

ARTICLE 2
AUTHORITATIVE BOARDS AND REVIEW AGENCIES

A. **Planning Commission.** Pursuant to the powers and authority vested in the City of Hagerstown, a Municipal Corporation, by and pursuant to Article 66B, 3.01, of the Annotated Code of the Public General Laws of Maryland, 1957 Edition, as subsequently amended, there is hereby created a Planning Commission, to be known as the "Hagerstown Planning Commission."

1. **Powers and Duties.** The powers and duties of the Hagerstown Planning Commission shall be those powers, duties and responsibilities defined in:

- a. Article 66B of the Annotated Code of the Public General Laws of Maryland, 1957, Edition, insofar as the same are applicable and pertain to Municipal Planning for the City of Hagerstown and as now set forth in Article 66B and as may be substantially amended.
- b. The Natural Resources Article, Sections 5-1601 through 5-1612 of the Annotated Code of the Public General Laws of Maryland entitled "Forest Conservation Act", as may be amended, and
- c. The "Flood Control and Watershed Management Act", Section 8-9A-01 et seq., Natural Resources Article of the Annotated Code of Maryland, as may be amended.

This Chapter shall not in any way affect the powers and duties vested in the Mayor and Council of the City of Hagerstown, as its legislative body, by any laws of the State of Maryland, nor shall it affect the powers and duties vested in the Board of Zoning Appeals by any laws of the State of Maryland or by an ordinance passed pursuant thereto.

2. **Composition; Appointment; Compensation; Term; Removal; Vacancies.**

- a. **Composition.** The Commission shall consist of seven (7) members, one (1) of whom may be a member of the Council to serve in an ex officio capacity concurrent with his official term of office.
- b. **Appointment.** The members shall be appointed by the Mayor and thereafter confirmed by the Council.
- c. **Compensation.** All members of the Commission shall serve as such without compensation, unless the Council shall by resolution determine that appropriate compensation should be made to the members.
- d. **Terms.** The term of office of each member, except for the member of the Council, shall be for five (5) years from the date of his or her appointment or until his or her successor takes office; except that the respective terms of the five (5) members first appointed and now serving shall be on a staggered basis and shall terminate as previously provided until the expiration of their term or terms, at which time their

successor shall be appointed for the term set forth herein.

- e. **Removal and Vacancies.** Members may, after a public hearing, be removed by the Council for inefficiency, neglect of duty or malfeasance in office. The Council shall file a written statement among its records of reasons for such removal. Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired term by the Mayor with the confirmation of the Council as herein above set forth.

B. Historic District Commission.

1. **Authority.** The preservation of sites, structures and districts of historical, archaeological, or architectural significance together with their appurtenances and environmental settings is a public purpose in Hagerstown. The Mayor and City Council derives authority for this ordinance by virtue of its conformance with provisions of the State of Maryland Enabling Act for Historic Area Zoning (Article 66B, Zoning and Planning, Section 8.01-8.17, Annotated Code of Maryland, as amended).
2. **Creation of Commission.** There is hereby created a "Historic District Commission," as the historic preservation commission of Hagerstown, Maryland, hereinafter to be known as the HDC.
3. **Purpose.**
 - a. It is the purpose of this Commission to provide for the identification, designation and regulation, for purposes of protection, preservation and continued use and enhancement, of those sites, structures, and districts which reflect elements of archeological, political, cultural, social, economic or architectural history.
 - b. It is the further purpose of this Commission to preserve and enhance the quality of life and to safeguard the historical and cultural heritage of Hagerstown; to strengthen the local economy; to stabilize and improve property values of such sites, structures, or districts; to foster civic beauty; and to preserve and promote the preservation and appreciation of the sites, structures, and districts for the education and welfare of the citizens of the City of Hagerstown, the County of Washington, the State of Maryland and the United States of America.
4. **Powers and Duties.** For the purposes of this Article, the Mayor and City Council shall appoint an historic preservation commission, hereinafter known as the Historic District Commission, whose powers and duties shall include:
 - a. **Studies.** To direct studies, reports and surveys to identify sites, structures, or districts which are deemed to be of historical, archaeological, or architectural significance;
 - b. **Inventories.** To inventory and recommend to the Planning Commission and to the Mayor and City Council the adoption of ordinances and amendments designating

sites, structures, or districts deemed to be of historical, archaeological, or architectural significance, as "landmarks" or "preservation design districts";

