

ARTICLE 8
Appeals, Violations, and Penalties

A. General Provisions and Penalties.

1. General.

Appeals of decisions made in the administration of this Chapter 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.

2. Interference with City Employees or Agents.

It shall be unlawful for any person to interfere with, impede, hinder, or obstruct in any manner the servants, employees, officers, or agents of the City of Hagerstown while engaged in assigned duties. Any person violating this section, on conviction thereof, will be guilty of a misdemeanor as stated in Article II of the City Code and be punishable in accordance with the provisions thereof.

3. Municipal Infractions and Penalties.

In accordance with the Municipal Infractions Ordinance provided for under the City Code, the fine for violation of this Chapter shall be up to \$500 dollars for each initial violation and \$500 dollars for each day thereafter that the violation continues. Unless otherwise provided, each day a violation continues shall constitute a separate and distinct violation. Each violation of this Chapter shall constitute a separate and distinct violation.

4. Misdemeanor Offense for Unauthorized Demolition in an Historic District and Violation of the Floodplain Management Ordinance.

Any demolition performed in an historic district or at a designated landmark without first obtaining a Certificate of Appropriateness or a Certificate of Hardship, or demolition of a potential landmark as identified in the Comprehensive Plan without first obtaining a demolition permit, shall be deemed a misdemeanor as stated in Article II of the City Code.

Any person who fails to comply with any or all of the requirements or provisions of Article 6 (Floodplain Management) shall be guilty of a misdemeanor as stated in Article II of the City Code. Any person responsible for a violation shall comply with the notice of violation or stop work order. Failure to comply shall be in accordance with Subsection A.3 above. Each day a violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Hagerstown from taking such other lawful action as is necessary to prevent or remedy any violation.

5. Noncompliance with Forest Conservation Article.

a. **Assessment of Penalty.** In addition to the municipal infraction provisions of Subsection A.3. above, a person found to be in noncompliance with Article 7, regulations adopted under this Article, the forest conservation plan, or the associated two-year maintenance agreement, shall be assessed by the City of Hagerstown the penalty of 50 cents per square foot of the area found to be in noncompliance with required forest conservation.

- b. **Requirement for Use of Penalty Funds.** Money collected under Subsection a of this Subsection 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.
- 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 Article and take corrective action to restore or reforest an area.

6. Noncompliance with Floodplain Management Article.

a. Compliance Required.

- (1) No building, structure, or development shall hereafter be located, erected, constructed, reconstructed, improved, repaired, extended, converted, enlarged, or altered without full compliance with these regulations and all other applicable regulations.
- (2) Failure to obtain a permit shall be a violation of these regulations and shall be subject to penalties in accordance with Subsections A.3 and A.4 of this Article.
- (3) Permits issued on the basis of plans and applications approved by the Floodplain Administrator authorize only the specific activities set forth in such approved plans and applications or amendments thereto. Use, arrangement, or construction of such specific activities that are contrary to that authorization shall be deemed a violation of these regulations.

b. Notice of Violation and Stop Work Order.

If the Floodplain Administrator determines that there has been a violation of any provision of these regulations, the Floodplain Administrator shall give notice of such violation to the owner, the owner's authorized agent, and the person responsible for such violation, and may issue a stop work order. The notice of violation or stop work order shall be in writing and shall:

- (1) Include a list of violations, referring to the section or sections of these regulations that have been violated;
- (2) Order remedial action which, if taken, will effect compliance with the provisions of these regulations;
- (3) Specify a reasonable period of time to correct the violation;
- (4) Advise the recipients of the right to appeal; and
- (5) Be served in person; or
- (6) Be posted in a conspicuous place in or on the property and sent by registered or certified mail to the last known mailing address, residence, or place of business of the recipients.

7. Revocation of Zoning Approval.

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

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B. Judicial Appeal.

- 1. Parties and Judicial Appeal.** 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 an action of the Mayor and Council in the administration of this Chapter may appeal the same to the Circuit Court of Washington County, Maryland. Such appeal shall be taken according to the Land Use Article, Section 4-401 to 4-406 of the Annotated Code of Maryland as then in force, within 30 days of the date of the decision appealed. The decision of the Circuit Court may be appealed to the Court of Special Appeals.
- 2. Issues Under this Chapter Have Preference.** All issues in any proceeding under this Chapter shall have preference over all other civil actions and proceedings.
- 3. Costs Not Allowed Against Board; Exception.** Costs shall not be allowed against the Board of Zoning Appeals, Planning Commission, Historic District Commission, the Mayor and City Council, or any City agency 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.
- 4. 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.

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