MU and C-4 Districts) at the time this Ordinance becomes effective shall be removed by two (2) years from the effective date of the ordinance. *[ADMINISTRATIVE NOTE: Effective date of Ordinance amendment is October 22, 1991. Uses shall have been removed by October 22, 1993.]*
  - b. Bailbonding and Parole/Probation Offices.** An office for (1) bonding of defendants in the criminal justice system or (2) paroling and the probation of defendants in the criminal justice system made nonconforming due to amendments to this Chapter adopted on September 25, 2012 and effective on October 25, 2012 shall be removed by five (5) years from the effective date of the amendment to this Chapter, being October 25, 2017. Nonconformity may be created due to (1) location within a zoning district in which such uses are prohibited, (2) being closer than the minimum five hundred (500-) foot distance from Public Square or (3) closer than the minimum two hundred fifty (250-) foot distance to another such use. When nonconformity is created by distance between uses, the more recently established use shall be removed.
  - c. Inoperable Motor Vehicles.** Any car repair facility storing inoperable motor vehicles outdoors in excess of the number described in the definition of “junkyard” claiming nonconforming status shall remove any vehicles in excess of

the two (2) vehicles described therein within thirty-six (36) months of the effective date of this Ordinance. This provision shall not apply to a motor vehicle impound and storage facilities as defined and regulated by this Chapter.

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 ordinance 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 the ordinance. The cumulative effect of the alteration(s) or extension(s) shall not exceed thirty-five (35%) percent of those existing buildings or structures and parcels devoted to a nonconforming use at the time of the enactment of this ordinance.

A use that is enumerated as a special exception use in a zoning district, but has been conducted without a special exception because of nonconformity or due to being in existence on land prior to annexation into the City, shall be treated as if a special exception has been obtained, and is not subject to expiration upon two (2) years of inactivity per Subsection M.3. above. However, in cases where a nonconforming special exception use proposes to enlarge or expand, the applicant shall be required to obtain the special exception, or be subject to the limitations on expanding a nonconforming use found in the paragraph above.

6. **Automatic Expiration Upon Bringing Property into Conformance.** Once changed to a use permitted by right or special exception in the district in which it is located, no building, structure or land shall be permitted to revert to a nonconforming use.
7. **Change of Nonconforming Use to Another Use.** A nonconforming use may be changed to another use not permitted by right or special exception in the district in which the property is located if the applicant shows that the proposed change will have less objectionable external effects than the existing nonconforming use with respect to traffic generation and congestion, including truck, passenger car and pedestrian traffic; noise, smoke, dust, fumes, vapors, gases, heat, odor, glare or vibration; storage and waste disposal; and appearance. Such a change is termed a special exception, requiring the approval of the Board of Zoning Appeals.
8. **Expansion of Nonconforming Single-Family Dwellings.** Existing nonconforming, single-family dwellings in any district may expand without limitation with respect to area. Such dwellings shall be treated as principal-permitted uses in that district and shall conform to yard requirements and all other regulations for that district.
9. **Expansion of Nonconforming Residential Uses to Increase Number of Dwelling Units.** Nonconforming single-family, two-family and multi-family dwellings in any zoning district shall not be expanded or altered for the purpose of creating additional residential units.
10. **On-Site Redevelopment of a Nonconforming Use.** When a structure or facility containing a valid and legal nonconforming use has deteriorated or aged to a point that renovation or rehabilitation is not practical, it may be reconstructed on the subject property at a location that is not the existing footprint of the building or improvements, provided

that the proposed redevelopment complies with all setback, landscaping buffer and parking requirements of this Chapter. Architectural renderings of the proposed redevelopment and a signage plan shall be included in the application and improvements shall be constructed in accordance with those plans.

Such a proposal shall be subject to review and approval by 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.

**11. Exemption for Buildings Constructed as Two- (2-) Family Dwellings.** A structure is exempt from the effects of the expiration period of nonconformity under the following conditions:

- a. The building was constructed as and appears as a two- (2-) family dwelling, displaying such features as two (2) front doors, two (2) driveways, separate porches, addresses, and/or other physical characteristics of a two- (2-) family dwelling; and
- b. That building has not been modified on the interior for use as a single-family dwelling; and
- c. The building is located in a zoning district that permits two- (2-) family dwellings, but is rendered noncomplying due to the property not meeting lot area, width, and other bulk requirements.

Under the above conditions, each of the two (2) units may be reoccupied regardless of any period that the building has been vacant.

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**N. Noncomplying Structures and Uses.**

- 1. Maintenance.** A structure or use which does not comply with current bulk requirements, but which complied with the requirements in effect when it was constructed, may remain in place and may be maintained or repaired as necessary.
- 2. Additions Not Requiring Variances.** Any additions to a noncomplying structure or use must comply with current bulk requirements unless a variance is granted. However, an addition to a single-family, two- (2-) family or semi-detached dwelling may encroach into a front, side or rear setback without a variance, provided that:

  - a. the addition comes no closer than three (3) feet to a side property line; and
  - b. the addition encroaches no further into the setback than the existing dwelling; and
  - c. does not result in the creation of additional dwelling units.
- 3. Restoration.** If a noncomplying structure is destroyed by fire, flood or other calamity, it may be replaced without a variance, without complying with current bulk requirements, provided that:

  - a. It may be replaced with a structure of the same or lesser size and dimensions in the same location as the destroyed structure, provided the Zoning Administrator determines that it is not feasible to replace the structure in a location closer to compliance with current bulk requirements.
  - b. It may be replaced with a structure of the same or lesser size and dimensions in a location which is closer to compliance with current bulk requirements than the original location, provided that the Zoning Administrator determines that it is not possible to replace the structure in a location fully in compliance with current bulk requirements.
  - c. Redevelopment as a result of destruction by fire, flood or other calamity may be permitted subject to Subsection M.10.
- 4. Vacancy Exception.** The provisions of Subsection 3 above (and any potential addition permitted by Subsection 2 above) shall not apply if the structure was vacant for more than two (2) years immediately prior to being destroyed. Subsection 3 shall apply only if a building permit is obtained within two (2) years of the date the structure was destroyed, construction pursuant to the building permit begins within six (6) months of the issuance of the permit, and construction is substantially completed within one (1) year of the issuance of the permit. The building permit shall be revoked and a variance shall be required if these conditions are not met.
- 5. Intentional Demolition and Replacement.** These provisions shall not be deemed to permit the intentional demolition and replacement of a structure which does not comply with current bulk requirements, which is governed by Subsection M.10.

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**O. Off-Street Parking Requirements.**

**1. Purpose and Applicability.**

**a. Requirement and Exceptions.** Permanent off-street automobile parking space and truck loading space shall be provided for all new structures, except:

- (1) Single-family, two- (2-) family and semi-detached dwellings on infill lots within subdivisions recorded prior to the effective date of this ordinance, and
- (2) Existing structures or uses, increased in size by less than thirty-five (35%) percent after the adoption of this ordinance.
- (3) Structures and uses in existence on the date this Zoning Ordinance becomes effective shall not be subject to parking and loading requirements, except when specified as a condition of use approval in this Ordinance.
- (4) In the CC-MU District, if parking available to the public is located within five hundred (500) feet of the use and the applicant can demonstrate the availability of sufficient quantity to serve the required parking for the use, the creation of additional off street parking shall not be required.

**b. Existing Parking Below Current Requirements Shall be Retained.**

- (1) Any parking or loading facilities now in existence to serve such structures or uses shall not, in the future, be reduced except where they exceed such requirements, in which case they shall not be reduced below such requirements.
- (2) This provision shall not apply to a Conversion District, Local Conversion District as enumerated in Section J.3 or the CC-MU District. *[Administrative Note: See Section O.3.g].*

**c. Garages Not To Be Counted Toward Parking Requirements.**

For single-family detached, semi-detached and townhome dwelling units, garage spaces shall not be counted toward this requirement unless the dwellings are part of a condominium regime and the condominium rules and condominium plat require the parking spaces in the garage to be kept clear of storage and the spaces therein are required to be maintained for parking use. Deed restrictions shall be entered into the Land Records of Washington County to require this as long as the development exists.

**2. Application Procedure.**

No application for a site plan shall be approved unless there is included with the plan for such buildings, improvement or use (See Article 5, Section I - Site Plan Standards) a plan showing the adequate space to comply with acceptable design standards and criteria indicating and designating off-street parking and/or loading.

The plan shall clearly show the size and location of parking and loading spaces, the width and arrangement of access driveways and arrangement of walls, fences and screen planting as they apply to parking areas and adjacent streets, alleys and highways.

**3. Off-Street Parking Requirements.**

Off-street parking and dimensional requirements are found in Article 5, Section I (Site Plan Standards).