- c. **Staff.** To appoint employees as it may deem necessary for its work and to contract the Maryland Historical Trust, agencies and organizations and also contract with engineers and architects and other consultants for such services as it may require, consistent with the City's policies and procedures. The expenditures of the Historic District Commission, exclusive of gifts, shall be under such conditions and within the amounts appropriated for the purpose by the Mayor and City Council which shall provide the funds, equipment, and accommodations consistent with the intent of this article;
- d. **Permit and Plan Review.** To review building permit applications, zoning permit applications, proposed zoning amendments, applications for special exception permits, interpretations, or applications for zoning variances that affect landmarks and historic districts. The Zoning Administrator shall send such applications for permits, interpretations, special exceptions and ordinances to the Historic District Commission for comment at least fifteen (15) days prior to the date of the hearing by the Planning Commission or Board of Zoning Appeals;
- e. **Public Testimony.** To testify before all boards and commissions, including the Planning Commission and the Board of Zoning Appeals, on any matter affecting historically, archaeologically, and architecturally significant sites, structures, and districts;
- f. **Acceptance of Funds.** To accept on behalf of the City of Hagerstown such gifts, grants, and money as may be appropriate for the purposes of this article. Such money may be expended for publishing maps and brochures or for hiring staff persons or consultants or performing other appropriate functions for the purpose of carrying out the duties and powers of the Historic District Commission and the purposes of this article, consistent with the City's policies and procedures.
- g. **Interest in Real Property.** To administer on behalf of the City of Hagerstown in accordance with guidelines set forth by the legislative body of the City, any property or full or partial interest in real property, including easements, that the City of Hagerstown may have or accept as a gift or otherwise, upon authorization and approval by the legislative body of the City. Such easements may grant to the Commission, the residents of the district, and the general public the right to ensure that any site or any structure and surrounding property upon which it is applied is protected, in perpetuity, from changes which would affect its historical, archaeological, or architectural significance.
- h. **Design Guidelines.** To adopt architectural and design guidelines which shall specify such characteristics as materials, signage, landscaping, and other design-related considerations that will be permitted, encouraged, limited, or excluded from landmarks and preservation design districts. The Secretary of the Interior's Standards for Rehabilitation will stand as the basis for review.

- i. **Other Powers and Duties.** To undertake any other action or activity necessary or appropriate to the implementation of its powers and duties or to the implementation of the purpose of this Article.

4. Composition; Appointment; Compensation; Term; Removal; Vacancies.

a. Membership.

- (1) The HDC shall consist of seven (7) voting members appointed by the Mayor with consent and approval of the City Council. Two (2) additional nonvoting 'ex-officio' members who need not be residents of the City but shall be residents of Washington County may be appointed to the HDC by the Mayor with the consent and approval of the City Council.
- (2) Each voting member shall be a resident of the City.
- (3) Each member shall possess a demonstrated special interest, specific knowledge or professional or academic training in such fields as history, architecture, architectural history, planning, archaeology, anthropology, curation, conservation, landscape architecture, historic preservation, urban design or related disciplines.
- (4) At least two (2) voting members of the HDC shall be appointed from the professional disciplines of architecture, history, architectural history, or archaeology, in accordance with the minimum professional requirements of the United States Department of the Interior for certifying local governments under 36 C.F.R. Part 61., to the extent available in the city.
- (5) At least three (3) other voting members of the HDC shall have a specific knowledge or professional or academic training in such fields as history, architecture, architectural history, planning, archaeology, anthropology, curation, conservation, landscape architecture, historic preservation, urban design or related disciplines, such as American civilization or law.

- b. **Chairman; Vice Chairman.** The HDC shall elect a Chairman and Vice Chairman from the appointed voting members of the HDC. The terms of the Chairman and the Vice Chairman shall be for one (1) year, with eligibility for re-election.

- c. **Terms.** The terms of the members of the HDC shall be for three-year periods, except that the terms of the initial appointments shall be three (3) members each for a three-year period; two (2) members each for a two-year period; and two (2) members each for a one-year period, so that not more than three (3) appointments shall expire each year.

- d. **Vacancy.** Any vacancy in the membership of the HDC caused by the expiration of

a term, resignation, death, incapacity to discharge duties, removal for cause, or any other reason, shall be filled for a new term, or for the remainder of the term for which there is a vacancy, as the case may be, in the same manner as provided herein for the appointment and confirmation of the initial members of the HDC. Once notified of a vacancy on the HDC, the appointing authority shall canvas the community for individuals willing to fill the vacated position and appoint a qualified new member within sixty (60) days, or as soon as a qualified resident becomes available. In the case of expiration of terms, members may continue to serve until their successors are appointed and confirmed.

