

**ARTICLE 8  
APPEALS VIOLATIONS AND PENALTIES**

**A. General.**

Appeals of decisions made in the administration of this Code shall be as outlined herein, unless specific appeals procedures and penalties are enumerated in the individual Articles of this Code. In such cases, the procedure enumerated in that Article/Ordinance shall control.

**B. Article 4 - Zoning Ordinance.**

**1. Appeals.**

- a. Parties.** Any person or persons or any taxpayer or any officer, department or board of the city, jointly or severally aggrieved by any decision of the Planning Commission, Historic District Commission, Board of Zoning Appeals or by a zoning action of the Mayor and City Council may appeal the same to the Circuit Court of Washington County, Maryland. Such appeal shall be taken according to Article 66B, Section 4.08, of the Annotated Code of Maryland as then in force.
- b. Issues Under This Ordinance Have Preference.** All issues in any proceeding under Article 4 shall have preference over all other civil actions and proceedings.
- c. Costs Not Allowed Against Board; Exception.** Costs shall not be allowed against the Board unless it shall appear to the Circuit Court that it acted with gross negligence or in bad faith or with malice in making the decision appealed from.
- d. Decision of Circuit Court; Appeal to Court of Special Appeals; Costs.** Upon its determination of the case, the Circuit Court shall file a formal order embodying its final decision. An appeal may be taken to the Court of Special Appeals of Maryland during the period and in the manner prescribed by rules of the Court of Appeals from any decision of the Circuit Court. In such cases, the award of costs shall be subject to the discretion of the Court of Special Appeals.
- e. Appeal to Circuit Court.** In addition to the appeal provided in this section, the local legislative body may provide for appeal to the Circuit Court of any matter arising under the zoning laws of the City of Hagerstown within thirty days of the date on which the decision is made by the body from which the appeal is taken. The decision of the Circuit Court may be appealed to the Court of Special Appeals.

**2. Violations and Penalties.**

**a. Municipal Infraction.**

It shall constitute a municipal infraction, in accordance with the Municipal Infractions Ordinance provided for under the City Code, to locate, erect, construct, reconstruct, enlarge, change, maintain, or use any structure or land in violation of any

regulation in or provision of this Ordinance or any amendment or supplement thereto, or to fail to comply with any requirement or condition imposed by the Board of Zoning Appeals, Planning Commission, Historic District Commission or Zoning Administrator. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

**b. Fines.**

The fine for violation of this ordinance shall be up to One Thousand (\$1,000) Dollars for each initial violation and up to One Thousand (\$1,000) Dollars for each day thereafter that the violation continues. Each day a violation continues shall constitute a separate and distinct violation.

**3. Historic District Commission (HDC) and Historic Districts and Landmarks.**

**a. Appeal Process.**

In the event that any party is aggrieved by a decision of the HDC, within thirty (30) days from the date on which the HDC decision is made, said party aggrieved may appeal to the Circuit Court in accordance with the applicable rules.

**b. Violations and Penalties.**

**Municipal Infraction.** Any person who violates a provision of this Article by willfully performing or allowing to be performed any work without first obtaining a Certificate of Appropriateness or a Certificate of Hardship, failing to comply with any conditions of such permit, failing to comply with any final notice issued pursuant to this Article, or disobeying or disregarding a decision of the HDC will be in violation of this Article. A violation of this Article, with the exception of demolition, shall be deemed a Municipal Infraction as stated in the City Code. Each and every day that the violation continues shall be deemed a separate offense.

**Misdemeanor.** Any demolition without first obtaining a Certificate of Appropriateness or a Certificate of Hardship, or demolition of a potential landmark as identified in the Comprehensive Development Plan without first obtaining a demolition permit, shall be deemed a misdemeanor as stated in Article II of the City Code.