**4. Required Number of Parking Spaces.**

Use	Required Spaces
Ambulance facility	2 per ambulance
Assisted-living facility	1 per every 3 beds plus 1 per employee on largest shift
Auto sales and service	1 per employee plus 1 per 2,000 square feet of lot area
Auto service station	2 per service bay, plus 1 per employee
Banks, financial institutions	1 per 200 square feet of net floor area
Bed and Breakfasts	1 per guest room
Bowling lanes	3 per bowling lane
Cluster development	2 per dwelling unit (may include garage, carport or driveway)
Commercial retail sale (less than 2,000 square feet floor area)	1 per 350 square feet net floor area
Commercial retail sale (freestanding and 2,000 square feet or greater of floor area)	5.5 per 1,000 square feet of net floor area
Community center, library, museum	1 per 400 square feet net floor area
Drive-in/Walk-up restaurant or food service	0.8 spaces per employee on largest shift, plus 1 space per 25 feet of walk-up service counter and outdoor seating areas
Educational (schools)	1 per employee; ample student and visitor parking as determined by the Planning Commission
Elderly housing	1 per every 3 units
Fire Stations	10 minimum
Hospitals	1 per 1,000 gross square feet plus visitor parking as determined by the Planning Commission
Hotel, resort, motels, (see restaurant and meeting/banquet hall, if applicable; additional space is required)	1 per guest room

Use	Required Spaces
Manufacturing plant	The greater of 1 per employee on maximum working shift or 1 per each 1,000 square feet and 1 for each 350 square feet office or sales floor space
Medical or dental offices/clinics	The greater of 4 per practitioner or 1 per 200 square feet net floor area
Mortuary or funeral home	1 per 150 square feet of visitor floor space
Apartment dwellings	2 per unit. If over 25 dwelling units, 1 space for each 25 units must be set aside for recreational vehicles
New residential units in new construction in the CC-MU Zoning District	0.5 spaces per dwelling unit plus 0.5 spaces per bedroom, rounded up to the nearest whole number
Nursing home	1 per 400 square feet floor space
Office building	1 per 200 square feet net floor area
Places of worship	1 for each 5 persons for which seating is provided in sanctuary, except where mass transit is provided by the church
Private club, lodge	1 for each 2 persons for which seating or lodging is provided
Recreational establishment (other than theaters, swimming pools and bowling lanes)	1 per 80 square feet floor space and/or as determined by the extent of outdoor use by the Planning Commission
Restaurants, taverns, lounges, nightclubs, meeting room/banquet hall	1 per 50 square feet customer floor space
Shopping center: 25,000 to 400,000 square feet 400,000 to 600,000 square feet More than 600,000 square feet	Per 1000 sq. ft. of gross leasable area (GLA): 4 spaces 4.25 spaces 4.5 spaces
Single-family, detached dwellings, two-family dwellings, semi-detached dwellings, townhouses, mansion apartment houses	2 per unit
Swimming pool	1 for every 7 persons lawfully permitted at any one time
Theaters, auditoriums, stadiums	1 per every 4 seats
Townhouses or single-family attached dwellings	2 per unit
Transportation terminals (trucking, etc.)	1 per main shift employee
Two-family dwelling	2 per unit
Warehouses or wholesale establishments	1 per 1,500 s.f. gross floor space and 1 space for each 350 s.f. office or sales floor space

(Continued on following page.)

Unless otherwise enumerated in the above chart, the number of parking spaces required shall be determined by the Zoning Administrator based on the standards found in the Institute of Transportation Engineers *Parking Generation Manual, 3<sup>rd</sup> Edition*. When a use is not addressed in the *Parking Generation Manual*, the Zoning Administrator shall render an interpretation of the nearest use addressed in the Manual. Parties aggrieved by the Zoning Administrator's assignment of appropriate classification based on the above reference may appeal said decision to the Board of Zoning Appeals.

**5. Off-Site Parking.**

- a. In calculating total parking space requirements, spaces located on a lot other than that lot on which the principal use is located may be included, provided that such parking is within five hundred (500) feet of the nearest boundary of the lot on which the use is located and that the permanent availability of such spaces for the use in question is documented by the applicant.
- b. In the CC-MU District, if parking available to the public is located within five hundred (500) feet of the use and the applicant can demonstrate the availability of sufficient quantity to serve the required parking for the use, the creation of additional off street parking shall not be required.

For public assembly uses of one thousand (1,000) seats or greater (such as civic centers, sports venues, religious sanctuaries and performing arts theaters) in the CC-MU District, this provision may be applied when the off-premise parking is located within one thousand five hundred (1,500) feet of the subject property. Also, see the parking study provisions permitted in the CC-MU Zoning District. Sufficiency of such parking proposed pursuant to this provision shall be determined by the Planning Commission through review and approval of a site plan.

**6. Handicapped Parking.**

Handicapped parking shall be in conformance with the "*Maryland Accessibility Code,*" COMAR 05.02.02., as administered by the Chief Code Official.

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**Q. Wireless Communications Facilities (WCF).**

**1. Purpose.**

It is the purpose of this Article to facilitate the provision of wireless personal communications services in our community, while at the same time protecting the City's residential neighborhoods and historic districts from unsightly and incompatible intrusions. To achieve this purpose, this Article identifies sites, structures, and zoning districts where the location of wireless communication antenna arrays and structures are preferred, delineates standards for the positioning and/or construction of wireless communications antenna arrays and structures, and specifies the review process required for various facility types and siting locations.

**2. Removal of Abandoned or Obsolete WCF.**

Any WCF that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such WCF shall remove the WCF within ninety (90) days of receipt of notice from the City notifying the owner of such abandonment. If such WCF is not removed within said ninety (90) days, the City may remove the WCF at the owner's expense. If there are two (2) or more users of a single WCF, then this provision shall not become effective until all users cease using the WCF.

**3. Temporary WCF in any Zoning District.**

- a. Application Procedures.** The application must be approved by the Planning Commission in the Site Plan Review Process. Following approval by the Planning Commission, a building permit is required.
- b. Height.** The height restriction shall be determined by the Chief Code Official, based on intended positioning and/or construction method.
- c. Setback.** The setback requirement is the same as for the underlying zoning district.
- d. Screening.** The WCF shall be positioned to minimize the visual impact to the surrounding uses. Landscaping and privacy screening shall be employed to screen outdoor equipment facilities from view.

**4. Development Standards.**

The goal of this section is to encourage the siting of attached WCFs and WCFs with support structures in a manner which is consistent with community character and which minimizes potential visual impacts in areas of local concern. Areas of particular concern are the City's residential neighborhoods and historic districts.

**a. Micro Wireless Communication Antenna Array in Any Zoning District.**

- (1) **Application Procedures.** If equipment facilities and/or sheds are located on the ground, a minor site plan is required unless located within an existing fenced compound. A building permit must be obtained for all WCFs and attached WCFs. When all support structures and lines are located within an existing compound, but the compound is not landscaped

in accordance with the requirements of this Section, a minor site plan is not required but accurate drawings showing the addition of landscaping to bring the compound into compliance with this Section will be required at the building permit stage.

- (2) **Height and Setback.** There are no height and setback restrictions.
- (3) **Screening.** Landscaping and privacy screening shall be employed to screen outdoor equipment facilities from view. When located in an historic district, it is recommended that the micro antenna and any necessary support devices be painted and/or positioned to minimize its visual impact and to protect the historic character of the affected building and neighboring buildings.

When facilities are proposed to be added to an existing compound that is nonconforming to landscaping requirements, landscaping shall be installed in accordance with these requirements, per Subsection a.(1) above.

**b. WCF, Attached or With Support Structure, of Stealth Design in Any Zoning District.**

- (1) **Application Procedures.** If equipment facilities and/or sheds are located on the ground, a minor site plan is required. A building permit must be obtained for all WCFs and attached WCFs.
- (2) **Height.** There are no height restrictions.
- (3) **Setback.** The setback requirement is the same as for the underlying zoning district.
- (4) **Screening.** The antenna array and any necessary support devices must be hidden from view through some form of stealth design. This may include location inside a steeple, tower, chimney, etc., or disguised as a flagpole, utility pole, or other object which might reasonably be expected to be found in the underlying zoning district. Landscaping and privacy screening shall be employed to screen outdoor equipment facilities from view.

**c. Co-location of Antenna Arrays on Existing Wireless Communications Support Structures in Any Zoning District.**

- (1) **Application Procedures.** If equipment facilities and/or sheds are located on the ground, a minor site plan is required. A building permit must be obtained for all WCFs and attached WCFs.
- (2) **Height and Setback.** There are no height and setback restrictions.
- (3) **Screening.** Landscaping and privacy screening shall be employed to screen outdoor equipment facilities from view.

**d. Attached WCF in All Districts With The Exception of Historic Districts.**

- (1) **Application Procedures.** If equipment facilities and/or sheds are located on the ground, a minor site plan is required. A building permit must be obtained for all WCFs and attached WCFs.
- (2) **Height.** There are no height restrictions for antenna arrays attached to publicly used or owned structures. Antenna arrays attached to any other existing building or structure shall not project more than fifteen (15) feet above the highest point of the building or structure.
- (3) **Setback.** The setback requirement is the same as for the underlying zoning district.
- (4) **Screening.** Landscaping and privacy screening shall be employed to screen outdoor equipment facilities from view. In the CC-MU, CL, RMOD, RMED, RH (residential uses), RO, and AT District, the antenna array and any necessary support devices shall be painted and/or positioned to minimize the visual impact to the surrounding uses.

**e. Attached WCF in Historic Districts.**

- (1) **Application Procedures.** This is a two-step application process. First, the application must be approved by the Historic District Commission in the Certificate of Appropriateness process. Following approval, a building permit is required.

If equipment facilities and/or sheds are located on the ground a minor site plan is also required.

- (2) **Height.** There are no height restrictions for antenna arrays attached to publicly used or owned structures. Antenna arrays attached to any other existing building or structure shall not project more than fifteen (15) feet above the highest point of the building or structure.
- (3) **Setback.** The setback requirement is the same as for the underlying zoning district.
- (4) **Screening.** The antenna array and any necessary support devices shall be painted and/or positioned to minimize its visual impact and to protect the historic character of the affected building and neighboring buildings. Landscaping and privacy screening shall be employed to screen outdoor equipment facilities from view.

**f. WCF in Any Zoning District.**

**(1) Application Procedures.**

This is a two- or three-step application process depending on the zoning district in which the property is located. First, if the property is located in the CC-MU, CL, RMOD, RMED, RH, RO or AT Districts, the application must be approved by the Board of Zoning Appeals in the special exception process. Next, (or first in the case of the remaining districts) the application must be approved by the Planning Commission in the site plan review process. Following approval, a building permit is required. If equipment facilities and/or sheds are located on the ground a minor site plan is also required. The site plan will show all future co-location pad sites within the compound in order to eliminate the necessity of new site plans each time a cabinet is added.

