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Zoning Ordinance
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ARTICLE 4
Zoning Ordinance

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 Article, 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, article, rule, regulation or permit or by any easement, covenant or agreement are more restrictive than the provision of this Article, the provisions of such statute, other ordinance, article, 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 Article 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 Article that a proposed use is intended to be prohibited in a district, the provision 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, electricity, 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 Article.

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 Article 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 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 Chapter.
   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 of the City.

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 Article 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 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 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 or more owners of property to be affected by the proposed amendment. Forms available from the Planning and Code Administration Department 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 days after one review and one public hearing are held. One review shall be held by the Planning Commission within 45 days of receipt of application and recommendation of findings forwarded to the Mayor and City Council. One 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 newspaper of general circulation in the city once each week for two successive weeks, with the first such publication of notice appearing at least 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 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 15 days prior to the date fixed for the 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. **Measuring distances Between Land Uses.** Unless otherwise stated in this Article, when measuring required minimum distances between certain uses, that distance shall be measured on a straight line from the nearest points of the units of land on which the uses occupy. For single-use properties, the distance is measured on a straight line from the nearest point of the property boundaries between the uses. For multi-use properties, such as shopping centers, the distance shall be measured on a straight line from the nearest point of the land or building unit occupied by the use on the multi-use property. If any part of the land or building units are less than the required distance, the proposed new use will not comply with the distance requirement between uses. [ADMINISTRATIVE NOTE: See illustrations on page 4-6.]
X = Measurement of required distance between uses on single-use properties.

Examples of measurement of required distance between uses where one or both uses are on multi-occupant properties.

12. **Zoning Districts.**

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

<table>
<thead>
<tr>
<th>Zoning District</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>AT District</td>
<td>(Agricultural Transition)</td>
</tr>
<tr>
<td>RMOD District</td>
<td>(Residential - Moderate Density)</td>
</tr>
<tr>
<td>RMED District</td>
<td>(Residential - Medium Density)</td>
</tr>
<tr>
<td>RH District</td>
<td>(Residential - High Density)</td>
</tr>
<tr>
<td>RO District</td>
<td>(Residential – Office)</td>
</tr>
<tr>
<td>N-MU District</td>
<td>(Neighborhood – Mixed Use)</td>
</tr>
<tr>
<td>CC-MU District</td>
<td>(City Center – Mixed Use)</td>
</tr>
<tr>
<td>CL District</td>
<td>(Commercial – Local)</td>
</tr>
<tr>
<td>CG District</td>
<td>(Commercial – General)</td>
</tr>
<tr>
<td>CR District</td>
<td>(Commercial – Regional)</td>
</tr>
<tr>
<td>POM District</td>
<td>(Professional Office - Mixed)</td>
</tr>
<tr>
<td>INST District</td>
<td>(Institutional)</td>
</tr>
<tr>
<td>I-MU District</td>
<td>(Industrial – Mixed Use)</td>
</tr>
<tr>
<td>IR District</td>
<td>(Industrial Restricted)</td>
</tr>
<tr>
<td>IG District</td>
<td>(Industrial General)</td>
</tr>
<tr>
<td>PUD District</td>
<td>(Planned Unit Development)</td>
</tr>
<tr>
<td>Conversion District</td>
<td>(An Overlay District)</td>
</tr>
<tr>
<td>Local Conversion District</td>
<td>(An Overlay District)</td>
</tr>
<tr>
<td>Historic District</td>
<td>(An Overlay District)</td>
</tr>
<tr>
<td>Landmark</td>
<td>(An Overlay District)</td>
</tr>
</tbody>
</table>

b. For the purposes 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 Chapter.

c. The regulations as set forth in this Article within each district shall be minimum regulations except as hereinafter provided.

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, Local Government Article, Subsection 4-401 through 4-416 (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 Subsection T.6 must be followed. Landmarks are subject to Section T of this Article.

14. **Effective Date of Adoption.** This Article was adopted as Chapter 68 (Zoning) by the Mayor and City Council, effective March 7, 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 7, 1977 and subsequently amended. The Comprehensive Zoning plan implementing the policies of the 2008 Comprehensive Plan was implemented in several stages. This Article 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 amending the map for this process, being November 10, 2010.

15. **Violations and Penalties.** The treatment of violations of this article, 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 Article.

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. Uses.

a. Permitted and Special Exception Uses.

Uses in this district shall be permitted, permitted by special exception in accordance with the general and specific performance criteria found in Subsection U.8 of this Article, 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 Subsection 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.

3. 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 or stored on the property.

d. Home workstations, subject to the requirements of Subsection 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.

4. Maximum Building or Structure Height.

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

5. Minimum Lot Area, Lot Width and Yard Requirements.

<table>
<thead>
<tr>
<th>AT District Dimensional Requirements (Minimum)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot Area (square feet)</td>
</tr>
<tr>
<td>-----------------------------------------------</td>
</tr>
<tr>
<td>Dwellings, Single-family detached</td>
</tr>
<tr>
<td>Other principal-permitted or conditional uses</td>
</tr>
</tbody>
</table>


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

7. Minimum Size of Dwelling Units.

All new residential units shall comply with the requirements of Section K.18.
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 neighborhood 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 the general and specific performance criteria found in Subsection U.8 of this Article, 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 Subsection 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.

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 use.
(3) Home day-care of up to eight (8) children, as licensed by the State of Maryland. The number of children cared for in an apartment unit that are not members of the household shall not exceed two (2). A home day-care may utilize non-resident employees only for occasional back up staff for the purpose of covering on-site operations for the resident staff during vacations, personal emergencies, appointments, etc. when the resident provider will not be present, as required by their State license. Otherwise, a home day-care shall not employ persons who do not reside on the property. [Ed. Note: State licensure counts those children under age 6 living in a dwelling among those being cared for under the license. This requirement prohibits a home day-care operator’s ability to care for five or more children under the age of two unless a second care giver (as required by State licensure) is also a resident of the dwelling.]

(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 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 Subsection 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 Subsection K.11 of this Article regarding fowl and farm animals (livestock).

3. Parking Requirements.

a. When New Parking is Required.

Off-street parking shall be provided in accordance with Section O of this Article. However, in the RO District, existing residential buildings shall not be altered or modified for the purpose of creating additional residential units unless two 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 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 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 3.c.(1) through (3) above, provided that only those spaces that are available after providing two 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:

<table>
<thead>
<tr>
<th>Zoning District</th>
<th>RMOD</th>
<th>RMED</th>
<th>RH</th>
<th>RO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum Height</td>
<td>3 stories or 35 feet</td>
<td>3 stories or 35 feet</td>
<td>5 stories or 60 feet</td>
<td>3 stories or 40 feet</td>
</tr>
</tbody>
</table>

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

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

See chart on page 4-17.

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

Private detached accessory buildings are permitted cumulatively totaling not over 900 square feet. Minimum setbacks for accessory buildings shall be as follows:

<table>
<thead>
<tr>
<th>Accessory Building</th>
<th>Front Yard Depth (feet) (or to established line on same side of street for infill)</th>
<th>Rear Yard Depth (feet)</th>
<th>Minimum Aggregate Width of Side Yards (feet)</th>
<th>Minimum Width of Side Yards (feet)</th>
<th>Number of Side Yards Required</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>25</td>
<td>5</td>
<td>8</td>
<td>4</td>
<td>2</td>
</tr>
</tbody>
</table>

No detached accessory building shall be located forward of the primary front façade of any dwelling. The Board of Zoning Appeals shall not grant a variance to this requirement.
c. **Lot Averaging on Residential Infill Lots.** Where at least 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 is not to be used for lot area and width on two-family and semi-detached dwellings. Regardless of whether sixty-six (66%) 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.

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Notes for chart on following page:

For the minimum width of a side yard for a new construction courtyard, mansion house and stacked apartment building, when the property line is adjacent to the rear of a building, the 20 foot side setback shall be increased one additional foot for each foot of building height over 20 feet.

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

Setbacks for mobile home parks are found in Subsection D.5.h.
<table>
<thead>
<tr>
<th>Land Management Code v3.5</th>
<th>Residential District Dimensional Requirements (Minimum)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Lot Area (square feet)</td>
</tr>
<tr>
<td>Single-family dwellings RMOD District</td>
<td>7,500</td>
</tr>
<tr>
<td>Single-family dwellings RMED and RO Districts</td>
<td>5,000</td>
</tr>
<tr>
<td>Single-family dwellings, RH District</td>
<td>4,000</td>
</tr>
<tr>
<td>Two-family dwellings, RMOD District</td>
<td>10,000</td>
</tr>
<tr>
<td>Two-family dwellings, RMED, RH and RO Districts</td>
<td>8,000</td>
</tr>
<tr>
<td>Single-family semi-detached dwellings, RMOD District</td>
<td>5,000</td>
</tr>
<tr>
<td>Single-family semi-detached dwellings, RMED, RH and RO Districts</td>
<td>3,000</td>
</tr>
<tr>
<td>Townhomes * or to established in neighborhood if less</td>
<td>7,500</td>
</tr>
<tr>
<td>Mansion Apartments in Existing Buildings (with 1 unit per 1,000 gross square feet of floor area of the building) and Mansion Over-Under Flats in Existing Buildings ** or existing building</td>
<td>Existing</td>
</tr>
<tr>
<td>Courtyard, New Construction Mansion House and Stacked Apartment Units ***35 when adjacent to RMOD or RMED Zoning</td>
<td>20,000</td>
</tr>
<tr>
<td>Hospitals</td>
<td>5 acres</td>
</tr>
<tr>
<td>Nursing homes, Assisted Living Facilities and Rehabilitation Centers</td>
<td>1 acre</td>
</tr>
<tr>
<td>Schools, Churches, Nursery Schools, Day-Care Centers and Funeral Homes</td>
<td>20,000</td>
</tr>
<tr>
<td>Other permitted or special exception uses in RMOD and RH Districts</td>
<td>20,000</td>
</tr>
<tr>
<td>Other permitted or special exception uses in RMED and RO Districts</td>
<td>15,000</td>
</tr>
</tbody>
</table>
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-story open porch, with or without a roof, may extend into a front yard not more than 30% 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 feet, provided that such projections (excepting eaves) are not over ten feet in length and no closer than four feet to any property line.