C. **Article 5 - Subdivision and Land Development Ordinance.**

**1. Appeals.**

Any person or persons, jointly or severally, aggrieved by any decision of the Commission, or any other Officer, Department, Board, Bureau of the Jurisdiction, may appeal the same to the Circuit Court for Washington County, Maryland. Such appeal shall be taken in accordance with the Maryland Rules of Practice and Procedures as set forth in Title 7, Chapter 200 "Judicial Review of Administrative Agency Decisions", and as subsequently amended and enforced as of the date of the filing of the appeal. Administrative Appeals for decisions of the Planning Commission on land development shall be made to the Circuit Court for Washington County pursuant to Maryland law.

**2. Violations and Penalties.**

In accordance with the Municipal Infractions Ordinance provided for under the City Code. The fine shall be up to One Thousand Dollars (\$1,000.00) for each initial violation and One Thousand Dollars (\$1,000.00) for each day thereafter that the violation continues. Unless otherwise provided, each day a violation continues shall constitute a separate and distinct violation.



**D. Article 6 - Floodplain Management Ordinance.**

**1. Violations and Penalties.**

- a. Misdemeanor.** Any person who fails to comply with any or all of the requirements or provisions of this chapter shall be guilty of a misdemeanor.
- b. Recurrence.** Each day during which any violation of this chapter continues shall constitute a separate offense.
- c. Required Remedy.** The imposition of a fine or penalty for any violation of or noncompliance with this chapter shall not excuse the violation or noncompliance or permit it to continue, and all such persons shall be required to correct or remedy such violations and noncompliance within a reasonable time.
- d. Public Nuisance.** Any structure constructed, reconstructed, enlarged, altered or relocated in noncompliance with this chapter shall be declared by the Mayor and City Council to be a public nuisance and abatable as such.
- e. Denial of Insurance.** New or renewal national flood insurance shall be denied for any structure remaining in violation or situated on property in violation of this chapter.

**2. Enforcement.**

- a. Enforcement Procedures.** If the local permitting official shall find any of the provisions of this chapter being violated, the official shall:
  - (1) Notify the Federal Insurance Administrator and the Water Resources Administration within 30 days after the issuance of any violation which requires a fine or court appearance.
  - (2) Notify in writing by certified mail, the owner or person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it.
  - (3) Order discontinuance of illegal use of buildings or structures, removal of illegal buildings or structures or of alterations or structural changes thereto; and discontinuance of any illegal work being done.
  - (4) Unless compliance is met within a reasonable time, take any other action authorized by this chapter to ensure compliance with or prevent violations of its provisions.
- b. Denial of Insurance.** New or renewal federal flood insurance may be denied any structure remaining in violation of this chapter. The violation may also violate state law and may be subject to separate action and penalty.



**E. Article 7 - Forest Conservation Ordinance.**

**1. Appeals.**

Any person or persons, jointly or severally, aggrieved by any decision of the Commission, or any other officer, department, board, bureau of the jurisdiction, may appeal the same to the Circuit Court for Washington County, Maryland. Such appeal shall be taken in accordance with the Maryland Rules of Practice and Procedures as set forth in Title 7, Chapter 200 “Judicial Review of Administrative Agency Decisions” and as subsequently amended and enforced as of the date of the filing of the appeal.

**2. Enforcement.**

**a. Noncompliance fees.**

- (1) A person found to be in noncompliance with this ordinance, regulations adopted under this ordinance, the forest conservation plan, or the associated two-year maintenance agreement, shall be assessed by the City of Hagerstown the penalty of fifty (50) cents per square foot of the area found to be in noncompliance with required forest conservation.
- (2) Money collected under Subsection a.(1) of this Section shall be deposited in the forest conservation fund as required by Article 7, Section I of this Chapter, and may be used by the City of Hagerstown for purposes related to implementing Article 7.

**b. Violation.**

- (1) In addition to the provisions under Subsection a. of this Section, a person who violates a provision of this ordinance or a regulation or order adopted or issued under this ordinance is guilty of a municipal infraction and liable for a penalty not to exceed one thousand (\$1,000) dollars.
- (2) Each day a violation continues is a separate violation.

**c. Injunctive Relief.**

In addition to the above enumerated sanctions, the City of Hagerstown may seek an injunction requiring the person to cease violation of this ordinance and take corrective action to restore or reforest an area.