**(2) Submittal Requirements.**

- (a) A Co-location Study to demonstrate that co-location of the antenna array is not possible on any existing WCF support structures or other structures, including letters from WCF tower owners refusing co-location stating reason for refusal;
- (b) For the districts in which a special exception is required, a feasibility study to demonstrate that locations in the IR, IG, CG and CR zoning districts were explored as preferred siting alternatives;
  - (i) A Visual Simulation to demonstrate the impact of the WCF on surrounding neighborhoods and historic districts; and
  - (ii) Any other support materials deemed necessary by the Planning Commission (and by the Board of Zoning Appeals, when applicable).

**(3) Height.**

Maximum height shall be as shown in the following chart:

Zoning District	Maximum Height
RMOD, RMED, RH (residential uses), RO and CL	50
AT, RH, and CC-MU	100
CG and CR	140
IR and IG	199

(4) **Setback.**

The setback requirement is the same as for the underlying zoning district, with the following addition: WCFs must be setback a minimum distance from any property line equal to one hundred twenty-five (125%) percent of the proposed tower height.

(5) **Screening.**

Landscaping and privacy screening shall be employed to screen outdoor equipment facilities from view.

(6) **Lighting and Fencing.**

The top of the WCF shall not be artificially lighted, unless required by the Federal Aviation Administration or other applicable authority. If lighting is required, the Planning Commission shall review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views. Security fencing shall be erected around the WCF support structure and equipment facility as a means of preventing nonauthorized access to the WCF.

**g. Cell on Wheels (COW) in Any District.**

When a COW is used in any zoning district, it shall be permitted in accordance with the temporary use permit section of this Article (See Section R).

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**R. Temporary Uses.**

**1. Authorization of Temporary Uses.**

The Zoning Administrator shall have the authority to authorize a temporary use of land, in any district, for a period not exceeding thirty (30) days, provided the land shall be entirely cleared of such use within five (5) days after such temporary authority expires. Up to three (3) extensions of the temporary uses may be granted by the Zoning Administrator for periods not exceeding thirty (30) days each, up to a maximum limit of one hundred twenty (120) days. The extension may be approved upon written request if there are no modifications of the use and no complaints regarding the temporary use have been received. Requests for extension of a temporary use that involve any use modification or that is the subject of a complaint will be processed in accordance with the procedures for the original temporary use approval.

**2. Criteria for Approval.**

A temporary use may be approved if the Zoning Administrator determines that:

- a. The use will not adversely affect adjacent properties.
- b. The use does not require significant or permanent changes to the existing topography, vegetation, structures or other features of the site, and will be returned to the same or better condition upon expiration of the use.

**3. Procedures.**

The Zoning Administrator shall provide written notice of the request for a temporary use to all adjacent properties a minimum of fifteen (15) days prior to issuing a temporary use zoning certificate and allow adjoining property owners and occupants the opportunity to comment on the proposal. The Zoning Administrator shall approve, approve with conditions or deny the application for a temporary use. Appeals from the decision of the Zoning Administrator shall be to the Board of Zoning Appeals and shall be heard by the Board on original jurisdiction, as if the Zoning Administrator's process never occurred. Appeals must be filed within thirty (30) days of the date of the Decision and Order per Article 8.

**4. Limitations and Samples.**

- a. **Limitations.** The temporary use process shall not be used to advance the occupancy of a use that is otherwise permitted by the Ordinance by right or special exception and intended for ongoing occupancy, but has not yet secured necessary planning, zoning and building permit approvals or is intended to engage in trade without securing a fixed and enclosed place of business.

- b. Sample Uses That Warrant a Temporary Use Permit.** Some uses that would warrant a temporary use permit would include, but not be limited to, sets for movie production companies, special events, fund raising carnivals, Christmas tree sales and similar seasonal temporary uses, decorator show houses held as a fund raiser for a not-for-profit organization, off-site construction staging areas and location of mobile sales and management offices on a construction site in advance of final approval of site plans and building permits. Temporary Use Permits for the sale of fireworks are specifically prohibited.



S. **Zoning Permit and Site Plan Requirements.**

1. **Zoning Permits.**

a. **Zoning Permits Required.**

No building or structure shall be erected, moved, added to or structurally altered or use of said building, structure or land changed to another use without a zoning permit issued by the Zoning Administrator wherein the Zoning Administrator certifies that the proposed building or alteration described in the permit conforms with the provisions of this ordinance.

b. **Pending Applications for Building Permits.**

Nothing herein contained shall require any change in the overall layout, plans, construction, size or designated use of any development, building, structure or part thereof for which official approvals and required building permits have been granted before the enactment of this ordinance, the construction of which shall have been started within six (6) months after the effective date of this ordinance and the completion thereof carried on in a normal manner and not discontinued for reasons other than those beyond the builders' control.

c. **Information Required.**

To obtain adequate information for the issuance of zoning permits, all applications for permits shall be accompanied by plans in duplicate, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the Zoning Administrator, including existing or proposed building or alteration; existing or proposed uses of the building and land; the number of families, housekeeping units or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with and provide for the enforcement of this ordinance. One (1) copy of the plans shall be returned to the applicant by the Zoning Administrator after he shall have marked such copy either as approved or disapproved and attested to same by his signature on such copy. The second copy of the plans, similarly marked, shall be retained by the Zoning Administrator.

d. **Effect of Approval.**

The granting of approval of a site development plan or the issuance of a zoning permit for any structure or use located within or adjoining a floodplain shall not constitute a representation, guarantee or warranty of any kind or nature by the Zoning Administrator or by any other public body or official as to the practicality or safety of any structure or use proposed or erected and shall create no liability upon or cause action against such public body or official for any flood, chronic wetness or pollution damage that may result pursuant thereto.

**e. Filing Fees.**

- (1) Permits for a main or principal use shall also cover any accessory use established at the time on the same lot or tract of land.
- (2) Commencing with the effective date of this ordinance, all applications for zoning permits, petitions to rezone property, interpretations, special exceptions and variances shall be according to the fee schedule adopted by the Mayor and Council and amended from time to time.
- (3) There shall be no refund of any fee paid hereunder.
- (4) Notwithstanding any other provisions of this ordinance, the following uses are exempt from fees:
  - (a) government bodies
  - (b) government owned and/or operated utilities.

**f. Expiration of Zoning Permit.**

If the work described in any zoning permit has not begun within six (6) months from the date of issuance thereof, said permit shall automatically expire; it shall be canceled by the Zoning Administrator, and written notice by certified mail thereof shall be given to the persons affected. However, failure to send such notice shall not be a prerequisite to the automatic expiration of said permit. If the work described in any zoning permit has not been completed within two (2) years of the date of issuance thereof, said permit shall expire and be canceled by the Zoning Administrator, and written notice thereof shall be given to the persons affected together with notice that further work as described in the canceled permit shall not proceed unless and until a new zoning permit has been obtained.

**2. Site Plan Requirements and Duration.**

**a. Requirements.**

- (1) Prerequisite to the issuance of a zoning permit, a site plan shall be submitted to the Zoning Administrator for approval by the Planning Commission for all new construction greater than five thousand (5,000) square feet, including disturbed area, or involving multiple-family dwellings, townhouses, churches and other places of worship, schools and other educational facilities, hospitals and health care facilities, parking lots and all commercial and industrial structures, or additions there to.
- (2) Prerequisite to the issuance of a zoning permit, a minor site plan shall be submitted to the Zoning Administrator for his or her approval for all new construction greater than five hundred (500) and less than five thousand (5,000) square feet, including disturbed area, involving apartment dwellings, townhouses, churches and other places of worship, schools and other educational facilities, hospitals and health care facilities, parking lots and all commercial and industrial structures, or additions there to.

The minor site plan shall meet all those requirements made of plans submitted under subsection (1) above for Planning Commission review, unless specific plan requirements are waived by the Zoning Administrator, given the simplicity of the proposal or plan. The Zoning Administrator or the applicant may require Planning Commission site plan review as provided for in Subsection (1) above.

- (3) All new construction involving multiple-family dwellings, churches and other places of worship, schools and other educational facilities, hospitals and health care facilities, parking lots and all commercial and industrial structures, less than five hundred (500) square feet including disturbed area shall be subject to approval by the Zoning Administrator during the Building Permit review process. The plan shall be drawn to scale and accurately and correctly represent the existing conditions and proposed improvements to the degree that the Zoning Administrator deems necessary for sufficient review of the proposal for zoning compliance. The Zoning Administrator may require a minor site plan in accordance with subsection (2) above, when in his or her judgment the proposal is of such extent or complexity to warrant more detailed review and plans, or when the submission of successive plans under this subsection serves to circumvent the intent and need for site plans for significant construction.
- (4) Where the submission of a site plan or minor site plan is required under this section, approval of the site plan shall be based upon design principles and standards and required improvements set forth in the City of Hagerstown Subdivision and Land Development Ordinance (Article 5, Sections E and I of this Chapter), and other ordinances, regulations and policies established by the City.
- (5) The provisions of this section shall not apply to the construction of single-family detached dwellings, two- (2-) family dwellings and single-family semi-detached dwellings and associated accessory structures thereof.

**b. Submission Procedure.**

- (1) Site plans and minor site plans shall be prepared by a registered professional engineer, registered architect, registered landscape architect, registered land surveyor or professional planner (A.I.C.P.).
- (2) A preliminary consultation may be held with the Planning Commission to discuss the general concept, use and design of the proposal. If consultation is desired, a generalized sketch or plat of the proposed site plan shall be submitted with five (5) copies at least one (1) week prior to the scheduled consultation and shall consist of location map, boundary, topography, and general proposed land uses drawn to scale.
- (3) The site plan administrative review procedures shall be the same as those required for development plan review and approval pursuant to the Subdivision and Land Development Ordinance, (Article 5), including a sketch plan submittal and Planning Commission approval when necessary.

- (4) The number and format of copies required shall be set by a policy adopted by the Planning and Code Administration Division, however additional copies shall be submitted as determined by the Planning and Code Administration Division in unusual situations. The Planning Commission shall notify the Zoning Administrator of its approval or disapproval of the site plan within thirty (30) days from the date of formal submission to the Commission. However, failure to approve or disapprove a site plan within thirty (30) days shall not constitute approval.
- (5) Site plan submission is not required for single-family or two-family dwelling units unless planned as part of a Planned Unit Development, or specifically required elsewhere in this chapter.