(3) If attached to the dwelling, a one-story open deck without a roof may extend into the required rear yard not more than 35% of the required setback.

(4) No addition shall be made to the rear of an existing semi-detached dwelling or townhouse unless a three 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 feet wide and running the full length of the proposed addition. The easement may be written in such a way where it specifically reserves 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 buildings on one lot shall be 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 2,000 square feet provided the gross density does not exceed 15 dwelling units per acre.

g. **Stacked and Mansion Apartment Developments and Over-Under Flats.**

(1) 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:

(a) The building was constructed prior to October 1, 1956;
(b) The building shall be at least 4,000 square feet in area; and

(c) The number of units is limited to one per 1,000 square feet of floor area as reflected on Department of Assessments and Taxation assessment records.

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

(e) All new residential units shall comply with the requirements of Section K.18.

(f) Off-street parking shall be provided in accordance with Section O of this Article. The Board of Zoning Appeals shall not grant a variance to this requirement.

(2) Mansion House over-under flats in existing residential buildings in the RMED, RO and CC-MU District shall be permitted only under the following conditions:

(a) The building was constructed prior to October 1, 1956; and

(b) The building shall be at least three stories above grade in height, not including attics; and

(c) The area of the building shall be at least 2,500 square feet of floor area as reflected on Department of Assessments and Taxation assessment records, and

(d) The interior space of the building shall be so configured that the entirety of each floor shall be used for one dwelling unit (except for interior stair towers and landings); and

(e) One dwelling unit is permitted for each floor of the building (not to include basements); and

(f) All new residential units shall comply with the requirements of Section K.18.

(g) Off-street parking shall be provided in accordance with Section O of this Article. The Board of Zoning Appeals shall not grant a variance to this requirement.

(h) Over-under flats shall only be permitted in the RMED District when the property is also located in a locally-designated historic district.

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: 10 acres
(2) Building Setbacks:

<table>
<thead>
<tr>
<th>(a)</th>
<th>From external public street right of way and property lines:</th>
<th>50 feet</th>
</tr>
</thead>
<tbody>
<tr>
<td>(b)</td>
<td>Rear of unit to rear of unit:</td>
<td>60 feet</td>
</tr>
<tr>
<td>(c)</td>
<td>Between structures:</td>
<td>20 feet</td>
</tr>
<tr>
<td>(d)</td>
<td>From surface of internal access roads fronting pad:</td>
<td>10 feet</td>
</tr>
<tr>
<td>(e)</td>
<td>Across an internal access road between structures:</td>
<td>40 feet</td>
</tr>
<tr>
<td>(f)</td>
<td>Minimum lease area on which a home can be located:</td>
<td>1,000 sq. feet</td>
</tr>
</tbody>
</table>

Covered entryway steps may project not more than five feet from the unit. Decks without roofs may be added to a unit provided that a distance of at least 10 feet is maintained between the deck and other mobile homes and 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 landscape buffer, dominated by evergreen plantings, shall be installed in an area not less than 20 feet in width in all areas subject to the setback requirement in (2)(a) above.

(5) Parking shall be prohibited on driveways unless designed to a width that allows two 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 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 900 square feet in area;

(3) The garage shall not exceed one story in height;
(4) The garage shall be designed architecturally and so located as to appear to be an accessory structure in the neighborhood in which it is located;

(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 on the garage;

(6) No outdoor storage of any kind is permitted; and

(7) The garage shall not be constructed closer than five 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: 75 feet.

(2) Distance of pool to any existing dwelling: 125 feet.

6. Minimum Size of Dwelling Units.

All new residential units shall comply with the requirements of Section K.18.

7. Cluster Developments.

a. Description. Clustering is an alternative type of development 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 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 Article. 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 25% of this area may be designated forest retention areas intended to meet the requirements of the Forest Conservation Ordinance, provided that at least 75% 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 50% of open space area designated for forest retention areas intended to meet the requirements of the Forest Conservation Ordinance, provided that 100% 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.

(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.

(d) Each single-family detached dwelling, semi-detached dwelling, two-family dwelling (as defined in Article 3), triplex dwelling unit, quadraplex dwelling unit and townhouse dwelling in a cluster subdivision shall be located on a separate fee-simple lot when constructed in a subdivision created in accordance with this subsection.

<table>
<thead>
<tr>
<th>Type of Building</th>
<th>Minimum Lot Area (square feet)</th>
<th>Lot Width (minimum feet)</th>
<th>Minimum Lot Area Per Dwelling Unit (square feet)</th>
<th>Front Yard Depth (feet) (C)</th>
<th>Rear Yard Depth (feet) (C) (D)</th>
<th>Minimum Aggregate Width of Side Yards (feet)</th>
<th>Minimum Width of Side Yards (feet)</th>
<th>Number of Side Yards Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single-family</td>
<td>5,000</td>
<td>40</td>
<td>5,000</td>
<td>5</td>
<td>20</td>
<td>10</td>
<td>4</td>
<td>2</td>
</tr>
<tr>
<td>Single-family semi-detached</td>
<td>2,500</td>
<td>25</td>
<td>2,500</td>
<td>5</td>
<td>20</td>
<td>5</td>
<td>5</td>
<td>1</td>
</tr>
<tr>
<td>Two-family</td>
<td>5,000</td>
<td>65</td>
<td>2,500</td>
<td>5</td>
<td>20</td>
<td>10</td>
<td>4</td>
<td>2</td>
</tr>
<tr>
<td>Triplex (A)</td>
<td>4,500</td>
<td>65</td>
<td>1,500</td>
<td>5</td>
<td>20</td>
<td>10</td>
<td>5</td>
<td>2</td>
</tr>
<tr>
<td>Quadraplex (A)</td>
<td>6,000</td>
<td>65</td>
<td>1,500</td>
<td>5</td>
<td>20</td>
<td>10</td>
<td>5</td>
<td>2</td>
</tr>
<tr>
<td>Townhouse (B)</td>
<td>1,000</td>
<td>15</td>
<td>1,000</td>
<td>5</td>
<td>20</td>
<td>10 between buildings</td>
<td>5</td>
<td>1 (end unit)</td>
</tr>
<tr>
<td>Accessory Building (E)</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>15</td>
<td>5</td>
<td>N/A</td>
<td>4</td>
<td>N/A</td>
</tr>
</tbody>
</table>

NOTES:
(A) Triplexes and quadraplexes are permitted in cluster development only. This shall be applied as if they were permitted in other districts, and in accordance with the provisions of Subsection 7.c above. Due to their design, a triplex or quadraplex unit may not front on a public street per provisions elsewhere in this chapter, but since fee-simple subdivision is required in cluster developments, such lots may be accessed through dedicated open space areas.
(B) Townhouses are not a permitted use in the RMOD Zoning District. They are permitted in the RMED, RH and RO Districts.

(C) All elements of the front and rear facades, including porches, decks or stoops, shall comply with this setback, and development shall not benefit from the provisions found elsewhere in this Section that permit such features to extend into front and rear setbacks for developments created under the standard lot area and setback provisions.

(D) Rear yards shall have a minimum 20 foot deep area un-encumbered by sheds, detached garages or other detached buildings of any size.

(E) 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.
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 Subsection U.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 Subsection U.8.a.(7).

3. The site plan requirements of Subsection S.2, 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 eight (8) children, as licensed by the State of Maryland. The number of children cared for in an apartment unit that are not members of the household shall not exceed two (2). A home day-care may utilize non-resident employees only for occasional back up staff for the purpose of covering on-site operations for the resident staff during vacations, personal emergencies, appointments, etc. when the resident provider will not be present, as required by their State license. Otherwise, a home day-care shall not employ persons who do not reside on the property. [Ed. Note: State licensure counts those children under age 6 living in a dwelling among those being cared for under the license. This requirement prohibits a home day-care operator’s ability to care for five or more children under the age of two unless a second care giver (as required by State licensure) is also a resident of the dwelling.]

3. Home workstations, subject to the requirements of Subsection 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.

4. The outdoor storage of inventory, merchandise and supplies accessory to a principal use, subject to the requirements of Subsection K.17.
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 50% 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.**

<table>
<thead>
<tr>
<th></th>
<th>N-MU</th>
<th>CC-MU</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Maximum Height</strong></td>
<td>4 stories</td>
<td>7 stories</td>
</tr>
</tbody>
</table>

   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 Subsection U.8.a(2), as follows:

<table>
<thead>
<tr>
<th></th>
<th>N-MU</th>
<th>CC-MU</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Maximum Permitted Height by Special Exception</strong></td>
<td>6 stories</td>
<td>12 stories</td>
</tr>
</tbody>
</table>

c. **Minimum Height Requirements.**

   All new principal structures shall be at least two stories in height. The maximum permitted height of an accessory structure shall be two stories or 25 feet.

