

April 22, 2008

**HAGERSTOWN
ANNEXATION PROCEDURES AND POLICIES**

**Adopted February 24, 2004
Amended April 22, 2008**

1. PURPOSE

The City of Hagerstown's Mayor and City Council assert that a well-reasoned, fiscally responsible annexation policy of unincorporated lands is necessary for the following reasons:

- A. to create opportunities for future developments to receive the benefits of City services and home rule government provided to individuals and property owners within the City
- B. to ensure that the City of Hagerstown continues to grow and prosper by providing opportunities for future economic development within the corporate boundaries of the City
- C. to protect public health, safety and welfare
- D. to ensure that residents and businesses outside of the corporate limits who benefit from access to the city's facilities and services contribute property taxes and other revenues to pay for the costs associated with providing and maintaining those facilities and services
- E. to promote economic development within the Hagerstown Urban Growth Area, consistent with the Smart Growth Policies of the State of Maryland, and in particular within the Medium Range Growth Boundary, as defined by the 2008 Comprehensive Plan for the City of Hagerstown
- F. to avoid costly duplication of public urban facilities and services
- G. to increase the city's ability to attract residential, industrial and commercial development and thus increase its assessable base
- H. to facilitate long-range planning for provision of services by controlling growth within the Hagerstown Urban Growth Area, and
- I. to promote intergovernmental cooperation

The Mayor and Council for the City of Hagerstown, Maryland, a municipal corporation, have determined that for the reasons listed above certain policies, guidelines and procedures are in the best interests of the City of Hagerstown and its citizens. In particular, the Mayor and Council have determined that the following policies, guidelines and procedures shall be used in the annexation of adjacent and contiguous areas, and in the extension of City utilities and other services thereto.

The Mayor and Council recognize the fact that, in order for the City to further progress, grow and protect its municipal services in the best interest of its citizenry, these policies, guidelines and procedures must be established. It is the intention of the Mayor and Council to direct, protect and preserve its utility services. In all cases involving the extension or expansion of these services, the highest priority shall be given to persons, firms, corporations, developers, or other legal associations actually located, developing or residing within the corporate limits of the City of Hagerstown. The next priority for extension or expansion of these services is to those properties within the Medium Range Growth Area which are annexed into the City of Hagerstown.

Consideration will be given to others pursuant to the guidelines set forth herein and in accordance with the City Charter, City Code, the Hagerstown Comprehensive Plan, and the administrative procedures of the various Boards, Commissions, and municipal departments.

The goal of this policy is for the City of Hagerstown to become the full provider of municipal services over the next 20 years in the Hagerstown Medium Range Growth Area of Washington, County. In addition, the following policies and procedures are intended to be consistent with the Maryland Priority Funding Areas program.

2. ADVANTAGES OF LIVING IN THE CITY

As a full service municipality, the City of Hagerstown should be the provider of municipal services in the urban area. The City is capable of so doing because of the Charter authority granted by the State of Maryland. The directly elected Mayor and City Council operate a wide range of services which define the urban area. These services include street lighting, professional fire protection, water and sewer utilities, refuse collection, and code enforcement. Municipal residents exercise direct control over the level and types of growth in and around the community through the exercise of the Planning and Zoning authority. The variety and levels of services provided to the community are locally determined. Municipal governments enact and enforce local laws to meet locally determined needs. Residents control their own destiny because they directly have the authority as well as the accountability for making quality-of-life decisions. Municipal citizens are elected by the community to hold public office, and citizens from the community are appointed to municipal boards, commissions and

committees. Ultimately, if citizens feel that their interests are not being adequately represented, they can vote their elected officials out of office at the next municipal election.

Also, annexation can be most profitable for the City - and thereby its citizens - and for the residents, property owners, and developers in the area to be annexed.

The residents, property owners, and developers of the area to be annexed benefit by receiving increased fire and police protection, lower fire insurance rates, streets, sidewalks, curbing, gutters, storm drainage, snow removal, and garbage collection, in addition to public water and sewer service. The following provides an example of the benefits of annexing into the city with data current as of April 2008.