**c. Duration.**

The purpose of a site plan or minor site plan is to set the final approved development of the site until such later time that new or revised plans are submitted for additions or redevelopment of a site. All improvements, including but not limited to conditions of approval, site configuration, parking space, and landscaping required in accordance with this Ordinance shall be maintained on an ongoing basis. Failure to maintain features and improvements shown on an approved site plan constitutes a violation of this Chapter.

**d. Expiration.**

A site plan shall be considered void if the required permits are not secured and substantial construction accomplished within two (2) years of the date the site plan is approved.

**T. Historic District Review.**

**1. Application.**

Before the construction, alteration, reconstruction, relocation, or demolition of any landmark or site or structure within an historic district, if any exterior work is involved which would change the exterior appearance of the site or structure, the person, individual, firm, or corporation proposing to make the construction or change shall file an application with the City for a certificate of appropriateness or a certificate of hardship. (The application of paint or the changing of paint colors is exempt from this review process.)

Every such application shall be referred to and considered by the Historic District Commission and accepted or rejected by the Historic District Commission, and no building permit, demolition permit, or zoning certificate for any change may be granted until the Historic District Commission has acted thereon as hereinafter provided. The application shall be accompanied by plans of any proposed construction, alteration or repair.

**Prohibition of Identical Application.** An application which is identical to a rejected application shall not be submitted within a period of one year after rejection.

**2. Application Review.**

In reviewing the plans for any such construction or change, the Historic District Commission shall give consideration to the historical, archaeological, or architectural significance of the site or structure and its relationship to the historical, archaeological, or architectural significance of the surrounding sites, structures, or districts; the relationship of the exterior architectural features of the structure to the remainder of the structure and to the surrounding sites, structures, or districts; the general compatibility of exterior design, scale, proportion, arrangement, texture and materials proposed to be used; and to any other factors including aesthetic factors which the Historic District Commission deems to be pertinent.

**a. Exterior Features Only, Visibility and In-Kind Repair and Replacement.** The Historic District Commission shall consider only exterior features of a structure and shall not consider any interior arrangements.

The Historic District Commission shall review all proposed changes to structures and site features, however it shall evaluate leniently any change to sites that are not visible or not intended to be visible from a public right-of-way. Through its adopted Design Guidelines or an adopted policy, the Historic District Commission may adopt a list of types of work that it delegates authority to Staff for review based on the limited nature of the work.

In-kind repair and in-kind replacement of exterior features is considered ordinary maintenance and, therefore, not subject to review by the Historic District Commission. Also, the Commission shall not disapprove an application except with respect to the several factors specified above.

**b. Evaluation and Level of Significance.** The Historic District Commission shall be strict in its judgment of plans for sites or structures determined by research to

be of historical, archaeological, or architectural significance and all work visible, or intended to be visible from a public street and public parks and public spaces. This provision does not extend to visibility from public alleys. The Historic District Commission shall be lenient in its judgment of plans for sites or structures of little historical, archaeological, or architectural significance, and for plans involving work that is not visible, or intended to be visible from public streets, public parks and public spaces, or for plans involving new construction, unless such plans would seriously impair the historical, archaeological, or architectural significance of the surrounding sites, structures, or districts. The Historic District Commission is not required to limit construction, reconstruction, or alteration to the architectural style of any one (1) period.

### **3. Certificate of Appropriateness.**

- a. Approval.** If an application is submitted for construction, reconstruction, or alteration affecting a site or the exterior of a structure, or for the relocation or demolition of a structure, and the Historic District Commission in reviewing the application finds that the proposal will not materially impair the historical, archaeological, or architectural significance of the site or structure, then the Historic District Commission shall file a Certificate of Appropriateness with the City and a permit can be issued.
- b. Denial.** If an application is submitted for construction, reconstruction, or alteration affecting a site or the exterior of a structure, or for the relocation or demolition of a structure, and the Historic District Commission in reviewing the application finds that the proposal is detrimental to the historical, archaeological, or architectural significance of the site or structure or that the proposal will materially impair the historical, archaeological, or architectural significance of the surrounding sites, structures, or districts, then the Historic District Commission may not approve the application. The Historic District Commission shall file a copy of its objections, including the reasons therefor, with the City and the permit shall not be issued.
- c. Modification.** In the case where a proposal was not accepted and the Historic District Commission suggested an alternate plan or made recommendations, the applicant may later resubmit the modified proposal. The Historic District Commission may approve the modification and file a Certificate of Appropriateness with the City and then a permit may be issued.

### **4. Certificate of Hardship.**

- a. Application.** If, after having first attempted to obtain a Certificate of Appropriateness, the property owner can show that:
  - (1) a modification or denial of their proposal will cause undue financial hardship to the owner;
  - (2) will be a deterrent to a major improvement program which will be of substantial benefit to the city; or

- (3) will not be in the best interests of a majority of the persons in the community,

then the property owner may apply for a Certificate of Hardship.

**b. Burden of Proof on Applicant.** The burden of proof is on the property owner to prove to the Historic District Commission that its failure to approve a Certificate of Appropriateness will cause undue financial hardship to the owner, will be a deterrent to a major improvement program which will be of substantial benefit to the city, or will not be in the best interests of a majority of the persons in the community.

**c. Submittal Requirements.** The Historic District Commission shall prescribe uniform submittal requirements, necessary for determining whether the following hardship standards have been met.

- (1) Standard for determining that preservation of a site or structure would cause undue financial hardship:

- (a) the site or structure is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible;

- (b) the site or structure cannot be adapted for any other use, whether by the current owner or by a purchaser, which will meet reasonable investment-backed expectations; and

- (c) documented efforts to find a purchaser interested in acquiring the site or structure and preserving it have failed.

- (2) Standard for determining that preservation of a site or structure will be a deterrent to a major improvement program which will be of substantial benefit to the city or will not be in the best interests of the majority of the persons in the community:

- (a) the site or structure prevents or seriously impedes the implementation of a publicly sponsored or endorsed major capital improvement project; and

- (b) the site or structure is incompatible with the Comprehensive Plan's goals for the enhancement of that neighborhood and the community in general; or

- (c) the site or structure is an impending threat to the public health, safety and welfare and its immediate demolition or alteration has been mandated by the City Building Inspector.

- (3) If an application is submitted for construction, reconstruction, or alteration affecting a site or the exterior of a structure, or for the relocation or demolition of a structure, the preservation of which the Historic District Commission considers to be of unusual importance to the city or unusual

importance to the entire state or nation, the Historic District Commission shall attempt with the owner of the structure to formulate an economically feasible plan for the preservation of the site or structure.

- d. **Approval.** In the event that the Historic District Commission finds that the property owner has proven his case that denial of his application will cause undue financial hardship to the owner, will be a deterrent to a major improvement program which will be of substantial benefit to the city, or will not be in the best interests of a majority of the persons in the community, then the burden shifts to the City or other interested parties. The responsibility is then to devise a program of public incentives or a package of private investment to properly compensate the owner. If no reasonable incentive package can be assembled, then the City or other interested parties must either acquire the property or place an easement on the property by negotiated acquisition. If it does not, then a Certificate of Hardship must be filed with the City and a permit can be issued.
- e. **Documentation and Salvage of Buildings to be Demolished.** If a site or structure is to be demolished and the Historic District Commission has determined that it contains special historical, archaeological, or architectural components that can be removed before or during the demolition process, then these components or materials should be salvaged in a manner agreed to between the property owner and the Historic District Commission. The Historic District Commission shall be permitted to record the site or structure prior to demolition. This should include photographs, measured drawings, written architectural descriptions and historical data or additional on-site documentation by some other method within a time period of sixty (60) days.
- f. **Denial.** In the event that the Historic District Commission denies a Certificate of Hardship or if a property owner does not have sufficient funds to properly maintain a site or structure and the City or other interested parties feel that preservation of the site or structure is worthy of future consideration, then all means toward a Preservation Reserve status should be considered. The Historic District Commission shall have ninety (90) days from the time it concludes that no economically feasible plan can be formulated to negotiate with the owner and other parties in an effort to find a means of preserving the site or structure.

After the ninety- (90-) day Preservation Reserve status has transpired and the Historic District Commission evaluates the new alternative and it meets with their approval, then depending on the applicability, either a Certificate of Hardship or a Certificate of Appropriateness shall be filed with the City and a permit may be issued. However, if no new acceptable alternative has been found, then the Historic District Commission shall reject the alternative and issue a letter of rejection. Thereafter, if rejected, the application shall not be renewed within a period of one (1) year.

## 5. **Approval Time.**

The Historic District Commission shall file with the City a certificate of its approval, modification, or rejection of all applications and plans submitted to it for review. Work shall not be commenced on any such project until such a Certificate of Appropriateness or a Certificate of Hardship has been filed, and the City shall not issue a building permit for



such change or construction unless and until it has received such a Certificate of Appropriateness or a Certificate of Hardship. The failure of the Historic District Commission to act upon a completed application within forty-five (45) days from the date the completed application was filed shall be deemed to constitute automatic approval of the proposed changes unless an extension of this forty-five (45-) day period is agreed upon mutually by the applicant and the Historic District Commission, or the application has been withdrawn.

**6. Demolition of Potential Landmarks.**

- a. Consideration by Historic District Commission.** Whenever a permit for demolition is applied for in the City for a site or structure which is listed as a potential landmark in the Comprehensive Plan, but which is not designated as a landmark by the Mayor and City Council at the time of permit application, such application shall be forwarded to the Historic District Commission. No permit for demolition may be granted until the Historic District Commission has acted thereon as hereinafter provided.
- b. Determination by the Historic District Commission.** Upon receipt of such application, the Historic District Commission shall make a finding as to the significance of the site or structure, under the criteria established in Section J.3.b, and recommend whether it should be designated a landmark.