5. **Minimum and Maximum 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:
Mixed Use District Minimum Yard Requirements for All Buildings

<table>
<thead>
<tr>
<th>Zoning District</th>
<th>Front Yard Depth (feet)</th>
<th>Rear Yard Depth (feet)</th>
<th>Minimum Aggregate Width of Side Yards (feet)</th>
<th>Minimum Width of Side Yards (feet)</th>
<th>Number of Side Yards Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>N-MU</td>
<td>0</td>
<td>5</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>CC-MU</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

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

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 lots on either side of the subject lot or 15 feet, whichever is less.

(2) If one 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 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 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 lots that front on the same street as the subject lot.

Calculating Setbacks Example: \( \frac{12 \text{ ft.} + 8 \text{ ft.} + 12 \text{ ft.} + 0 \text{ ft.}}{4} = 8 \text{ ft.} \)

(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 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 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 12 times the building’s street frontage in linear feet.

a. Minimum Unit Area Requirements.

All new residential units shall comply with the requirements of Section K.18.

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 and 22 units per acre and the average density in the Neighborhood Mixed-Use District will be between six and ten 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 15,000 square feet.

b. Commercial Appearance.

For new construction, a minimum of 70% of the street-facing building façade between two feet and eight 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 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 20% of the total square footage for the entire development.

8. **Signs.**

Regulation of signs shall be per Section I of this Article.

9. **Projecting Signs in the CC-MU Zoning District.**

Regulation of projecting signs shall be per Section I 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. In the CC-MU District, storefronts shall be retained on existing buildings – in full or to a minimum of 40 feet in depth. Window glazing openings on existing storefronts in the CC-MU District shall not be reduced in area but may be expanded in size with approval of the Historic District Commission.
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 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 sketch 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 sketch 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 sketch 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.

e. **INST (Institutional).** To provide locations for institutional uses to serve the community. Examples of existing large-scale institutional uses include public school campuses, hospital and nursing home properties, recreational facilities with fields, parks, professional ball stadiums, cemeteries, etc.

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 Subsection U.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) Maximum floor area for freestanding building: 75,000 square feet.
(ii) Maximum floor area for a shopping center: 150,000 square feet with a 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, Subsection I.6.

(3) Maintenance of Abandoned Destination Retail Use Buildings.

Any freestanding building over 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 signs 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) 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 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 Article to retail trade, movie theaters or performing arts centers.

(5) 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 25% of the gross floor area of the building (except restaurants), or
(b) Not exceed in the aggregate 20% of the gross floor area of a group of adjacent buildings under common ownership or a group of buildings designed and approved as a unified development or business park, as designated on the approved Site Plan(s) or subdivision development plan.
(c) Gasoline service stations (4471) are not permitted in the POM District, including incidental sales associated with a convenience store.
(d) Retail uses shall not be the sole occupant of a structure.
(e) See Article 5, Subsection I.9 regarding nonconforming commercial subdivisions.

(6) 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 days in duration or are accessory to an otherwise permanent business operation conducted from buildings.


(a) Use area must be set back at least 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 dog per 100 square feet of combined interior/exterior lease area.

(8) An automobile and/or truck sales and/or rental 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 identifying 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) Automobile sales shall be permitted in the CL Zoning District only when all for-sale inventory and all vehicles on site for repair or preparation for sale shall be stored inside of fully enclosed buildings at all times. At no time will for-sale inventory, vehicles awaiting preparation for sale, or on-site for service be stored outdoors. Nothing in this provision shall be interpreted to permit warehousing of automobiles as a principal use. Automobile and/or truck rental, and the sale of recreational vehicles and/or boats shall not be permitted in the CL District.

(f) 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.

(9) A flea market shall:

(a) Comply with current requirements for vendor (employee) and customer parking, calculated based on retail use parking requirements; and
(b) All elements of the use are setback at least the required structure setback for the district, and

(c) The use area meets current landscaping requirements from adjacent commercial and residentially used properties and zoning districts.

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 Subsection 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, 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 Subsection 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 eight (8) children, as licensed by the State of Maryland. The number of children cared for in an apartment unit that are not members of the household shall not exceed two (2). A home day-care may utilize non-resident employees only for occasional back up staff for the purpose of covering on-site operations for the resident staff during vacations, personal emergencies, appointments, etc. when the resident provider will not be present, as required by their State license. Otherwise, a home day-care shall not employ persons who do not reside on the property. [Ed. Note: State licensure counts those children under age 6 living in a dwelling among those being cared for under the license. This requirement prohibits a home day-care operator’s ability to care for five or more children under the age of two unless a second care giver (as required by State licensure) is also a resident of the dwelling.]

(4) The outdoor storage of inventory, merchandise and supplies accessory to a principal use, subject to the requirements of Subsection K.17.
3. Parking Requirements.

As applicable under Section O of this Article.

4. Height Limitations.

No structure shall exceed the following:

a. Height Limitation Chart.

<table>
<thead>
<tr>
<th>Height Limitation Chart</th>
</tr>
</thead>
<tbody>
<tr>
<td>CL</td>
</tr>
<tr>
<td>2 stories or 35 feet</td>
</tr>
</tbody>
</table>

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 Subsection U.8.a(2), as follows:

<table>
<thead>
<tr>
<th>Special Exception Height Limitation Chart</th>
</tr>
</thead>
<tbody>
<tr>
<td>CG</td>
</tr>
<tr>
<td>6 stories or 90 feet</td>
</tr>
</tbody>
</table>

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.

<table>
<thead>
<tr>
<th>Commercial District Dimensional Requirements for All Buildings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Measured in Feet.</td>
</tr>
<tr>
<td>Zoning District</td>
</tr>
<tr>
<td>-----------------</td>
</tr>
<tr>
<td>CL</td>
</tr>
<tr>
<td>CG</td>
</tr>
<tr>
<td>CR</td>
</tr>
<tr>
<td>POM</td>
</tr>
<tr>
<td>INST</td>
</tr>
</tbody>
</table>

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 foot for each foot of building height, but not less than 35 feet.
Yards shall be measured and determined in accordance with the standards set forth in Subsection 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.

b. **Residential Development in the CL (Commercial Local) Zoning District.**

(1) All new residential units shall comply with the requirements of Section K.18.

(2) The construction of buildings for residential and mixed uses, as allowed in the CL District in Section Z (use chart) shall be permitted to contain more than one dwelling unit only if the lot area per dwelling shall comply with the following:

<table>
<thead>
<tr>
<th>Use</th>
<th>Maximum Density/Minimum Lot Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Multi-family and mixed-use buildings</td>
<td>One unit per 2,700 square feet of land area.</td>
</tr>
<tr>
<td>Two family dwellings and semi-detached</td>
<td>One unit per 3,000 square feet of land area</td>
</tr>
<tr>
<td>Townhouses</td>
<td>One unit per 2,500 square feet of land area and</td>
</tr>
<tr>
<td></td>
<td>minimum tract area of 7,500 square feet.</td>
</tr>
</tbody>
</table>

Compliance with current parking requirements shall apply.

(3) The adaptive reuse of existing buildings for residential or mixed-use purposes shall not be subject to b.(2) above.

(4) Building Setbacks for residential and mixed use buildings in the CL Zoning District shall be the same as all other buildings in the CL District.

c. **Attached Units in Commercial Developments.**

A single building may be developed with zero 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 sign shall be of consistent exterior design with regard to style, materials and color.

(5) Residential uses are not permitted in such a building.
d. **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. **Signs in the Commercial Zoning District.**

Regulation of signs in the commercial zoning districts shall be per Section I 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 and intermingling of incompatible uses.

   c. **I-MU (Industrial – Mixed Use).** To provide locations for light industrial parks, office parks, research and development facilities, high-tech communications 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 Subsection U.8, or not permitted as enumerated in Section Z of this Article.

   b. **Conditions for Kennels in the I-MU District.**

      (1) Use area must be set back at least 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 feet in height.

      (3) The total number of dogs permitted at any one time shall not exceed one dog per 100 square feet of combined interior/exterior lease area.

   c. **Conditions for Flea Markets.**

      A flea market shall:

      (1) Comply with current requirements for vendor (employee) and customer parking, calculated based on retail use parking requirements; and
(2) All elements of the use are setback at least the required structure setback, and

(3) The use area meets current landscaping requirements from adjacent commercial and residentially used properties and zoning districts.

d. 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.

e. 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 eight (8) children, as licensed by the State of Maryland. The number of children cared for in an apartment unit that are not members of the household shall not exceed two (2). A home day-care may utilize non-resident employees only for occasional back up staff for the purpose of covering on-site operations for the resident staff during vacations, personal emergencies, appointments, etc. when the resident provider will not be present, as required by their State license. Otherwise, a home day-care shall not employ persons who do not reside on the property. [Ed. Note: State licensure counts those children under age 6 living in a dwelling among those being cared for under the license. This requirement prohibits a home day-care operator's ability to care for five or more children under the age of two unless a second care giver (as required by State licensure) is also a resident of the dwelling.]

(4) The outdoor storage of inventory, merchandise and supplies accessory to a principal use, subject to the requirements of Subsection K.17.

3. Parking Requirements. As applicable under Section O of this Article.
4. **Height Limitation Chart.**

<table>
<thead>
<tr>
<th>Zoning District</th>
<th>IR</th>
<th>IG</th>
<th>I-MU</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum Height</td>
<td>60 feet</td>
<td>100 feet</td>
<td>9 stories or 100 feet</td>
</tr>
</tbody>
</table>

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:

<table>
<thead>
<tr>
<th>Industrial District Dimensional Requirements for All Buildings</th>
</tr>
</thead>
<tbody>
<tr>
<td>(Measured in feet)</td>
</tr>
<tr>
<td>Zoning District</td>
</tr>
<tr>
<td>-----------------</td>
</tr>
<tr>
<td>IR</td>
</tr>
<tr>
<td>IG</td>
</tr>
<tr>
<td>I-MU</td>
</tr>
</tbody>
</table>

**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 foot for each foot of building height, but not less than 35 feet.