Program	City Residents	County Residents
City Water service	53% lower than County residents	111% higher than City residents
City Sewer service	43% lower than County residents	75% higher than City residents
Police/Sheriff Service	Quicker response times with 105 officers covering an 11 sq.mi. area.	Longer response times with 73 patrol officers covering a 462 sq.mi. area.
Fire Service	Free service. Average response time of 3 minutes.	Users billed by Volunteer companies. Response time could be as high as 20 minutes or more.
Homeowners insurance	Fire insurance savings by having a professional fire service with Class 3 ISO rating (low number is best).	Volunteer fire companies with Class 5 to Class 9 ratings result in less of a fire insurance benefit.
Curbside Trash and Recycling Collection	\$150 per year for Twice a Week trash pick-up, curbside recycling, seasonal yard waste collection, and Christmas tree collection.	\$250-350 per year (depending upon private hauling arrangements) for Once a Week trash pick-up and no curbside recycling or yard waste collection (depending upon hauler).
Annual Dumpster Program	Free.	Not offered.
Bulk Pick-up of Large Items at Curbside	\$25 per loader scoop; \$25 for appliances with freon; available twice a month upon call.	\$99 for 1/8 of truck; \$335 for half a truck; \$518 for full truck. (800-Got-Junk)
Street sweeping (if curbs)	Free.	Not offered.

City Golf Course	\$330 for season pass for individual. \$240 for season pass for senior.	\$355 for season pass for individual. \$250 for season pass for senior.
Potterfield Pool	\$25 for Pre-school \$55 for Youth \$75 for Adult \$50 for Senior \$125 for Family	\$30 for Pre-school \$65 for Youth \$90 for Adult \$60 for Senior \$150 for Family
Park Pavilions in City	\$50 to rent for event.	\$70 to rent for event.
Ice Rink	\$10 discount on fees.	No discount.

3. ANNEXATION REQUIREMENTS

There are certain basic legal requirements that are needed by the Mayor and Council for any annexation. The following items and materials are to be furnished by the property owners or petitioners or citizens petitioning for annexation where applicable under Article 23A, Section 19(c) of the Annotated Code of Maryland.

A. Minimum Prerequisites

In order to be annexed to an existing municipality, an area must be contiguous and adjoining to the existing municipal corporate area and may not be located within another incorporated municipality. Also, annexation of the area may not create an enclave of unincorporated area that would be completely surrounded on all sides by land within the municipality upon completion of the annexation.

B. Annexation Petition/Consent

An annexation petition signed by at least 25% of the qualified voters along with 25% of the owners of assessed property in the area to be annexed. Alternately, the legislative body may initiate an annexation by obtaining the consent of a like percentage of qualified voters and property owners. As part of the petition for annexation, a surveyor's plat showing all of the property contiguous to and adjacent to the then existing corporate boundaries of the City of Hagerstown proposed to be annexed or included in the petition for annexation, and a copy of the deed to the property shall be provided.

C. Annexation Resolution

Upon verification that the annexation petition signatures meet the requirements of the law and that all other prerequisites of the law have been met, the elected body must promptly

introduce a resolution proposing the annexation. Similarly, the resolution may be initiated by the elected body upon receipt of the consent of the required percentage of voters and property owners. The resolution should describe the area to be annexed together with any conditions or circumstances applicable to the proposed annexation.

D. Annexation Plan for Service Extension and Public Facilities

The municipal legislative body must prepare and make available to the public an Annexation Plan detailing (1) the proposed land use or uses in the area to be annexed, (2) available land that could be used for anticipated public facilities that may be needed, (3) a schedule for extending municipal services to the area to be annexed, and (4) anticipated means of financing the extension of services. The Annexation Plan must be adopted with the Introduction of the Annexation Resolution and provided at least thirty (30) days prior to holding the public hearing required by law for an annexation to the county in which the municipality is located as well as to any regional and state planning agencies having jurisdiction within the county.

E. Proposed Annexation Publication, Hearing and Resolution Passage

After introduction of the resolution, a municipality must publish at least four times at a minimum of weekly intervals in one or more newspapers of general circulation a notice of the proposed annexation; notice of the time and place of a hearing on the resolution must also appear in the newspaper advertisements. A copy of the public notice must be provided to the county governing board and regional and state planning agencies as soon as it is initially published. At the hearing itself, the county and planning agencies must be afforded first right to be heard, after which the general public may make comment. After conducting the required hearing, the municipal elected body may pass (or reject) the resolution which becomes effective forty-five (45) days after its passage unless it is petitioned to referendum.