  - (1) Where the Historic District Commission recommends that the site or structure be designated a landmark, it shall be forwarded as a Zoning Map amendment to the Planning Commission and Mayor and City Council. In the interim, the Chief Code Official shall withhold issuance of the permit until the Zoning Map amendment becomes effective, at which time the application shall be governed by the procedures established in Section T.1.
  - (2) Where the Historic District Commission or the Mayor and City Council determines that the site or structure shall not be designated a landmark, it shall be removed from the Comprehensive Plan as a potential landmark and the Chief Code Official may forthwith issue the permit for demolition.
  - (3) Time limits for Historic District Commission action. Within forty-five (45) days after the filing of a permit for demolition, the Historic District Commission shall render its findings and determinations with respect to an application. Failure to adhere to this time limit shall allow the permit to issue by operation of law.

**7. Demolition by Neglect.**

- a. Record of Demolition by Neglect, Notice.** When, in the opinion of the Zoning Administrator, there is significant deterioration of a landmark, site, and/or structure located within a historic district as a result of willful neglect in the maintenance and/or repair of said landmark, site and/or structure, which deterioration threatens the imminent demolition of the landmark, site and/or structure, the Zoning Administrator shall provide written notice to the owner(s),

the occupant(s) or any other person(s) responsible for the maintenance of the property, of the determination that the landmark, site and/or structure is being demolished by neglect, and specifying the deteriorated conditions found. The Notice shall provide that corrective action of the deteriorated condition(s) shall commence within thirty (30) days of the receipt of said notice and shall be completed within a reasonable time thereafter, as specified by the Zoning Administrator. The notice shall also advise the recipient(s) that a hearing may be requested within twenty (20) days after the receipt of said notice appealing the determination, the deteriorated condition(s) described in the notice, and/or the necessity of corrective action.

Demolition by neglect shall include, but is not limited to the following conditions:

- (1) The deterioration of exterior walls or other vertical supports.
- (2) The deterioration of roofs or other horizontal members.
- (3) The deterioration of exterior chimneys.
- (4) The deterioration or crumbling of exterior plaster, mortar or masonry.
- (5) The ineffective waterproofing of exterior walls, roofs and foundations, including broken windows and doors.
- (6) Deterioration resulting from damage due to weathering.
- (7) The deterioration of any feature so as to create or permit the creation of any hazardous or unsafe condition.

- b. Time for Corrective Action and Provision for Public Hearing.** Upon a timely request for hearing, an appeal hearing shall be held by the Historic District Commission (the "Commission") no sooner than thirty (30) days after written notice is provided to all interested parties. Within thirty (30) days after conclusion of the hearing, unless such time is extended by the Commission at the request of the parties or upon the initiative of the Commission, the Commission shall issue a written opinion, affirming or reversing the decision of the Zoning Administrator, and containing its findings of fact and conclusions of law.

If the opinion of the Zoning Administrator is affirmed by the Commission, the owner or other interested party shall institute the corrective action within thirty (30) days of the receipt of the written decision, with said work to be completed within a reasonable time thereafter.

- c. Failure, Neglect or Refusal to Act; City Authority.** If the owner(s) or other interested person(s) receiving notice to take corrective action fails to do so within thirty (30) days of receipt of the notice of the Zoning Administrator or receipt of the written decision of the Commission affirming the Zoning Administrator, the Zoning Administrator may employ the necessary labor, equipment and materials to perform the corrective action as expeditiously as possible. Any costs incurred in the performance of this corrective action will be the responsibility of the owner(s), or other interested person(s), and said amount shall be billed to that

party. The actual costs of the corrective action and necessary remedial work required hereunder, if not paid by the owner(s) or other interested person(s), shall be charged to the owner(s) of record of such property on the next regular tax bill pursuant to Chapter 223-11 of the City Code.

- d. Additional Remedies.** In addition to the remedial measures permitted in Subsection C. hereof, any owner(s) or interested person(s) failing to comply with a notice to take corrective action shall be guilty of a municipal infraction and subject to a fine of up to five hundred (\$500) dollars. Each day that a violation exists shall constitute a separate violation.

**8. Human Burial Sites Preservation Advisory Board.**

The Historic District Commission shall serve as a human burial sites preservation advisory board and provide advice and guidance to the Planning and Code Administration Division and the Planning Commission on human burial sites preservation issues as may be required by Article 5 of this Chapter. The decisions of the Historic District Commission on such matters shall be advisory only, except where the property is located in an historic district and the proposed work would have otherwise come under the jurisdiction of the Historic District Commission set forth in Section T.1. of this Article.

**9. Appeal Process.**

Appeals of decisions made by the Historic District Commission in furtherance of this Article may be appealed in accordance with the procedures set forth in Article 8, Section B of this Code.

**10. Violations.**

The treatment of violations of this Section of this Article shall be as described in Article 8, Section B of this Code.

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

**1. Application and Notice for Interpretations, Special Exceptions and Variances.**

- a. Applications shall be filed with the Board of Zoning Appeals by the applicant at least twenty-one (21) days in advance of the public hearing.
- b. The Board of Zoning Appeals shall advertise the hearing in accordance with the Land Use Article of the Annotated Code of Maryland in at least one (1) newspaper of general circulation in the city once each week for two (2) successive weeks, with the first such publication of notice appearing at least fourteen (14) days prior to the hearing.
- c. Notice of said advertised hearings shall be posted on the property at least ten (10) days prior to the public hearing at a location where the sign is readable from curbside, or a sidewalk in front of the property.
- d. The owner of the property or his agent shall be notified at the time of advertisement by mail of the date, time and place of the public hearing.

**2. Appeals; Transmission of Records; Time Limitations.**

Appeals to the Board of Zoning Appeals may be taken by any person who may have the right to appeal or by any department, board or bureau of the City affected by any decision of the Zoning Administrator. Such appeal shall be heard by the Board of Zoning Appeals at their next available meeting. The Zoning Administrator from whom the appeal is taken shall forthwith transmit to the Board of Zoning Appeals all the papers constituting the record upon which the action appealed from was taken.

When the decision of the Zoning Administrator being appealed is a notice of zoning violation, such appeal shall be filed not later than thirty (30) days from the date of the action of the Zoning Administrator and shall state the reasons for the appeal. The Board of Zoning Appeals shall dismiss any appeal not filed in accordance with this section. The day after the date of the notice shall constitute the first day of this time period, and the period shall expire at the close of business on the thirtieth (30<sup>th</sup>) day of this period. When the thirtieth (30<sup>th</sup>) day falls on a weekend or legal holiday, then the period shall expire at the end of the next business day.

**3. Stay of Proceedings on Appeal.**

An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Zoning Appeals, after notice of appeal shall have been filed with him, that by reason of the facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by restraining order which may be granted by the Board of Zoning Appeals or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown.

**4. Hearing An Appeal.**

- a. Notice of Hearing; Time Limit for Decision.** The Board of Zoning Appeals shall give public notice thereof by advertising in at least one (1) newspaper of general circulation in the city once each week for two (2) consecutive weeks, with the first such publication of notice appearing at least fourteen (14) days prior to the hearing, as well as due notice to the parties in interest, and decide the same within forty-five (45) days of the hearing. Upon the hearing, any party may appear in person or by agent or by attorney. Failure to comply with this subsection by the Board of Zoning Appeals shall be construed as approval of a requested variance, special exception, or confirmation, expansion or change of a nonconforming use, and shall vacate a notice of violation appealed to the Board.
- b. Continuances.** Upon request of the applicant or upon its own motion, the Board may continue a hearing at another time and/or date once such hearing has been started; however, the Board shall announce the date and hour of continuance of such hearing while in session.
- c. Postponement of Hearing.** Upon request of the applicant or upon its own motion, the Board may postpone a scheduled hearing. Requests for postponement of a scheduled hearing shall be filed in writing with the Board not less than five (5) working days prior to the date of the hearing. The granting of such requests shall be at the discretion of the Board.

**5. Considerations to be Given in Board of Zoning Appeals' Decisions.**

The following rules of procedure are set up to be followed by Board of Zoning Appeals before deciding any case. The Board:

- a.** Shall give public notice and hearing;
- b.** May make inspection of the premises involved in the application and the surrounding area;
- c.** Shall give consideration to the purpose, application, interpretation, and standards of this Ordinance.
- d.** Shall give consideration to present physical conditions on the premises and in the vicinity and the City's goal to provide for orderly growth and improvement of our neighborhoods and community as a whole;
- e.** Shall give consideration to the Special Exception and Variance standards prescribed in Subsection 8 and to the effect of such special exception or variance upon the peaceful enjoyment of people in their homes and whether such use would deteriorate the quality of life in the neighborhood, through undue traffic congestion, neighborhood parking shortages, odors, dust, gas, smoke, fumes, vibration, glare, noise, or similar impact;
- f.** Shall give consideration to the most appropriate use of land and structures in accordance with the City's adopted Comprehensive Plan;

- g. Shall open the hearing on each special exception and variance case with a staff presentation to orient the Board and the applicants to the pertinent sections of the ordinance related to the proposed use or appeal and to any issues which City staff or City Boards or Commissions may have with the proposal;
- h. Shall give all interested parties an opportunity to testify as to any material facts in connection with the proposed use;
- i. Shall act as a fact-finding body and shall approve or disapprove the issuance of a permit for the proposed use in accordance with the evidence in the record before it.

**6. Review of Applications and Recommendations by Interested Boards and Commissions on Applications for Interpretations, Special Exceptions and Variances.**

The Planning Commission, Historic District Commission, and Board of Traffic and Parking may submit recommendations and the Board of Zoning Appeals shall consider such recommendations at the time of public hearing on any application for special exception or variance.