Yards shall be measured and determined in accordance with the standards set forth in Subsection 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:

- **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.

- **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.

- **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 two asterisks shall:

      (1) Not exceed 25% of the gross floor area of the building, or

      (2) Not exceed in the aggregate 20% 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.
9. Minimum Size of Dwelling Units.

All new residential units shall comply with the requirements of Section K.18.

10. Signs.

Regulation of signs in the industrial zoning districts shall be in accordance with Section I of this Article.
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I. Signs.

1. Minimum Standards, Prohibitions and Applicability.

a. Minimum Standards.

(1) All signs shall be designed, constructed and installed with permanent materials and finishes (except for temporary signs permitted in Subsection 5 below).

(2) Temporary signs, such as but not limited to vinyl banners, shall not be used as permanent or ongoing principal signs.

(3) All signs shall be maintained in good repair, properly painted and maintained in a skillful and reasonable manner.

(4) Signs advertising a business that has been out of operation for more than 30 days shall be removed.

b. Prohibitions.

The following types of signs are not permitted:

(1) Animation, bare bulbs, or flashing illumination or imagery. All lighting shall be steady, stationary, and/or shielded light sources directed solely onto the message.

The prohibition of bare-bulbs shall not prohibit the use of decorative neon tube lighting used:

(a) in straight sections used only to highlight architectural features (and such use shall not be counted toward sign area), and/or

(b) when formed into shapes with the intended use of signage (and such use shall be counted toward sign area).

(2) Roof-mounted signs and temporary portable street signs, except as permitted in Subsection 2.b(2) below.

(3) Temporary signs, except as enumerated in Subsection 5, below. Streamers, pennants and similar products are prohibited.

(4) Temporary signs not permitted in Subsection 5 shall be removed within 180 days of October 30, 2015. [ADMINISTRATIVE NOTE: This date is April 27, 2016.]
(5) Signs on or attached to stationary equipment, such as vehicles, trailers, storage containers, etc., when signing is the apparent principle use of the equipment on either a temporary or permanent basis.

(6) Signs placed in the public street or alley right-of-way of the City of Hagerstown, unless approved by the City of Hagerstown under Chapter 216, Streets and Sidewalks, of the Code. This provision does not apply to portable non-illuminated, changeable message board signs for businesses located in buildings with zero setback, as described in Subsection 2.b(2) below.

(7) Signs positioned so that it obstructs traffic visibility along streets as determined by the City Engineer.

(8) Window signs applied to the surface of a glass door that create a solid background which prevents views into occupied storefront space.

(9) Signs for Home Workstations.

c. **Off-Premise Signs.** This section of Article 4 does not apply to signs advertising products or businesses located off the premises where the sign is located, commonly known as billboards or off-premise signs. Such signs are regulated under the City Code, Chapter 204, Signs.

2. **Measuring Signs and Building Frontages.**

   a. **Procedures for Measuring Signs.**

   Channel letter signs (individual or raceway mounted): measure around outside edge of letters, but do not include descenders of letters. Logos shall be included in measurements for area maximums.

   b. **Signs Excluded From Maximum Area Requirements.**

   (1) Window signs.

   (2) Portable non-illuminated, changeable message board signs for street level businesses, provided:
   i. The sign must be placed within the vicinity of the entry door to the storefront;
   ii. The sign shall be taken in when the business is closed;
   iii. The maximum size for these signs is 6 square feet per side;
   iv. The signs shall be limited to one per business.

   (3) Wall-mounted directory signs for multiple tenant buildings, provided:
   i. Signs shall be located beside the entry door;
   ii. The maximum size for directory signs is 12 square feet.
(4) Entrance, exit, and other parking lot directional signs along internal road or driveway networks of development.

(5) Cornerstones not of an advertising nature built into or attached to a wall of a building.

(6) Historic interpretive markers.

(7) Subdivision or development identification signs.

(8) Government signs: Signs of any size or shape erected by or under the direction of any governmental body or agency in any location for the purpose of promotion, identification, direction, safety, or convenience of the public.

(9) Theater Marquees in the CC-MU District: Historically, the theaters in the CC-MU district had marquees projecting over the sidewalk to promote the theater’s upcoming events. As marquee signs are a character defining feature of downtown theaters and are crucial to their success, the continued use of theater marquees in the CC-MU is a public goal. In order to allow that tradition to continue, approval of any new theater marquee and associated signs will be by the Historic District Commission on a case by case basis considering historic precedent for such signs in the downtown historic district.

(10) The minimum size and required posting of signs informing the public of gasoline sales prices in accordance with Maryland law shall not be calculated for the purpose of maximum sign area. That which exceeds the minimum required by Maryland law shall be included in the maximum sign area.

c. Procedures for Measuring Building Frontage.

(1) Sign area calculations are based on width of front entrance wall.

(2) For downtown storefront and other strip store tenants: measure width of lease space on front entrance wall.

(3) For two-sided storefronts (display windows and customer entry doors on two sides): measure width of lease space on both front entrance walls.

(4) For buildings or lease spaces that front on two or more public streets:
   i. Front entrance wall: measure width as prescribed for that district;
   ii. Secondary walls on public streets: 30% of width of front entrance wall.

(5) For buildings containing multiple tenants (office buildings, upper floors of downtown storefront buildings): measure width of building on front entrance wall. If building has customer entrances on more than one wall, measure width of each entrance wall.
3. **Maximum Number of Signs Permitted.**

   a. **Maximum Number of Signs.** No limitation on number of wall-mounted signs provided square footage of total falls within maximums prescribed for that district.

   b. **Multiple Occupant Buildings.** If building contains multiple tenants (e.g., office buildings, downtown commercial buildings), total wall mounted sign area is limited to formula prescribed for the entire building (e.g., if cap for building is 30 square feet, the total for all signs must add up to 30 or less square feet in area).

   c. **Freestanding Signs.** No more than one freestanding sign installation per building or shopping center per each street or highway on which the building has frontage. Each pad site in a shopping center shall be permitted one freestanding sign installation.

4. **Sign Dimensional and Design Requirements.**

   Site plan applicants are required to present a Program for Signs as part of a required site plan that integrates the design of signs 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 freestanding sign to identify the park at each exit and entrance. The style, color and materials of signs shall be consistent with other signs on the property and with the main structure. Dimensional and Design Requirements are as follows.

   a. **Freestanding Signs.**

<table>
<thead>
<tr>
<th>Zoning District</th>
<th>Maximum Height (feet)</th>
<th>Maximum Area (square feet)</th>
<th>Maximum area per installation for commercially zoned sections of Dual Highway, Wesel Boulevard and Potomac Avenue north of Northern Avenue (square feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>RMOD, RMED, RH*</td>
<td>10</td>
<td>36 for buildings set back 25 feet or less from the street, 48 for buildings set back more than 25 feet from the street.</td>
<td>NA</td>
</tr>
<tr>
<td>RO*, N-MU, CC-MU, CL, C, LC</td>
<td>10</td>
<td>40</td>
<td>NA</td>
</tr>
<tr>
<td>CG, CR, POM, INST</td>
<td>30</td>
<td>100</td>
<td>150</td>
</tr>
<tr>
<td>AT, I-MU</td>
<td>10</td>
<td>100</td>
<td>NA</td>
</tr>
<tr>
<td>IR, IG</td>
<td>30</td>
<td>100</td>
<td>NA</td>
</tr>
</tbody>
</table>

* For permitted non-residential uses (excluding home work stations)
b. **Flush, Wall-Mounted Signs.**

<table>
<thead>
<tr>
<th>Zoning District</th>
<th>Maximum Cumulative Area 50 feet or less of building or strip store frontage (square feet)</th>
<th>Maximum Cumulative Area More than 50 feet of building or strip store frontage (square feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>RMOD, RMED, RH*</td>
<td>1 per each linear foot of building frontage</td>
<td>1.5 per linear foot of building frontage</td>
</tr>
<tr>
<td>RO*, N-MU, CC-MU, CL, C, LC</td>
<td>1 per each linear foot of building frontage</td>
<td>1 per linear foot of building frontage</td>
</tr>
<tr>
<td>CG, CR, POM, INST, IR, IG, I-MU, AT</td>
<td>1.5 per linear foot of building frontage</td>
<td>2 per linear foot of building frontage</td>
</tr>
</tbody>
</table>

* For permitted non-residential uses (excluding home work stations)

c. **Projecting Signs.** No sign shall project more than 52 inches from the building wall or within two feet of the curb line. Dimensional and Design Requirements are as follows for all zoning districts, including non-residential uses in RH and RO Districts (not home workstations):

<table>
<thead>
<tr>
<th>Maximum area for storefront or strip store tenant</th>
<th>8 square feet</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum area for single-user building and for upper floor tenants in multi-use buildings</td>
<td>No more than one 36-square foot vertically oriented sign per building frontage</td>
</tr>
<tr>
<td>Minimum vertical clearance</td>
<td>8 feet</td>
</tr>
<tr>
<td>Maximum vertical clearance</td>
<td>Below the second floor for storefront tenants and below the roof line for upper floor tenants and single-user buildings</td>
</tr>
</tbody>
</table>

d. **Secondary Changeable Copy/Image Signs.**

1. For freestanding sign installations, secondary changeable copy/image signs shall be located on the same base as the primary freestanding sign.