F. Petitions for Referendum

Within the forty-five (45) days prior to the effective date of the resolution, any of three groups may petition the annexation resolution to referendum. At least twenty (20%) percent of the registered voters in the existing municipality or in the area to be annexed may petition the resolution to referendum; alternatively, a minimum of two-thirds (2/3) of the county governing board may petition to call for a referendum on the annexation question. After verification of petition signature or county governing board compliance with the law's requirements (whichever is applicable), the effectiveness of the resolution is suspended pending results of the referendum.

G. Annexation Referendum

The annexation referendum may be held from 15 to 90 days following newspaper publication of notice of the referendum. The notice must occur a minimum of two times at a minimum of weekly intervals. Should the referendum pass, the annexation will become effective on the fourteenth (14) day following the referendum.

H. Registration of Boundaries

In order for the annexation to be completed and perfected under law regardless of whether or not the annexation is brought to referendum, the original and new municipal boundaries of the municipality must be registered with (1) the county clerk of courts in the county in which the annexation occurred, (2) the Department of Legislative Reference, and (3) where applicable the Maryland-National Capital Park and Planning Commission. Also, in Washington County only, within thirty (30) days from the time an annexation becomes effective, a plat and annexation description must be recorded with the county clerk of courts and filed with the county planning commission.

4. ANNEXATION AND SERVICE BOUNDARIES

As recommended in the 2008 Comprehensive Plan of the City of Hagerstown, any annexations over the next 20 years will be limited to land within the Hagerstown Medium Range Growth Area (MRGA) unless the annexation is approved by the Mayor and City Council. The City of Hagerstown recognizes the Hagerstown Urban Growth Area boundary, as the Long Range Growth Area for the City, as defined in the City's 2008 Comprehensive Plan. The City recognizes the Long Range Growth Area as the ultimate service territory for the City of Hagerstown's municipal services. City Water service will not be extended or expanded beyond the Long Range Growth Area except for public health and safety reasons, as defined in the City's Water Policy. The City of Hagerstown recognizes the MRGA as the service territory for the City of Hagerstown's municipal services for the next 20 years, unless service is otherwise approved by the Mayor and City Council. Municipal services outlined in pre-annexation agreements for properties located outside the MRGA, which were approved and recorded prior to the adoption of the Annexation Policy amendments, will be provided upon application to the City per all appropriate City ordinances and policies. Municipal services will be extended to properties within the MRGA upon annexation of the property into the City. The maps of the Hagerstown Long Range Growth Area and MRGA are attached to this Policy and incorporated herein. The geographic goal of the City is depicted on this map. For the purposes of this policy, any changes to the Hagerstown Long Range Growth Area boundary must be approved by the Mayor and City Council of Hagerstown.

5. EXTENSION OF WATER SERVICE POLICY

The Mayor and Council hereby adopts a policy that the City will allow new water service connections only within the corporate limits of Hagerstown. Furthermore, the City of Hagerstown will only allow new water service connections outside of the municipal boundaries to properties with legally binding commitments to be annexed into the City within a period of time agreed to at the time water service is extended or at such time as the property becomes contiguous to the City *except* as follows:

- A. Upon the petition of a property owner if (i) the Washington County Health Department has condemned the property's current water source; (ii) no alternative water source is available; (iii) the property cannot legally be annexed even if the property were to become contiguous to the corporate limits.

In determining whether to approve such a petition the Council shall consider among other factors, the recommendation of the Water and Wastewater Department, the capacity of the city systems, the volume of water needed to supply the property, and the cost to maintain the extension. Approval of the petition does not relieve the property owner from paying required fees or complying with any of the terms and conditions of the City Code. In approving such a petition the Council may impose such conditions as it finds are in the public interest.

- B. Where the property to be served is located within a geographic area subject to a joint City/Washington County agreement for the provision of water service by the City to the geographic area.

The extensions of service to such property shall be subject to the terms of the joint agreement, the provisions of the City Code and such additional requirements, not in conflict with the joint agreement, as the Council shall deem necessary and in the public interest.

- C. Owners of property located outside the corporate limits may petition the Council for an exception to the City's policy not to provide water service outside the City corporate limits in order to enter into a limited and special contract for the provision of water service.