**7. Interpretations, Special Exceptions and Variances.**

- a. **Interpretations.** The Board of Zoning Appeals is empowered to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination, including but not limited to questions concerning nonconforming uses made by the Zoning Administrator or any other agent of the City in the enforcement of this ordinance.
- b. **Special Exceptions.** The Board of Zoning Appeals is empowered to hear and decide such special exceptions as specifically authorized by the terms of this ordinance; to decide such questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions if same does not violate the spirit and intent of this ordinance. A special exception shall not be granted by the Board of Zoning Appeals unless and until it finds that the general criteria found in Subsection U.8.a. and, when applicable, the specific criteria for particular special exception uses in specific districts found in Subsection U.8.a.7. are met.
- c. **Variances.** The Board of Zoning Appeals is empowered to authorize upon appeal applications for a variance filed by a person or persons with a contractual or proprietary interest in the property. The Board may only authorize a variance from height, lot width, lot area, lot area per dwelling unit, setback requirements, parking space requirements, sign area, and buffer width requirements of the ordinance. A variance shall be granted only upon specific findings made by the Board that each of the criteria for variances found in Subsection U.8.b. are met.

**8. Criteria for Approval of Special Exceptions and Variances.**

**a. Special Exceptions.**

No special exception shall be approved by the Board of Zoning Appeals until and unless the Board, in its written order finds that the application complies with the following criteria:

- (1) **Complete Application and Documentation.** A written application for a special exception is submitted by a person or persons with a financial, contractual, or proprietary interest in the property indicating the section of this ordinance under which the special exception is sought, stating the grounds on which it is requested, and including a concept plan of the proposed use which outlines the specific characteristics of the intended use on that site.
- (2) **Authority to Grant Special Exception and General Standards.** The Board of Zoning Appeals shall make a finding that it is empowered under the section of this ordinance described in the application to grant the special exception and that the granting of the special exception will not materially or adversely affect the adjoining and surrounding properties, if:
  - (a) the characteristics of the use and its operation on the property in question as proposed in the application and concept plan will not create any greater adverse impact than the operation of such a use on any other property with the same zoning, and
  - (b) the proposed activity will comply with all conditions and requirements set forth for the specific use in that zoning district.

In making this determination, the Board shall consider, among other things, the impact of the proposed use on neighborhood parking and traffic and whether any proposed activities will create adverse visual, odor, dust, smoke, gas, noise or similar impact for surrounding properties.
- (3) **Conditions of Approval.** In granting any special exception, the Board of Zoning Appeals may prescribe any special conditions in addition to those specified in the Ordinance which it feels are necessary to carry out the intent of this Ordinance and address the issues identified in (b), [2] above, so that protection of adjacent properties, the neighborhood as a whole, and the public interest is ensured. Violation of such conditions and safeguards when made a part of terms under which the special exception is granted shall be deemed a violation of this ordinance and punishable under Article 8, Section B of this Code.
- (4) **Limited to Use Proposed to the Board.** No use or activity permitted by a special exception shall be enlarged or extended beyond the limits authorized in the grant of special exception without approval of the Board.



- (5) **Change of Special Exception Use.** Changes from one special exception use to another use permitted by special exception shall require approval by the Board.
- (6) **Use Variances or Special Exceptions for Uses Not Enumerated As Such are Prohibited.** Under no circumstances shall the Board of Zoning Appeals grant a variance to allow a use not permissible under the terms of this ordinance in the zone involved or any use expressly or by implication prohibited by the terms of this ordinance in such zone.
- (7) **Specific Special Exception Criteria for Certain Uses.** The following special exception uses shall be subject to the following specific use standards. The Board of Zoning Appeals shall not approve a special exception unless the use complies with these requirements, and shall not grant a variance to the following standards.
- (a) Fitness & Recreational Sports Centers (71394), provided that:
- (i) The nature of the use will not materially or adversely conflict with the character of the neighborhood.
- (ii) A pool shall not be located nearer than seventy-five (75) feet from any property line nor nearer than one hundred twenty-five (125) feet from any existing dwelling.
- (b) Bed and breakfast inns in an existing structure (721191):
- (i) There shall be no exterior evidence that a building is being used for any purpose other than a residence, except for one (1) permitted sign of no more than two (2) square feet.
- (ii) Off-street parking shall be provided; one (1) space per guest room. In no case shall parking be provided in a front yard. All parking area must be adequately screened with a minimum five- (5-) foot landscaped buffer.
- (iii) A site plan shall be submitted and approved by the Planning Commission prior to the issuance of the zoning certificate.
- (c) Uses permitted by right in the CL District of a type to serve the particular high-density residential development provided for in the RH District, as well as nearby residents, so long as located geographically on the same tract of land as the proposed new residential development:
- (i) The commercial use shall occupy no more than ten (10%) percent of the tract area.
- (ii) There shall be a phasing requirement which ensures that:

- [a] The residential development will precede the commercial development; and
  - [b] The commercial development will never exceed the ten (10%) percent ratio for the ultimate build-out of the residential development.
- (d) Mixed-Use Building of commercial and multi-family residential units in the RH District:
  - (i) A mixed-use building shall be a multi-story structure with a minimum of three (3) floors.
  - (ii) The first floor of the structure may be occupied by commercial uses allowed by right in the CL District.
  - (iii) At least fifteen (15%) percent and no more than thirty-three (33%) percent of the structure shall be occupied by commercial uses.
  - (iv) A mixed-use building shall have direct access to an arterial or major collector street as classified by the City Engineer.
  - (v) A concept plan for the project shall be submitted for review by the Planning Commission which shall include at a minimum:
    - [a] Proposed development layout.
    - [b] Proposed architectural elevations.
    - [c] A tabulation of the square footage proposed for commercial and for residential uses.
    - [d] Proposed landscape beautification and buffering plans.
- (e) Hair, nail and skin care stores and dog grooming establishments in the RO Zoning District.
  - (i) Business use shall not exceed one thousand (1,000) square feet of floor area.
  - (ii) The property shall be located on a Collector Street (or higher) as shown on the Transportation Map of the Comprehensive Plan.
  - (iii) Shall be permitted only in a multi-family, mixed-use or non-residential building.

(iv) A plan for street graphics shall be submitted to the Board and made part of its review, and that (as may be modified) shall be approved as part of the special exception.

(f) For specific requirements of Wireless Communications Facilities, see Section Q of this Article.

**b. Variances.**

No variance shall be approved by the Board of Zoning Appeals until and unless the Board, in its written order finds that the application complies with the following criteria:

- (1) **Unique Condition of Property.** Whereby due to exceptional narrowness, shallowness, shape, topographical conditions, or other unusual situations or conditions peculiar to a specific parcel of property, or of the use of the property, the strict application of these regulations would result in peculiar or unusual practical difficulties to, or undue hardship upon, the owner of the property; and
- (2) **Minimum Necessary to Afford Relief.** The variance requested is the minimum reasonably necessary to overcome the unusual conditions applicable to the property; and
- (3) **Compliance Would Preclude Common Use.** That the literal interpretation of the provisions of this Ordinance would deprive the applicant of uses commonly enjoyed by other similar properties in the same district under the terms of this Ordinance; and
- (4) **No Special Privilege.** That granting the variance will not confer on the applicant any special privilege that is denied by this Ordinance to other lands or structures with the same zoning; and
- (5) **Self-Created Hardship.** No variance shall be granted in any case where the applicant, owner or their agent has created or caused to be created a situation which would or has necessitated the issuance of a variance in order for such property to comply with this Ordinance; and
- (6) **Consistent With the Intent of the Ordinance.** That the granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

**Conditions of Approval.** The Board may prescribe appropriate and specific conditions and safeguards, including location, construction, maintenance, and operation in conformity with the Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be a violation of this Ordinance.

**Use Variances Prohibited.** Under no circumstances shall the Board of Zoning Appeals grant a variance to allow a use not permissible under the terms of this ordinance in the zone involved or any use expressly or by implication prohibited by the terms of this ordinance in such zone.

**Variances Solely to Increase Residential Density Yield Prohibited.** Under no circumstances shall the Board of Zoning Appeals grant a variance to the minimum lot area and/or minimum lot area per dwelling unit requirements of the Ordinance for the purpose of increasing residential density or residential dwelling unit or lot yield.

- 9. Decisions of the Board of Zoning Appeals.** In exercising the above-mentioned powers, the Board of Zoning Appeals may, so long as such action is in conformity with the terms of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination made and issue a written opinion and orders to be enforced by the Zoning Administrator as herein set forth. Decisions of the Board of Zoning Appeals shall be by the majority.

Except as provided in the next paragraph, if an application is disapproved by the Board of Zoning Appeals, the Board shall take no further action on another application for the same or substantially the same proposal on the same premises until after twelve (12) months from the date of the last disapproval.

A subsequent application for the same or substantially the same proposal on the same premises may be filed if accompanied by an affidavit setting forth new and different grounds, which the applicant believes would be sufficient for the approval of the proposal contained in the application. After having considered the said application and the facts alleged in the accompanying affidavit, the Board may grant another hearing with the requisite legal notice, provided it is satisfied that new and different grounds or conditions exist which would have a bearing on the consideration of said proposal and would justify another hearing.

- 10. Variance Exception for Public Improvements.**

In a case where the City of Hagerstown, Washington County Commissioners or the State of Maryland 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.) 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, 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.

V. Reserved.

W. Reserved.

X. Reserved.

Y. Reserved.

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**Z. Chart of Permitted and Special Exception Uses.**

Uses shall be principal permitted uses, special exception uses, or prohibited in each zoning district in accordance with the matrix found on the following pages. Some uses are permitted subject to performance and locational standards within a district, and the reader shall review the chart closely to determine whether locational or performance standards apply to a proposed use.

**Blank** Not permitted.

**P** Permitted-Principal Use.

**P\*** Permitted-Principal use in accordance with parking requirements (Section O).

**P#** Permitted-Principal use in the POM district, subject to certain limitations enumerated in Section F.2.b(6).

**P@** Permitted-Principal use in the N-MU and CC-MU districts, subject to certain enumerated requirements in Section E.6.