2. Shall be subject to the total area maximums identified in the preceding subsections for signs.

3. Signs which automatically change messages or copy electronically must be set to maintain the image for a minimum of ten seconds in residential districts and six seconds in all other districts. In the residential districts, such signs shall be locked in a single image between the hours of 10:00 p.m. and 6:00 a.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.

5. **Temporary Signs.**

Temporary signs shall be non-illuminated and limited to the following types:

a. Construction signs, which identify the architects, engineers, contractors and other individuals or firms involved with the construction occurring on the premises on which the sign is
displayed. Such signs shall be removed upon issuance of a certificate of occupancy for the development.

b. Real estate signs, advertising the sale, rental or lease of the premises or part of the premises on which the sign is displayed. Such signs shall be removed upon execution of a lease or contract of sale.

c. Political and social signs announcing the candidates seeking public political office or other information pertinent thereto, or related to a ballot initiative, or promoting a social or political viewpoint.

d. Signs advertising only the name, date, time and place of any bona fide fair, festival, bazaar or similar event, when conducted by a public agency or for the benefit of any civic, fraternal, religious or charitable cause; provided that all such signs shall be posted no earlier than 30 days before the event and removed within 24 hours after the last day of the event to which they pertain. Such signs shall not be posted on exclusively residential use properties unless the event is occurring on that property. Such signs may contain the logo(s) of event sponsor(s).

e. Building mounted grand opening signs for uses permitted by Section Z of this Article, provided that such signs shall not be displayed more than one time for up to 10 days.

f. Seasonal decorations that serve no advertising purpose other than celebrating the holiday or observance.

g. Change of business name banners/hoods/covers over existing building mounted and freestanding signs, while new signs are being manufactured provided that such sign or signs shall not be displayed for more than eight weeks and shall not exceed the permitted sign area for that site, subject to an approved building or zoning permit.

h. Yard sale signs on properties containing legal residential uses, provided that such signs shall be displayed only up to eight days before and on the day of the event and only on the property holding the event. The maximum sign area shall be eight square feet.

i. Signs for approved temporary businesses, subject to size limitations for that district, provided that all such signs shall be removed when the temporary business approval expires.


a. Upon application, the Zoning Administrator may approve a replacement sign unit on an existing freestanding sign structure that contains multiple signs exceeding the total permitted sign area, provided that the new sign does not exceed a proportionate share of the total permitted sign area for the number of businesses on the property. When replaced later, existing signs for other users on a property shall comply with this standard. When
completed and all existing signs are ultimately replaced, the collective area of the new sign units shall not exceed the total permitted sign area.

b. No electronic sign shall be added to an existing nonconforming freestanding sign structure.
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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 Subsection U.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 Subsection 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 eight (8) children, as licensed by the State of Maryland. The number of children cared for in an apartment unit that are not members of the household shall not exceed two (2). A home day-care may utilize non-resident employees only for occasional back up staff for the purpose of covering on-site operations for the resident staff during vacations, personal emergencies, appointments, etc. when the resident provider will not be present, as required by their State license. Otherwise, a home day-
care shall not employ persons who do not reside on the property. [Ed. Note: State licensure counts those children under age 6 living in a dwelling among those being cared for under the license. This requirement prohibits a home day-care operator’s ability to care for five or more children under the age of two unless a second care giver (as required by State licensure) is also a resident of the dwelling.]

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 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 three years after final approval. If construction does not begin within three 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. If an appeal is pending on approval of a PUD, the three year clock will not start until the conclusion of the appeal process. For the purposes of this section, construction shall mean the complete sub-grade grading of fifty percent (50%) of all streets, construction of primary storm water management facilities and the connection of all required utilities to the PUD tract, unless some alternative definition is incorporated by the Mayor and City Council into the Ordinance rezoning the property to include a PUD Overlay.

f. Application Procedures.

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

(1) **Step I. Preliminary Consultation and Concept 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 concept plan prepared by a registered professional engineer, registered architect or landscape architect or registered land surveyor. The concept 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 Subsection A.9 of this Article.

(3) **Step III. Mayor and City Council Action.** Again, in accordance with said Subsection A.9, 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: 60 feet.

(2) Maximum Height – Accessory structure: 25 feet.
h. **Off-Street Parking.**

There shall be two 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 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:

<table>
<thead>
<tr>
<th>Use</th>
<th>For Each Square Foot of Lot Area Below the Following Lot Area Requirement</th>
<th>Requirement of Additional Open Space</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single Family Detached Dwelling</td>
<td>7,500 square feet</td>
<td>1.0 square feet</td>
</tr>
<tr>
<td>Single-Family Semi-Detached Dwelling</td>
<td>5,000 square feet</td>
<td>1.2 square feet</td>
</tr>
<tr>
<td>Two-Family Dwelling</td>
<td>10,000 square feet</td>
<td>2.5 square feet</td>
</tr>
<tr>
<td>Townhouse Dwelling</td>
<td>2,500 square feet</td>
<td>1.5 square feet</td>
</tr>
<tr>
<td>Stacked Apartment, Courtyard Apartments and Mansion Apartment House Dwellings</td>
<td>2,000 square feet per dwelling unit</td>
<td>1.75 square Feet</td>
</tr>
</tbody>
</table>

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 percent (20%) 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 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:

<table>
<thead>
<tr>
<th>District</th>
<th>Percentage Standards</th>
</tr>
</thead>
<tbody>
<tr>
<td>CG and CR District</td>
<td>Minimum 35% of tract in residential use</td>
</tr>
<tr>
<td>All other base districts</td>
<td>20%-70% of tract in commercial use</td>
</tr>
</tbody>
</table>

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 (measured in feet).

<table>
<thead>
<tr>
<th>Use</th>
<th>Front</th>
<th>Side</th>
<th>Rear</th>
<th>Accessory Rear</th>
<th>Lot Width</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single-family dwelling</td>
<td>10(a)</td>
<td>5</td>
<td>20(b)</td>
<td>5</td>
<td>35</td>
</tr>
<tr>
<td>Single-family semi-detached dwelling</td>
<td>10(a)</td>
<td>5</td>
<td>20(b)</td>
<td>5</td>
<td>25</td>
</tr>
<tr>
<td>Two-family dwelling</td>
<td>10(a)</td>
<td>10</td>
<td>20(b)</td>
<td>5</td>
<td>50</td>
</tr>
<tr>
<td>Townhouse dwelling</td>
<td>0 (c)</td>
<td>5</td>
<td>20(b)</td>
<td>5</td>
<td>20(d)</td>
</tr>
<tr>
<td>Stacked, Courtyard and Mansion House</td>
<td>10</td>
<td>10(e)</td>
<td>20(e)</td>
<td>5</td>
<td>75</td>
</tr>
<tr>
<td>Apartment dwellings</td>
<td>0</td>
<td>10</td>
<td>0</td>
<td>0</td>
<td>20</td>
</tr>
<tr>
<td>Commercial</td>
<td>0</td>
<td>10</td>
<td>0</td>
<td>0</td>
<td>20</td>
</tr>
<tr>
<td>All others</td>
<td>10</td>
<td>10</td>
<td>20</td>
<td>5</td>
<td>20</td>
</tr>
</tbody>
</table>

See notes on following page.
(a) Porches and steps may extend no closer than five (5) feet to the front property line.  
(b) A 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 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 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 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).

(9) **Minimum Size of Dwelling Units.** All new residential units shall comply with the requirements of Section K.18.

2. **Conversion District.**

   a. **Purpose.**

   The purposes of this district are to stimulate the adaptive reuse of existing, nonresidential, multi-story and large one-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 March 7, 1977.

   b. **Location.**

   The Conversion District may be located in the following districts: RMOD, RMED, RH, RO, CL, CG, POM, INST, 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 Subsection U.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 Subsection K.10 of this Article.

3. Home day-care of up to eight (8) children, as licensed by the State of Maryland. The number of children cared for in an apartment unit that are not members of the household shall not exceed two (2). A home day-care may utilize non-resident employees only for occasional back up staff for the purpose of covering on-site operations for the resident staff during vacations, personal emergencies, appointments, etc. when the resident provider will not be present, as required by their State license. Otherwise, a home day-care shall not employ persons who do not reside on the property. [Ed. Note: State licensure counts those children under age 6 living in a dwelling among those being cared for under the license. This requirement prohibits a home day-care operator’s ability to care for five or more children under the age of two unless a second care giver (as required by State licensure) is also a resident of the dwelling.]

e. **General Requirements.**

1. The area proposed for a conversion district shall be in one 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 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 years after final approval. If construction does not begin within two 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), below, 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 Subsection A.9 of this Article.

(4) **Step 4.** Mayor and City Council Action. In accordance with Subsection 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 50% 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 20,001 square feet.

k. Minimum Size of Dwelling Units.

All new residential units shall comply with the requirements of Section K.18.

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 19th and early 20th 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 Subsection U.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 i. below.

e. **General Requirements.**

(1) The area proposed for a conversion district shall be in one 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 March 7, 1977, 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 i. below.

(3) The owners or developers must indicate that they plan to begin construction of the development or commence the use within one year after the overlay is approved. If the use does not commence within two 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 Subsection A.9 of this Article.

(4) **Step 4.** Mayor and City Council Action. In accordance with said Subsection A.9, 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 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 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.

(7) All new residential units shall comply with the requirements of Section K.18.

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 Subsection A.9 of this Article. 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.
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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 Department. The applicant shall submit a plan for the fence for review of the zoning certificate application. The following standards shall apply:

a. Visibility at Intersections.