In determining whether to grant this exception to the City's policy, the Council shall consider the following factors:

1. Whether granting the petition will serve the City's as opposed to the utility's interest and determination of the best interests of the City shall be the sole responsibility of the City;
2. Whether granting the petition will provide a vital improvement or enhancement of the water production or distribution system or will enhance the operation or efficiency of the water production or distribution system;
3. Whether the City has sufficient water capacity to service the property which is the subject of the petition;
4. Environmental matters;
5. Aesthetics;
6. Whether provision of water services to the property, without annexation into the City, would be an impediment to the natural growth of the City by annexation and its annexation policy;
7. Whether the property is reasonably within reach of the water system as it exists at the time of the adoption of this policy; and
8. Any other matter deemed relevant by the Council.

Regarding the administration of this section of the Hagerstown Annexation Procedures and Policies, the Mayor and Council may establish an Annexation Review Committee which shall establish procedures and make determinations as to the granting of any exception to this Policy. Any property owner aggrieved by an arbitrary or capricious determination by the Committee may appeal to the Mayor and Council. A majority vote of the Council is necessary to approve any appeal for an Exception Petition to extend water service outside the corporate limits under A, B, or C above.

In the event that a petition for provision of service outside the corporate limits is granted with a legally binding commitment to be annexed as above or under A, B, or C above, water service shall be provided only under the following conditions:

1. The owner of the property to be served shall guarantee payment in cash or in kind in an amount not less than the total water impact fees as calculated by the City.

2. The owner of the property to be served shall bear all costs of improvements necessary to carry out the extension.
3. The owner of the property to be served shall grant all property, easements or rights of way deemed necessary or convenient by the City.
4. Approval of the petition does not relieve the property owner from the payment of fees or other terms and conditions of the City Code.

6. EXTENSION of WASTEWATER SERVICE POLICY

The Mayor and Council hereby adopts a policy that the City will allow new wastewater service connections only within the corporate limits of Hagerstown. Furthermore, the City of Hagerstown will only allow new wastewater service connections outside of the municipal boundaries to properties with legally binding commitments to be annexed into the City within a period of time agreed to at the time wastewater service is extended or at such time as the property becomes contiguous to the City *except* as follows:

A. Upon the petition of a property owner if (i) the Washington County Health Department has condemned the property's current wastewater disposal system; (ii) no alternative wastewater disposal system is available; (iii) the property cannot legally be annexed even if it were to become contiguous to the corporate limits.

In determining whether to approve such a petition the Council shall consider among other factors, the recommendation of the Water and Wastewater Department, the capacity of the city systems, the flow within the wastewater system serving the property, and the cost to maintain the extension. Approval of the petition does not relieve the property owner from paying required fees or complying with any of the terms and conditions of the City Code. In approving such a petition the Council may impose such conditions as it finds are in the public interest.

B. Where the property to be served is located within the Designated Area as defined in the Consolidated General Service Agreement of September 1997 (Antietam 201 Facilities Plan Map, Plate 11-1). A map of said areas is maintained by the City of Hagerstown and shall be the map used to determine the applicability of this exception.

The extensions of service to such property shall be subject to the terms of the joint agreement, the provisions of the City Code and such additional requirements, not in conflict with the joint agreement, as the Council shall deem necessary and in the public interest.

C. Owners of property located outside the corporate limits may petition the Council for an exception to the City's policy not to provide wastewater service outside the City corporate limits in order to enter into a limited and special contract for the provision of wastewater service.

In determining whether to grant this exception to the City's policy, the Council shall consider the following factors:

1. Whether granting the petition will serve the City's as opposed to the utility's interest and determination of the best interests of the City shall be the sole responsibility of the City;
2. Whether granting the petition will provide a vital improvement or enhancement of the wastewater collection system or will enhance the operation or efficiency of the wastewater collection system;
3. Whether the City has sufficient wastewater capacity to service the property which is the subject of the petition;
4. Environmental matters;
5. Aesthetics;
6. Whether provision of wastewater services to the property, without annexation into the City, would be an impediment to the natural growth of the City by annexation and its annexation policy;
7. Whether the property is reasonably within reach of the wastewater system as it exists at the time of the adoption of this policy; and
8. Any other matter deemed relevant by the Council.

Regarding the administration of this section of the Hagerstown Annexation Procedures and Policies, the Mayor and Council may establish an Annexation Review Committee which shall establish procedures and make determinations as to the granting of any exception to this Policy. Any property owner aggrieved by an arbitrary or capricious determination by the Committee may appeal to the Mayor and Council. A majority vote of the Council is necessary to approve any appeal for an Exception Petition to extend wastewater service outside the corporate limits under A, B, or C above.