**P\*\*** Permitted-Principal use in the I-MU district, subject to certain enumerated requirements in Section H.8.

**SE** Special Exception Use.

In interpreting the appropriateness of proposed uses, the North American Industry Classification System (U.S. 2002) (NAICS) will be considered along with other factors to determine similarity to delineated uses in the zoning districts. It is to be used as a guide, and not a default interpretation of the intent and purpose of this Ordinance and is non-binding upon the Zoning Administrator.

**USE CHART ORGANIZATION**

<b>Category</b>	<b>Page</b>
Residential Uses	4-121
Public and Institutional Uses	4-123
Office and Professional Uses	4-124
Entertainment and Hospitality Uses	4-126
Broadcast and Production	4-127
Service and Sales Industries	4-128
Automobile- and Transportation-Related Uses	4-131
Industrial, Manufacturing and Heavy Land Uses	4-132
Temporary Uses	4-134

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The key to the symbols used below is found on page 4-117. Refer to pages 4-6 and 4-7 for explanation of district name abbreviations.

USE	ZONING DISTRICT													OVERLAY ZONING			
	AT	RMOD	RMED	RH	RO	N-MU	CC-MU	CL	CG	CR	POM	I-MU	IR	IG	C	LC	PUD
<b>RESIDENTIAL USES</b>																	
One single-family dwelling per unit of land existing as of January 1, 2012.	P																
Dwelling, single family, subject to minimum lot requirements		P	P	P	P	P@	P@	P							P	P	P
Dwelling, two-family, subject to minimum lot requirements		P	P	P	P	P@	P@	P							P	P	P
Dwelling, single-family semi-detached, subject to minimum lot requirements		P	P	P	P	P@	P@	P							P	P	P
Dwelling, townhouse, subject to minimum lot requirements			P	P	P	P@	P@										P
Dwelling, quadrplex, in cluster developments only, subject to minimum lot requirements			P	P	P												P
Dwelling, triplex, in cluster developments only, subject to minimum lot requirements			P	P	P												P
Dwelling, new construction mansion house apartment, subject to minimum lot requirements				P	SE	P@	P@	P							P	P	P, but not in RMOD
Dwelling, stacked apartment, subject to minimum lot requirements				P		P@	P@	P							P	P	P, but not in RMOD
Dwelling, courtyard apartment, subject to minimum lot requirements				P		P@											P, but not in RMOD

The key to the symbols used below is found on page 4-117. Refer to pages 4-6 and 4-7 for explanation of district name abbreviations.

USE	ZONING DISTRICT														OVERLAY ZONING		
	AT	RMOD	RMED	RH	RO	N-MU	CC-MU	CL	CG	CR	POM	I-MU	IR	IG	C	LC	PUD
Dwelling, mansion house, in an existing building subject to performance requirements cited in Section D.5.f.			P*		P*		P*										
College Dormitories							P										
Artist Live-Work Space in large former commercial, industrial or institutional buildings						P	P								P		
Artist Live-Work Space in buildings approved for a Local Conversion District Overlay, without regulation on the size and composition of resident household.																P	
Up to two dwelling units in a building that previously contained no dwelling units or one (1) dwelling unit, provided that commercial uses as outlined in the LC district are included within the building																P	
Apartment dwellings legally in existence as a permitted, special exception or non-conforming use, where there is no increase in the number of dwelling units in a building that contains commercial uses, or will contain commercial units (Local Conversion only)																P	
Mobile Home Parks, subject to the design requirements found in Section D.5.g.				P													
Model home sales office in dwellings or trailers in new home developments for use within the development, provided the type and location are shown on the approved site plan or development plan.		P	P	P	P	P	P	P							P	P	P

The key to the symbols used below is found on page 4-117. Refer to pages 4-6 and 4-7 for explanation of district name abbreviations.

USE	ZONING DISTRICT														OVERLAY ZONING		
	AT	RMOD	RMED	RH	RO	N-MU	CC-MU	CL	CG	CR	POM	I-MU	IR	IG	C	LC	PUD
One garage per lot that does not front a public street, subject to provisions of Section D.5.h		P	P	P	P	P	P										P
<b>PUBLIC AND INSTITUTIONAL USES</b>																	
Municipal parking lots and decks		P	P	P	P	P	P		P								
Commercial parking lots and decks						P	P		P								
Primary and secondary schools, public and private, provided all setback, parking and other regulations are met without variance.		P	P	P	P	P	P	P	P	P	P	P			P	P	P
Primary and secondary schools, public and private, for which setback, parking or other regulations cannot be met without variance.		SE	SE	SE	SE	SE	P		SE		SE	P					
Religious sanctuaries (8131) (church, synagogue, mosque, 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.		P	P	P	P	P	P	SE	P						SE		P
Religious sanctuaries (8131) other than those described in the previous line, or not meeting all site design requirements.		SE	SE	SE	SE	P	P	SE	P						SE		P
Public Parks		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Private Parks, Playgrounds and community gardens		SE	SE	SE	SE	P	P										P
Cemetery, columbarium and mausoleum for humans (not pet cemeteries) and crematoriums		SE	SE	SE	SE		SE						P	P			P

The key to the symbols used below is found on page 4-117. Refer to pages 4-6 and 4-7 for explanation of district name abbreviations.

USE	ZONING DISTRICT														OVERLAY ZONING		
	AT	RMOD	RMED	RH	RO	N-MU	CC-MU	CL	CG	CR	POM	I-MU	IR	IG	C	LC	PUD
Country clubs, golf courses and summer camps	P																P
Commercial and Private Membership Outdoor Swimming Pools, Provided the Pool Meets Distance Requirements Cited in Section D.5.i		P*	P*	P*													P
Ambulance Services (621910), Fire Protection (922160) and Police Protection (922120)		SE	SE	SE	SE	SE	SE	SE	P	P	P	P	P	P	SE		
Adult Day Care Services (624120)		SE	SE	SE	SE		P	SE	P		P	P			SE		
Child Day Care Services (624410)		SE	SE	SE	SE	P	P	SE	P	P	P	P**			P		
Community Centers, including but not limited to cultural, civic and educational centers		SE	SE	SE	SE	P	P	SE	P	P					SE		P
Fitness and Recreational Sports Centers		SE	SE	SE	SE	P	P	SE	P	P	P#	P**	P	P	P		P
Museums (712) except zoological parks		SE	SE	SE	SE	P	P		P	P			P	P	P		
Libraries						P	P		P								
Civic and Social Organizations (8134)						SE	P	SE	P	P					SE		
Public Administration (92), Except Correctional Institutions (922120)					P	P	P	SE	P	P	P	P	P	P	P		
Social Assistance - Services for the Elderly and Persons with Disabilities (624120)									P		P	P					
<b>OFFICE AND PROFESSIONAL USES</b>																	
Ambulatory Health Care Services, with exception of Outpatient Substance Abuse Centers (621420)					P*	P	P	SE	P	P	P	P	P	P	P	P	

The key to the symbols used below is found on page 4-117. Refer to pages 4-6 and 4-7 for explanation of district name abbreviations.

USE	ZONING DISTRICT														OVERLAY ZONING		
	AT	RMOD	RMED	RH	RO	N-MU	CC-MU	CL	CG	CR	POM	I-MU	IR	IG	C	LC	PUD
Professional, Scientific & Technical Services (54), except Veterinary Services					P*	P	P	SE	P	P	P	P	P	P	P	P	
Veterinary Services (54194), Completely enclosed						SE	SE	SE	P	P	P	P			P		
Veterinary Services (54194), with outdoor runs, not kennels (as defined in Article 3 and permitted in other districts)									SE				P	P			
Large Animal Veterinary Clinic (541940)														P			
Offices, Business and Professional (55 and 56), except Waste Management and Remediation Services (562)					P	P	P	SE	P	P	P	P	P	P	P	P	
Administrative Support Services (561).					P	P	P	SE	P	P	P	P	P	P	P	P	
Banks, Savings Institutions & Credit Unions (521-522), except pawn shops						P	P	P	P	P	P	P			P	P	
Finance and Insurance (52), Monetary Authorities - Central Bank, Credit Intermediation and Related Activities (521-522), except Pawn Shops (522298)					P*	P	P	SE	P	P	P	P	P	P	SE		
Colleges, Universities, Trade and Commercial Schools, except primary and secondary schools (611)		SE	SE	SE	SE	P	P	SE	P	P	P	P	P	P	P		
Funeral Homes (81221) including accessory crematories		SE	SE	SE	P*		P	SE	P	P					SE		
Hospitals, including psychiatric, substance abuse and specialty hospitals (622)		SE	SE	SE	SE		P	SE	P		P	P					

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USE	ZONING DISTRICT														OVERLAY ZONING		
	AT	RMOD	RMED	RH	RO	N-MU	CC-MU	CL	CG	CR	POM	I-MU	IR	IG	C	LC	PUD
Nursing Homes and Residential Care Facilities for the Elderly		SE	SE	SE	P		P	SE	P		P	P					
Residential facilities with in-house professional care for up to three residents with mental and/or physical disabilities	P	P	P	P	P	P	P	P							P	P	
Transitional residential facilities with in-house professional care for up to three transitional residents being treated for substance abuse issues, provided it is not within 300 feet of the same use or 1,000 feet from a school.									SE		SE	SE					
Medical and Diagnostic Laboratories (6215)							P				P						
Offices for bonding, probation and parole of defendants in the criminal justice system, not within 500 feet of Public Square or within 250 feet of another such use.							P		P		P	P	P	P			
<b>ENTERTAINMENT AND HOSPITALITY USES</b>																	
Adult Entertainment Business Uses, Subject to the Provisions of Section F.2.b.5									P								
Agri-Tourism	P																
Banquet and Reception Facilities (722320)							P		P	P					P		
Bed & Breakfast Inns (721191)		SE	SE		SE	P	P	P	P						P	P	
Catering kitchens, for preparation of food for off-site delivery and associated office and storage use. (722320)						P	P	P	P	P					P	P	
Restaurants (722110 and 722211)						P	P		P	P	P#	P**			P		