With respect to corner lots, no fence, wall, gateway, ornamental structure, hedge, shrubbery and other fixtures, construction or planting shall exceed three (3) feet in height in either direction back from the street corner (measured from the intersection of the street rights of ways) for a distance of 25 feet. This restriction applies to all corner lots in all zoning districts where front yards are required.

b. Height and Setback.

The following maximum height limitation shall be applied to fences:

<table>
<thead>
<tr>
<th>District</th>
<th>Front Yard</th>
<th>Side Yard</th>
<th>Rear Yard</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential Zoning Districts</td>
<td>3 feet b(1)</td>
<td>6 feet b(1) and b(4)</td>
<td>6 feet b(1) and b(4)</td>
</tr>
<tr>
<td>Residential Uses in a Mixed-Use District</td>
<td>3 feet b(1)</td>
<td>6 feet b(1) and b(4)</td>
<td>6 feet b(1) and b(4)</td>
</tr>
<tr>
<td>Commercial Zoning Districts</td>
<td>Not Permitted c.2</td>
<td>8 feet c(1)</td>
<td>8 feet c(1)</td>
</tr>
<tr>
<td>Commercial and Industrial uses in a Mixed-Use District</td>
<td>Not Permitted c.2</td>
<td>8 feet c(1)</td>
<td>8 feet c(1)</td>
</tr>
<tr>
<td>Industrial Zoning Districts, Including the I-MU District</td>
<td>10 feet c.2</td>
<td>10 feet c(1)</td>
<td>10 feet c(1)</td>
</tr>
</tbody>
</table>

[ADMINISTRATIVE NOTE: The letters in each box shown in parentheses correspond to notes and requirements in subsections shown below and on the following two pages.]

(1) Residential Districts and Residential Uses in Mixed Use Districts.

(a) When a residential property in a residential zoning district fronts more than one public street, the frontage on the side street and/or street to the rear shall be treated as a side or rear setback for the purpose of fence location, provided the fence is not installed closer to the principal frontage along the side street than the rear façade of the dwelling.

This provision shall not apply when the side street or street to the rear is of a higher functional classification than the principal frontage, as determined by the City Engineer. In such cases, the front yard fence limitations shall continue to apply. [Ed. Note: See drawing on page 4-72.]
(b) Front yard fences shall be constructed only of decorative metal, wood picket, vinyl picket or composite picket construction, with the spaces between the pickets being at least as wide as the pickets.

(c) Chain link, wire, vinyl, paddock, and post and rail fences are specifically prohibited within 25 feet of a street right of way. On residential properties, chain link fencing shall be limited to no more than four 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.

(2) **Entrance Features.**

Fences or walls which serve as entrance features to subdivisions or developments shall be limited to four feet in height.

(3) **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, fencing surrounding telecommunications facilities, and noise attenuation walls.

(4) **When Adjacent to More Intense Uses.**

(a) When a property in a residential or mixed-use zoning district used for residential purposes is adjoining a CG, CR, POM, INST or I-MU district or adjoining a non-
conforming commercial or industrial use similar in character to what would be permitted in the CG, CR, POM, INST or I-MU District, the fence in a side or rear yard may be eight feet in height. No landscaping outside the fence shall be required.

(b) When a property in a residential or mixed-use zoning district used for residential purposes is adjoining an IR or IG zoned property or adjoining a non-conforming commercial or industrial use similar in character to what would be permitted in the IR or IG Districts, the fence in the side or rear yard may be ten feet in height. No landscaping outside of the fence shall be required. Such fence shall comply with the required front yard setback.

(5) **Setbacks for Retaining Walls.**

See Subsection e, below.

c. **Buffers.**

(1) **When Adjacent to Less Intense Districts.**

When properties in the commercial, mixed use or industrial districts are 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. 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.

(2) **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.4.h(8). 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. **Construction Standards and Materials.**

Fences shall be constructed of materials specifically designed and manufactured for fencing purposes.

(1) Fences shall be constructed of materials specifically designed and manufactured for fencing purposes.

(2) 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 feet in height.

(3) See Subsection K.1.b. and K.1.c of this section regarding limitations on materials for fences in front yards in residential districts.

(4) The finished side of any fence shall face outward towards surrounding public street rights-of-way, public parks and public school properties.

e. **Retaining Walls and Safety Fences Thereon.**

(1) **Retaining Wall Setbacks.** In order to ensure that a retaining wall can be maintained or repaired without trespass onto adjacent property, when a retaining wall is constructed on a property that contains or is planned to contain a use other than a single-family dwelling, single-family semi-detached dwelling or two family dwelling, and the wall faces away from the property, the wall shall be set back as follows:

Wall height:  
- 24 to 48 inches above adjacent grade: 3 feet.  
- More than 48 inches above adjacent grade: 6 feet.

(2) **Safety Fences on Retaining Walls.** The provisions of this subsection regarding fences shall not be applied to those installed above retaining walls that are without integral safety railings or where safety railings are set back from the top of the wall by a minimum of three 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 25% 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. **Floodplain.**

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 Code 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.
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 such yard sales in a calendar year, and each sale is no longer than three consecutive days in duration.


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 and Sea-Containers.

a. Semi-trailers shall not be used for the purpose of storing material or merchandise on a property beyond that customarily associated with the temporary and transitory use of the semi-trailer to transport goods. They shall not be used as storage facilities, except as otherwise permitted on an active construction site. 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 Article shall be brought into compliance within 24 months of the effective date of this Ordinance or be removed from the property. [ADMINISTRATIVE NOTE: The amortization period for this provision expired on October 25, 2014.]

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 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 of the City Code.

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 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 vehicle used for commuting associated with the business, as limited by Subsection D.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.


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


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 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 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 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 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 15 feet above the base of the supporting structure. The supporting tower shall not be climbable for the first 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 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 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, over speeding, 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 non-reflective (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 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.**

Large Wind Energy Systems shall not be permitted in any zoning district within the City.

c. **Building-Mounted Wind Energy Systems.**

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 Building-Mounted Wind Energy System with a rated maximum output of not more than 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 feet above the highest point of the roof in all zoning districts.

(3) Safety and aesthetic standards under Subsection 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 12 inches in height on gabled or hipped roofs or ten 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.


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 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 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 business days, and required remediation of the site conditions shall be completed within 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 30 days of the date assigned to the certificate.

14. Work to Be Completed in a Professional and Workmanlike Manner.

Construction of any building, addition to a building, fence, shed, carport, landscaping area required as an element of a site plan, paving or other site feature shall be completed in a professional and workmanlike manner.

15. Tarps and Pliable Material as Building Materials.

Tarps, canvas and similar pliable material shall not be used as enclosures for or building materials of buildings or structures. This provision shall not apply to bona fide awnings designed and constructed as such of material intended for use in awnings, or canvas or other pliable materials engineered or
professionally designed for such purposes. Any existing material noncompliant to this requirement shall be removed within 180 days of October 30, 2015. [ADMINISTRATIVE NOTE: The amortization period for this provision expires on April 25, 2016.]


Installations of new trash dumpsters on existing developments (where site plan is not required) shall be required to have a dumpster enclosure. The dumpster enclosure shall be compliant with the standard detail maintained by the City Engineer. The Planning Commission may waive this requirement if convinced that the dumpster location is the most logical placement due to unique site constraints and that installation of the enclosure is not practical due to those constraints.

17. Outdoor Storage of Inventory, Merchandise and Supplies.

All Outdoor storage of inventory, merchandise and supplies in the CL, CG, CR, POM, INST, IR, IG, I-MU, and Conversion Districts shall, at a minimum, be located at least 10 feet from adjacent property lines and street rights of way, and buffered in accordance with the provisions of the section pertaining to the buffering of parking areas.

This provision shall also be applied to properties and uses where a site plan is not required for a new or expanded use which introduces outdoor storage to an area, regardless of whether a site plan is required for the proposed use.

18. Minimum Size of Dwelling Units.

Effective June 14, 2019 every new dwelling unit of any type created or constructed within the City of Hagerstown shall comply with the following minimum requirements for finished living area:

<table>
<thead>
<tr>
<th>Unit Type</th>
<th>Minimum Size</th>
</tr>
</thead>
<tbody>
<tr>
<td>Efficiency Unit</td>
<td>500 square feet</td>
</tr>
<tr>
<td>One-bedroom Unit</td>
<td>650 square feet</td>
</tr>
<tr>
<td>Two-bedroom Unit</td>
<td>800 square feet</td>
</tr>
<tr>
<td>Three-or-more bedroom Unit</td>
<td>1,000 square feet</td>
</tr>
<tr>
<td>Efficiency Unit with live/work space</td>
<td>1,000 square feet</td>
</tr>
<tr>
<td>One-bedroom Unit with live/work space</td>
<td>1,300 square feet</td>
</tr>
<tr>
<td>Two-bedroom Unit with live/work space</td>
<td>1,600 square feet</td>
</tr>
<tr>
<td>Three-or-more bedroom Unit with live/work space</td>
<td>2,000 square feet</td>
</tr>
</tbody>
</table>


Rooming Houses shall be permitted in existing buildings in those zones identified in Section Z provided the facility complies with the following conditions:

a. Maximum of 16 rooming units per rooming house property, except a greater of number units may be possible in the CG district if approved by Special Exception by the Board of Zoning Appeals;

b. Maximum of 3 residents per rooming unit;

c. Minimum size of rooming units based on occupancy:
(1) Minimum of 150 square feet for one person;
(2) Minimum of 200 square feet for two persons;
(3) Minimum of 320 square feet for three persons;

d. Minimum of one bathroom containing at least one toilet, at least one sink and at least one bathtub or shower per four rooming units and not more than one flight of stairs between rooming units and bathroom;

e. Cooking shall not be permitted in rooming units;

f. Minimum of one kitchen per rooming house in a common area of the facility;

g. Twenty-four-hour per day on-site supervisor representing the owner when the rooming house contains more than 16 rooming units;

h. Meets off-street parking requirements for Group Quarters. The Board of Zoning Appeals shall not have the authority to grant a variance to this requirement.
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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 article, 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. With the information provided, the Zoning Administrator shall have the authority to confirm the existence of a nonconforming use. Should the initial application’s information be insufficient to confirm the nonconformity and continuous use of the alleged nonconformity to the Zoning Administrator’s satisfaction, he or she may request additional information of the applicant prior to rendering a decision. The Zoning Administrator shall not have the authority to approve expansions, enlargements or changes of nonconforming uses. In the event that the Zoning Administrator declines to confirm the existence of a nonconforming use, the applicant may apply to the Board of Zoning Appeals seeking confirmation. The case would be heard by the Board de novo.