- e. **Removal for Cause.** A member may be removed from the HDC by the Mayor with consent and approval of the City Council. In each case, the cause for removal shall be stated in writing.
- f. **Compensation.** The members of the HDC shall serve without compensation; but they may be reimbursed for actual expenses incurred in performance of their duties, provided said expenses are permitted by the budget and approved beforehand by the Director of Planning.
- g. **Rules and Regulations.** The HDC shall prescribe appropriate rules and regulations in order to carry out the purpose and intent of this Article.
- h. **Meetings.** The HDC shall hold such regular meetings as, in its discretion, are necessary to discharge its duties. The HDC shall meet monthly and shall hold special meetings at the call of the Chairman or of any four (4) voting members of the HDC. Any interested person or a person's representative is entitled to appear and be heard at any meeting conducted by the HDC. No member of the HDC shall vote on any matter that may directly or indirectly affect the property, income, or business interest of that member. All minutes and records shall be filed in the office of the Department of Planning. Four (4) voting members shall constitute a quorum. All decisions by the HDC shall be made within fifteen (15) days of the hearing and written notice thereof shall be given to the applicant. Failure by the Commission to comply with this requirement shall be deemed to constitute automatic approval of the proposed changes unless an extension of this fifteen day period is agreed upon mutually by the applicant and the Commission or its staff.
- i. **Staff.** Consistent with the City's policies and procedures, employees may be assigned to the HDC, and such services and facilities made available as are deemed necessary or appropriate for the proper performance of its duties, including such counsel as it deems necessary to perform its duties.

C. **Board of Zoning Appeals.**

- 1. **Establishment of Board.** To provide for the competent interpretation and the full and equitable achievement of the purposes of the ordinance there is hereby established a Board of Zoning Appeals.

2. Membership of Board.

- a. Number of Members.** The Board of Zoning Appeals shall consist of five (5) members and they shall be appointed for a term of three (3) years. They shall be appointed by the Mayor, confirmed by City Council and removable for cause upon written charges of an elected city official and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.
- b. Alternate and Temporary Alternate Members.** An alternate shall be appointed by the Mayor, confirmed by City Council, who shall sit on the Board in the absence of any member of the Board; when the alternate is absent, the Mayor, may designate a temporary alternate. When sitting on the Board, an alternate should then be considered a full member.

3. Powers and Duties of the Board.

- a. Administrative Appeal.** To hear and decide appeals of the decisions of the Zoning Administrator or any other City Employee empowered with the administration of the Zoning Ordinance (Article 4), in accordance with the provisions of this Section.
- b. Variances, Special Exceptions, Etc.** To hear and decide applications for variances, special exceptions and other zoning approvals as authorized in the Zoning Ordinance (Article 4, Section U), pursuant to the standards, guides and limitations set forth in that Ordinance.
- c. Floodplain Variances.** To hear and decide appeals of the decisions of the administrator of the Floodplain Management Ordinance (Article 6).
- d. Nonconforming Uses.** To hear and decide cases involving the confirmation, expansion, alteration and change of nonconforming uses (Article 4, Section M).

- 4. Rules and Meetings.** The Board shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to this ordinance. Meetings and hearings of the Board shall be held at the call of the Chairman or, in his absence, the Acting Chairman, who may administer oaths and compel the attendance of witnesses. All hearings of the Board shall be open to the public. The Board shall keep minutes of its proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep transcripts or recordings of its hearings and records of other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.

D. Zoning Administrator and Administration of this Chapter.

- 1. Zoning Administrator.** The provisions of this Chapter shall be administered by the Zoning Administrator as designated by the Mayor and City Council.

2. **No Approval Unless in Conformance with this Chapter.** All departments, officials and public employees of the City of Hagerstown which are vested with the duty or authority to issue permits or licenses shall issue no permit or license for any use, building or purpose if the same would be in conflict with the provisions of this Chapter.
3. **Powers and Duties of the Zoning Administrator.** References to the Zoning Administrator shall herein also include any agent acting on behalf of the Zoning Administrator through the delegation of duties, or in an acting capacity in the absence of the Zoning Administrator.

It shall be the duty of the Zoning Administrator and he shall have the power to:

- a. **Permit Examination.** Receive and examine all applications for zoning permits and within thirty (30) days of receipt either issue or deny such permit.
- b. **Permit Approval.** Issue permits only where there is compliance with the provisions of this Chapter and with other City ordinances.
- c. **Board of Zoning Appeals.** Following a refusal of a permit, to receive applications for interpretations, special exceptions and variances and promptly forward these applications to the Board of Zoning Appeals.
- d. **Inspections.** Conduct inspections and surveys to determine compliance or noncompliance with the terms of this Chapter.
- e. **Enforcement.** Issue stop, cease and desist orders and orders in writing by certified mail for correction of all conditions found to be in violation with the provisions of this ordinance. Such written orders shall be served personally or by certified mail upon persons, firms or corporations deemed by the Zoning Administrator to be violating the terms of this Chapter.
- f. **Legal Proceedings.** With the approval of the Mayor and City Council, or when directed by them, institute in the name of the City any appropriate action or proceedings to prevent unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use; to restrain, correct or abate such violation as to prevent the occupancy of or use of any building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises.
- g. **Records.** Record and file all applications for zoning permits with accompanying plans and documents. All applications, plans and documents shall be a public record.
- h. **Zoning Map.** Maintain a map or maps showing the current zoning classification of all land in the city.