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USE	ZONING DISTRICT														OVERLAY ZONING		
	AT	RMOD	RMED	RH	RO	N-MU	CC-MU	CL	CG	CR	POM	I-MU	IR	IG	C	LC	PUD
Restaurants (7222110 and 7222211) not to exceed 3,000 square feet per establishment								P							P	P	
Amusement and Recreation Establishments (713120, 71395 and 713990)						P	P		P	P							
Drinking Places (722410) within the Smart Growth A & E District							P										
Drinking Places (722410) outside the Smart Growth A & E District						SE	SE	SE	P	P					SE		
Promoters of Performing Arts, Sports and Similar Events with or without Facilities (7113)							P						P	P			
Entertainment Club						SE	SE		SE	P							
Night Clubs						SE	P		P	P			P	P			
Performing Arts Companies (7111)							P										
Theaters, Movie (512131)							P		P	P							
Theaters, Performing Arts (711310)							P										
Visual and Performing Arts Studios							P								P	P	
Hotels and Motels (72111)							P		P	P	P	P			P		
<b>BROADCAST AND PRODUCTION</b>																	
Broadcasting (515)							P					P	P	P			
Broadcasting (515) except transmission points.									P	P	P						
Telecommunications (517)							P				P	P	P	P			
Motion Picture and Sound Recording Industries (512)							P		P	P	P	P	P	P	P		

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USE	ZONING DISTRICT														OVERLAY ZONING		
	AT	RMOD	RMED	RH	RO	N-MU	CC-MU	CL	CG	CR	POM	I-MU	IR	IG	C	LC	PUD
<b>SERVICE AND SALES INDUSTRIES</b>																	
Uses permitted by right in the CL District in a location to serve the needs of the surrounding residential area.				SE											P		P
Farms in existence on the date of adoption of this ordinance, or at the time of annexation into the city, may continue in use; Commercial farming operations may not be expanded with respect to area or intensity of usage, nor may the type of commercial agricultural use be altered.	P																
Pawn Shops (522298), subject to location limitations in Section F.2.b.4									P								
Tattoo parlors and massage parlors, steam baths and saunas (812199).							P		P								
Mixed Use Building of Commercial & Residential Units				SE													
Convenience Stores without Fuel Pumps (445120)						P	P										
Automobile and truck sales subject to performance standards found in Section F.2.b.(9) (441110)									P	P							
Retail and Wholesale Trade (44-45) excluding Auto and Other Motor Vehicle Dealers unless all vehicle storage is indoors and excluding adult businesses, up to 5,000 square feet in net floor area per business.  Regulation of specific trade uses that are found elsewhere in this chart shall prevail.								P							P	P	



The key to the symbols used below is found on page 4-117. Refer to pages 4-6 and 4-7 for explanation of district name abbreviations.

USE	ZONING DISTRICT														OVERLAY ZONING		
	AT	RMOD	RMED	RH	RO	N-MU	CC-MU	CL	CG	CR	POM	I-MU	IR	IG	C	LC	PUD
Same as above, up to 15,000 square feet in net floor area per business.						P					P#	P**					
Same as above, up to 75,000 square feet in net floor area per business.							P		P								
Same as above, no limit in floor area.										P							
Retail and wholesale sale of home improvement materials and supplies, with a minimum floor area of 25,000 square feet and a maximum of 75,000 square feet (444110)													P	P			
Wineries and Vineyards (312130)	P																
Retail and Wholesale Trade (44-45), up to 25% of the total gross square footage of floor area of the buildings on a single property or of the buildings in a unified development under common ownership spanning more than one property													SE				
Sale of Fireworks only from single-user, freestanding buildings, not to exceed 5,000 square feet of floor area. (453998)													P	P			
Nurseries and Greenhouses. The raising of plants for sale with an attached commercial outlet. (444220)	P								P			SE	SE	P			

The key to the symbols used below is found on page 4-117. Refer to pages 4-6 and 4-7 for explanation of district name abbreviations.

USE	ZONING DISTRICT														OVERLAY ZONING		
	AT	RMOD	RMED	RH	RO	N-MU	CC-MU	CL	CG	CR	POM	I-MU	IR	IG	C	LC	PUD
Farm Equipment and Supply Stores (444220)									P	P							
Produce Stands (445230)						P	P	P	P	P	P	P	P	P	P	P	
Kennels (812910)	P																
Kennels, day boarding and over-night boarding, subject to conditions enumerated in Subsection F.2.a(8) (812910)									P	P							
Kennels, day boarding and over-night boarding, subject to conditions in I-MU enumerated in Subsection H.1.b. (812910)												P	P	P			
Dry-cleaning and Laundry Services (8123)						P	P	P	P	P	P#	P**	P	P	P	P	
Tanning and Depilatory Salons (812199)						P	P	P	P	P	P	P**			P	P	
Hair, nail and skin care stores (81211) and dog grooming establishments					SE												
Hair, nail and skin care stores, ear piercing services, hair replacement services, permanent makeup salons (81211) and dog grooming establishments						P	P	P	P	P	P	P**			P	P	
Internet Publishing and Broadcasting (516)						P	P		P	P	P	P	P	P			
Internet Service Providers, Web Search Portals and Data Processing Services (518)						P	P		P	P	P	P	P	P			

The key to the symbols used below is found on page 4-117. Refer to pages 4-6 and 4-7 for explanation of district name abbreviations.

USE	ZONING DISTRICT														OVERLAY ZONING		
	AT	RMOD	RMED	RH	RO	N-MU	CC-MU	CL	CG	CR	POM	I-MU	IR	IG	C	LC	PUD
Personal and Household Goods Repair and Maintenance (8114)						P	P	P	P	P		P	P	P	P	P	
Photo Finishing (81292)						P	P		P	P	P	P					
Newspaper Publishers (511110)							P		P	P	P	P					
<b>AUTOMOBILE AND TRANSPORTATION RELATED USES</b>																	
Parking Lots & Garages (81293), private, commercial and municipal, including offsite parking lots maintained by and designated for a permitted or special exception use on a lot located within 500 feet.						P	P		P	P	P		P	P			
Commercial Bus Stops and Terminals, provided indoor waiting areas and restroom facilities are provided at all times buses may stop at the facility and buses pull entirely off of public streets to pick up and discharge passengers.							P		P				P	P			
Motor Vehicle Impound and Storage Lots, provided that a six- (6-) foot opaque fence encloses the storage yard and landscaped buffers are provided as required by Article 5, Section 1.4.j when adjacent to residential, commercial or mixed-use zoning districts.													P	P			
Transit and Ground Transportation (485) provided area for parking vehicle fleets be enclosed with an opaque fence at least 6 feet in height (8 feet for buses and large trucks), maintained in good repair, with landscaping outside of the fence in accordance with the requirements of Article 5, and not including bus stations or terminals.													P	P			

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USE	ZONING DISTRICT														OVERLAY ZONING		
	AT	RMOD	RMED	RH	RO	N-MU	CC-MU	CL	CG	CR	POM	I-MU	IR	IG	C	LC	PUD
Automotive Repair & Maintenance (8111)								SE	P	P			P	P	SE		
<b>INDUSTRIAL, MANUFACTURING AND HEAVY LAND USES</b>																	
Manufacturing, Light							SE				SE	P	P	P	P		
Manufacturing, General												SE	P	P			
Manufacturing, Heavy														P			
Blacksmithing and Farrier Services	P												P	P			
Butchering									P			P	P	P			
Carpet and upholstery cleaning services (56174)												P	P	P			
Construction and Landscaping Contractors with Storage Yards													P	P			
Fossil fuel electric power generation (221112)													P	P			
Foundries (3315)														SE			
Livestock Auction Facilities														SE			
Landfills and Rubble Fills (562212)														SE			
Motor vehicle supplies and new parts wholesalers (42112)													P	P			
Natural gas distribution (2212)														SE			
Other support activity for road transportation (48849)													P	P			
Petroleum and petroleum products wholesalers (4247)													SE	SE			

The key to the symbols used below is found on page 4-117. Refer to pages 4-6 and 4-7 for explanation of district name abbreviations.

USE	ZONING DISTRICT														OVERLAY ZONING		
	AT	RMOD	RMED	RH	RO	N-MU	CC-MU	CL	CG	CR	POM	I-MU	IR	IG	C	LC	PUD
Rail Transportation Facilities with Outdoor Storage but Without On-Site Processing													P	P			
Recycling Operation, with all aborting and separating activity occurring indoors.													P	P			
Remediation Service (562910)													SE	SE			
Research and development facilities.							SE				P	P	P	P			
Self-Storage Mini-Warehouse Facilities (531130)													P	P			
Septic Tank and Related Service (562991)													SE	SE			
Social Service Industries (624)													P	P			
Solid waste collection (562111)														SE			
Vocational Rehabilitation Services (624310)											P	P	P	P			
Warehousing and storage (493)												P	P	P			
Warehousing & Storage (493) in buildings erected prior to October 1, 1956.							P										
Warehouse/Flex space, provided such space does not exceed more than 50% of the total gross floor area of the building.											SE	P					
Wastewater treatment facilities (22132)													P	P			
Wholesale and retail sales of products manufactured or stored on the premises in conjunction with any other principal permitted use.												P	P	P			

The key to the symbols used below is found on page 4-117. Refer to pages 4-6 and 4-7 for explanation of district name abbreviations.

	ZONING DISTRICT														OVERLAY ZONING		
USE	AT	RMOD	RMED	RH	RO	N-MU	CC-MU	CL	CG	CR	POM	I-MU	IR	IG	C	LC	PUD
<b>TEMPORARY USES</b>																	
Temporary Contractor Staging Facility, subject to provisions in Article 4, Section K	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Temporary Uses, subject to provisions in Article 4, Section R	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P

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