2. Restoration. Nothing in this article 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 months of said destruction or damage, and provided further that said restoration or construction is commenced within one 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 years. If any nonconforming use of land shall cease for any reason whatsoever through a period of two 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 Article becomes effective shall be removed by two years from the effective date of the article.

   [ADMINISTRATIVE NOTE: Effective date of Ordinance amendment is October 22, 1991. Uses shall have been removed by October 22, 1993.]

   b. Bail Bonding 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 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 500 foot distance from Public Square or (3) closer than the minimum 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 vehicles described therein within 36 months of the effective date of this Article. This provision shall not apply to a motor vehicle impound and storage facilities as defined and regulated by this Chapter. [ADMINISTRATIVE NOTE: The effective date of Ordinance amendment is October 22, 2013. The amortization period expires on October 22, 2016.]

d. **Temporary Signs.** Per Subsection I.b(4), temporary signs made nonconforming to these regulations are to be removed within 180 days of October 30, 2015. [ADMINISTRATIVE NOTE: This date is April 27, 2016.]

e. **Use of Semi-Trailers.** Per Subsection K.9.a, the parking and storage of semi-trailers is limited to certain activities. Existing uses other than those enumerated became nonconforming. Non-conforming trailers are to be removed within 24 months of the effective date of the Ordinance amendment. [ADMINISTRATIVE NOTE: The amortization period for this provision expired on October 25, 2014]

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 article 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 this article. The cumulative effect of the alteration(s) or extension(s) shall not exceed 35% of those existing buildings or structures and parcels devoted to a nonconforming use. The 35% maximum shall be applied to new buildings and additions as related to the cumulative existing area of buildings and shall be applied to new uses of land as related to the cumulative existing area used for the specific purpose of the expansion. Parking, landscaping and other areas shall not be included in determining the 35% maximum of building and land use expansion areas, however parking areas may be enlarged by up to the same 35% figure in order to provide additional parking for the enlarged use.

No nonconforming use shall be enlarged, expanded or extended to an adjacent property on which no part of the nonconforming use is located.

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 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. The Board of Zoning Appeals is prohibited from changing a nonconforming use to any of the following uses:

a. Adult entertainment business;

b. Bonding, probation and parole of defendants in the criminal justice system;

c. Drinking place;

d. Homeless shelter;

e. Hookah or vapor lounge;

f. Kennel;

g. Sale of fireworks;

h. Tattoo parlor, massage parlor, steam bath or sauna;

i. Nursing home;

j. Outpatient substance abuse centers, including disbursement of addiction treatment drugs;

k. Hospitals, including psychiatric, substance abuse and specialty hospitals;

l. Assisted living facilities; and/or

m. Rehabilitation centers.

When a district permits the above uses, changing the use is not subject to this provision and the use shall comply with all performance standards as may apply in that district.
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-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-family dwelling, displaying such features as two front doors, two driveways, separate porches, addresses, and/or other physical characteristics of a two-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-family dwellings, but is rendered noncomplying or nonconforming due to the property not meeting lot area, width, and other bulk requirements.

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

12. **Expansion of Nonconforming Residential Uses in Non-conforming Mixed-use Building.** A valid and legal nonconforming mixed-use structure in any residential district where mixed-use structures are not permissible may convert the vacant ground floor commercial space to a single residential unit. Such a proposal shall be subject to review and approval of 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.
The Board of Zoning Appeals application shall include exterior building elevations illustrating how the commercial front shall be renovated to convert the appearance of the commercial area to residential in appearance consistent with the architectural design and appearance of the rest of the structure.

Should the Board of Zoning Appeals approve the application, the exterior modifications shall be completed in accordance with the approval provided by the Board, including any conditions of approval that may be required.
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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-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 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 years immediately prior to being destroyed. Subsection 3 shall apply only if a building permit is obtained within two years of the date the structure was destroyed, construction pursuant to the building permit begins within six months of the issuance of the permit, and construction is substantially completed within one 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-family and semi-detached dwellings on infill lots within subdivisions recorded prior to the effective date of this article, and

   (2) Existing structures or uses, increased in size by less than 35% after the adoption of this article.

   (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 Article.

   (4) In the CC-MU District, if parking available to the public is located within 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 or the CC-MU District. [ADMINISTRATIVE NOTE: See Subsection O.5].

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.

d. Off-Street Yard Parking for Residential Development.

On all existing improved residential lots and lots in new residential development, the following off-street parking design requirements shall apply:
(1) Parking Areas shall be solid paved surfaces or permeable pavers;

(2) Rear yard parking garages or parking pads are the preferred off-street parking system;

(3) Driveways accessing the lot from a front or side street shall be one vehicle in width;

(4) Driveways serving front-loaded garages from front and/or side streets shall be permitted to be as wide as the garage;

(5) For lots without garages and without the ability to provide rear yard parking, front yard parking pads or turn-arounds of single-vehicle-width driveways shall be permissible provided the parking area does not exceed 50% of the front yard area.


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.

<table>
<thead>
<tr>
<th>Use</th>
<th>Required Spaces</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ambulance facility</td>
<td>Two spaces per ambulance</td>
</tr>
<tr>
<td>Assisted-living facility</td>
<td>One space per every four beds plus one per employee on largest shift</td>
</tr>
<tr>
<td>Auto sales and service</td>
<td>One space per employee plus one per 2,000 square feet of lot area.</td>
</tr>
<tr>
<td>Auto service station</td>
<td>Two spaces per service bay, plus one per employee</td>
</tr>
<tr>
<td>Banks and financial institutions</td>
<td>One space per 200 square feet of net floor area</td>
</tr>
<tr>
<td>Bed and breakfast inns</td>
<td>One space per guest room</td>
</tr>
<tr>
<td>Bowling lanes</td>
<td>Three spaces per bowling lane</td>
</tr>
<tr>
<td>Cluster development</td>
<td>Two spaces per dwelling unit (may include garage, carport or driveway)</td>
</tr>
<tr>
<td>Commercial retail sale (less than 2,000 square feet of floor area)</td>
<td>One space per 350 square feet of net floor area</td>
</tr>
<tr>
<td>Commercial retail sale (freestanding and 2,000 square feet or greater of floor area)</td>
<td>5.5 spaces per 1,000 square feet net floor area</td>
</tr>
<tr>
<td>Community center, library, museum</td>
<td>One space per 400 square feet net floor area</td>
</tr>
<tr>
<td>Use</td>
<td>Required Spaces</td>
</tr>
<tr>
<td>--------------------------------------------------------------------</td>
<td>-----------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Educational (schools)</td>
<td>One space per employee; ample student and visitor parking as determined by the Planning Commission</td>
</tr>
<tr>
<td>Elderly housing</td>
<td>One space per every three units</td>
</tr>
<tr>
<td>Fire stations</td>
<td>10 spaces minimum</td>
</tr>
<tr>
<td>Group quarters, including rooming houses, dormitories, alternative living units, group homes and halfway houses</td>
<td>One space per employee on largest shift plus one space for each sleeping room or one space for each two beds, whichever is greater</td>
</tr>
<tr>
<td>Hospitals</td>
<td>Four spaces per bed</td>
</tr>
<tr>
<td>Hotel, resort, motels (see restaurant and meeting/banquet hall, if applicable – additional space is required)</td>
<td>One space per guest room</td>
</tr>
<tr>
<td>Manufacturing plant</td>
<td>The greater of one space per employee on maximum working shift or one space per each 1,000 square feet and one space for each 350 square feet of office space or sales floor space</td>
</tr>
<tr>
<td>Medical or dental offices/clinics</td>
<td>The greater of four spaces per practitioner or one space per 200 square feet of net floor area</td>
</tr>
<tr>
<td>Mortuary or funeral home</td>
<td>One space per 150 square feet of visitor floor area</td>
</tr>
<tr>
<td>Apartment dwellings</td>
<td>Two spaces per unit, except for mansion house apartment over-under flats, which shall provide 1.5 spaces per unit. If over 25 dwelling units, one space for each 25 units must be set aside for recreational vehicles. This requirement for recreational vehicle spaces shall not be applied in the CC-MU District.</td>
</tr>
<tr>
<td>New residential units in new construction in the CC-MU Zoning District</td>
<td>0.5 spaces per dwelling unit plus 0.5 spaces per bedroom, rounded up to the nearest whole number</td>
</tr>
<tr>
<td>Nursing homes and rehabilitation centers</td>
<td>One space for every four beds plus one space per employee on the largest shift.</td>
</tr>
<tr>
<td>Office building</td>
<td>One space per 200 square feet of net floor area</td>
</tr>
<tr>
<td>Outpatient substance abuse centers, including disbursement of addiction treatment drugs</td>
<td>The greater of four spaces per practitioner or one space per 200 square feet of net floor area. For any use established after the adoption of this provision, when by the conduct of the use large numbers of clients will arrive on site at the same time for regular administration of addiction treatment medications, the provider shall demonstrate to the Zoning Administrator that there is adequate parking supply to serve their clients.</td>
</tr>
<tr>
<td>Place of worship</td>
<td>One space for each 5 persons for which seating is provided in sanctuary, except where mass transit is provided by the church</td>
</tr>
<tr>
<td>Private club/lodge</td>
<td>One space for each 2 persons for which seating or lodging is provided</td>
</tr>
<tr>
<td>Recreational establishment (other than theaters, swimming pools and bowling lanes)</td>
<td>One space per 80 square feet of floor space and/or as determined by the extent of outdoor use by the Planning Commission</td>
</tr>
<tr>
<td>Restaurants, taverns, lounges, night clubs, meeting room/banquet hall</td>
<td>One space per 50 square feet customer floor space [NOTE: see separate requirements for walk up or drive in restaurants]</td>
</tr>
<tr>
<td>Shopping center:</td>
<td>Per 1,000 square feet customer floor space:</td>
</tr>
<tr>
<td>25,000 to 400,000 square feet</td>
<td>4.0 spaces</td>
</tr>
<tr>
<td>400,000 to 600,000 square feet</td>
<td>4.25 spaces</td>
</tr>
<tr>
<td>More than 600,000 square feet</td>
<td>4.5 spaces</td>
</tr>
<tr>
<td>Single-family detached dwellings, two-family dwellings, semi-detached dwellings, townhouses, mansion apartment houses</td>
<td>Two spaces per unit</td>
</tr>
<tr>
<td>Swimming pool</td>
<td>One space per every seven persons lawfully permitted at any one time</td>
</tr>
</tbody>
</table>
Use | Required Spaces
--- | ---
Theaters, auditoriums, stadiums | One space per every four seats
Townhouses or single-family attached dwellings | Two spaces per unit
Transportation terminals (trucking, etc.) | One space per main shift employee
Two-family dwelling | Two spaces per unit
Warehouses or wholesale establishments | One space per 1,500 square feet gross floor space and one space for each 350 square feet of office or sales floor space