In the event that a petition for provision of service outside the corporate limits is granted with a legally binding commitment to be annexed as above or under A, B, or C above, wastewater service shall be provided only under the following conditions:

1. The owner of the property to be served shall guarantee payment in cash or in kind in an amount not less than the total wastewater impact fees as calculated by the City.
2. The owner of the property to be served shall bear all costs of improvements necessary to carry out the extension.
3. The owner of the property to be served shall grant all property, easements or rights of way deemed necessary or convenient by the City.
4. Approval of the petition does not relieve the property owner from the payment of fees or other terms and conditions of the City Code.

7. TAXES IN ANNEXED AREAS

In the event that any area is annexed, all persons within the annexed area shall obtain or be entitled to existing benefits of all other citizens of the City of Hagerstown in accordance with any special conditions contained in the annexation resolution. They shall also be required to pay for all applicable utility services, charges, assessments, taxes, and any other costs and expenses which are required of the residents of the City of Hagerstown, Maryland at the time of annexation.

8. TAX EXEMPTION

Generally, the policy of the City is to annex taxable property. Occasionally, however, the annexation of property owned by tax-exempt entities may be necessary or desirable in order to facilitate the annexation of previously non-contiguous taxable property.

Under these circumstances, the tax-exempt entity shall make an annual payment-in-lieu of taxes equal to an amount mutually agreed to by the City and the entity. The terms will be included in and made a part of the annexation resolution. The City reserves the right to agree to whatever payment amount is necessary in order to facilitate the annexation of the tax-exempt property and/or contiguous property.

9. DEVELOPED AREAS vs UNDEVELOPED AREAS

The City of Hagerstown hereby encourages all current users of municipal water and wastewater services in the Medium Range Growth Area to annex. In order to facilitate annexation, the City is willing to consider short term waivers or modification to existing policy and/or to make additions to the current capital improvements as are mutually agreed to by the City and the annexing property owners. By way of example, such policy modifications could include the waiving of fees and such capital improvements could be the installation of street lighting.

10. DEVELOPMENT AGREEMENTS

Development Agreements between the City of Hagerstown and the owner or owners of land or private developers of land in an area to be annexed are encouraged. Such an Agreement normally sets out terms and conditions under which an annexation is to occur as well as any special obligations of the parties relating to a proposed annexation. Development agreements will be included in the annexation resolution.

11. ZONING

All petitions for annexation shall include a request for the City zoning designation for the area to be annexed into the City. The zoning request shall also include relevant references to the County's Zoning Ordinance which are consistent with the requested zoning. The goal of the City is to zone land which is consistent with the land use recommendations of the 2008 Comprehensive Plan and the purposes of this Annexation Policy. Furthermore, in its determination whether to approve a petition for annexation, the Mayor and Council shall consider the impact of the additional residential, commercial, or industrial zoning on the goals within the City of Hagerstown Comprehensive Plan.

12. INCENTIVES

The City recognizes that each annexation situation is different. Accordingly, the City is willing to entertain the incorporation of incentive programs which may be requested by a petitioner. Use of existing programs is encouraged; new programs requested by the petitioner will be considered and evaluated according to their impact on the City. Incentives requested of the City shall be included within the petition and may be incorporated within the Development Agreement.

13. COST RECOVERY

The process of annexation has immediate and direct costs to the City prior to the effective date of the annexation. There is cost involved in the staff time preparing and reviewing plans and documents, the publishing of the required legal advertisements, and boundary determination. In this regard, the goal of the City is to make the process cost neutral to the City. Therefore, it is the policy of the City that, unless specifically waived in the development agreement, the petitioner shall post a bond, letter of credit, or other satisfactory instrument sufficient to cover those costs. Such instrument shall be filed with the petition for annexation and shall remain in effect until the annexation becomes effective. The City Clerk shall notify the petitioner as to the amount.

14. SEPARATION CLAUSE

If any section, subsection, sentence, clause, phrase, or portion of this policy is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this chapter, it being the intent of the City that this policy shall stand, notwithstanding the invalidity of any section, subsection, sentence, clause, phrase, or portion thereof.

This Policy shall not discharge, impair or release any contract, obligation, duty, liability or penalty whatever existing on the date of its enactment. All suits and actions, both civil and criminal pending or which may hereafter be instituted for causes of action now existing or offenses already committed against any law or ordinance affected by the adoption of this Policy shall be instituted, proceeded with and prosecuted to final determination and judgment as if this Policy had not become effective.