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, 3rd 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 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 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 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 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.
P. Reserved.
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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 12 months shall be considered abandoned, and the owner of such WCF shall remove the WCF within 90 days of receipt of notice from the City notifying the owner of such abandonment. If such WCF is not removed within said 90 days, the City may remove the WCF at the owner’s expense. If there are two 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. A minor site plan is required, if the disturbance is less than 5000 square feet, with approval by staff. For projects involving more than 5000 square feet of disturbance, a site plan will be required and shall be reviewed and approved by the Planning Commission. 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.


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.** A minor site plan will not be required unless a fenced compound is being expanded by 500 square feet or more. Expansions of less than 500 square feet and retrofit of landscaping to comply with current screening requirements shall be addressed through a scaled drawing submitted at building permit application. A building permit must be obtained for all WCFs and attached WCFs. When the compound is not landscaped in accordance with the requirements of this Section, the addition of landscaping to bring the compound into compliance 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.** A wireless communications facility constructed in a stealth application in accordance with this section shall be subject to the same height limitation as would apply to the building or structure if it were not being used to contain a telecommunications facility, unless a variance is approved by the Board of Zoning Appeals.

(3) **Setback.** The setback requirement is the same as for the underlying zoning district. unless the stealth structure is a disguised tower or pole, camouflaged as something such as a tree, flagpole or other item not subject to a height or setback limitation imposed by this Ordinance, in which case the tower shall be setback a minimum distance from any property line equal to 125% of the proposed tower height.

(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.

(1) Application Procedures. If equipment facilities and/or sheds are located on the ground, a minor site plan is required unless the new equipment is proposed to be located in an existing fenced compound. 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. In cases where equipment is proposed to be added to an existing compound where the fenced area is not screened with landscaping, the Zoning Administrator may require installation of that landscaping consistent with current standards, but a site plan will not be required if they only improvement outside of an existing compound is the addition of landscaping.

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 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 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 POM, INST, I-MU, 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 (feet)  
----------------------------------------------
RMOD, RMED, RH (residential uses), RO, CL and N-MU  50  
AT, RH (non-residential uses), CC-MU, POM and INST  100  
CG, CR and I-MU                             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 percent (125%) 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 non-authorized 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).
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 30 days, provided the land shall be entirely cleared of such use within five days after such temporary authority expires. Up to three extensions of the temporary uses may be granted by the Zoning Administrator for periods not exceeding 30 days each, up to a maximum limit of 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 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 30 days of the date of the Decision and Order per Article 8.B.

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 this Article 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.
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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 article.

   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 article, the construction of which shall have been started within six months after the effective date of this article and the completion thereof carried on in a normal manner and not discontinued for reasons other than those beyond the builder's 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 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 article. One 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 article, 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 article, 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 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 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.

g. Zoning Permit Revocation.

A zoning certificate (including zoning approval of a building permit) may be revoked by the
Zoning Administrator if the recipient of the certificate fails to develop or maintain the property in
accordance with the plans submitted, the requirements of this Chapter, the list of permitted uses
as found in Section Z of this Article, an approved site plan, or any other requirement lawfully
imposed in connection with the issuance of the zoning certificate or zoning approval of the
building permit.

The Zoning Administrator shall provide the recipient of the zoning certificate or other zoning
approval ten (10) days of notice of intent to revoke the certificate and shall inform the recipient of
the alleged reasons for the revocation. Such notice is not required if, in the opinion of the Zoning
Administrator, the violation is an immediate threat to property or public safety. If the certificate
is revoked, the Zoning Administrator shall provide the holder of the zoning certificate a written
statement of the decision and the reason therefore. The holder may appeal such decision to the Board of Zoning Appeals in accordance with the procedures for administrative appeal.

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 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 500 and less than 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 Subsections (1) and (2) 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 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-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 copies at least one 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 Department, however additional copies shall be submitted as determined by the Planning and Code Administration Department in unusual situations. The Planning Commission shall notify the Zoning Administrator of its approval or disapproval of the site plan within 30 days from the date of formal submission to the Commission. However, failure to approve or disapprove a site plan within 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 Article 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 years of the date the site plan is approved. A site plan shall expire in three years, unless re-approved by the Planning Commission and relevant agencies.
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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 to previously painted surfaces and the changing of paint colors is exempt from this review process. Any window sign, as defined in Article 3, whether located on the interior or exterior of the window, shall be subject to this provision. Any window sign legally installed prior to October 30, 2015 shall be nonconforming, but once removed, shall not be reinstalled unless done so in accordance with the provisions of this Section.

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 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.**

When it is possible that the issuance of a Certificate of Appropriateness will render use of this provision unnecessary, the applicant shall first proceed with that application as described in Subsection 3 of this Section.
If a Certificate of Appropriateness is denied, or if the Zoning Administrator determines that the HDC, in the reasonable application of the standards in its Design Guidelines duly adopted by the Mayor and City Council, will likely be required to reject the application for a Certificate of Appropriateness, the applicant may apply directly for a Certificate of Hardship.

a. Application. The property owner may apply for a Certificate of Hardship if he can show that a modification or denial of their proposal:

(1) Will cause undue financial hardship to the owner; or

(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 due to its obstruction or serious complication of a bona fide Major Economic Development Opportunity, or due to other reasons.

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 project is funded in the Capital Improvement Plan and Budget of the City of Hagerstown, the County Commissioners of Washington County (including the
Washington County Free Library), the Washington County Board of Education (educational and administrative facilities only), the State of Maryland or the federal government, and the government agency has complete designs for the capital project; or

(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 HDC receives what it determines to be a satisfactory and detailed recommendation from the City Administrator or his or her designee in support of a project that is a bona fide Major Economic Development Opportunity, approved as such by the City Administrator or his or her designee after application of the then-current standards established by the City.

(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.** If an application is submitted for construction, reconstruction, alteration, relocation, or demolition affecting a site or the exterior of a structure and the Historic District Commission in reviewing the application finds that denial of the proposal 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 Historic District Commission shall file a Certificate of Hardship with the City and a permit can be issued provided any conditions of approval are met.

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 60 days. When the building is being demolished in accordance with a Certificate of Hardship issued for a public works project, the HDC may require documentation of the existing building meeting current professional historic preservation standards be completed by the developer at the developer’s expense.

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 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 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 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 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 45 day period is agreed upon mutually by the applicant and the Historic District Commission, or the application has been withdrawn.


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 Subsection J.4.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 Subsection T.1.
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(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 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 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 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 30 days after written notice is provided to all interested parties. Within 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 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 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 500 dollars. Each day that a violation exists shall constitute a separate violation.

8. **Demolitions Ordered by the Chief Code Official.**

HDC review of a demolition of a structure shall not be required when the structure has been determined by the Chief Code Official to be an imminent threat to public safety and its immediate demolition or alteration is required. In such cases, the property owner shall be required to file an application with the HDC proposing how the site will be stabilized and improved (if necessary) in order for the vacant land area and any affected or newly created building facades to be consistent with the applicable Design Guidelines for the district in which it is located.

9. **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 Department and the Planning Commission on human burial sites preservation issues as may be required by Article 5, Section K 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 Subsection T.1 of this Article.

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10. 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 of this Code.

11. Violations.

The treatment of violations of this Section of this Article shall be as described in Article 8 of this Code.
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 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 newspaper of general circulation in the city once each week for two successive weeks, with the first such publication of notice appearing at least 14 days prior to the hearing.

   c. Notice of said advertised hearings shall be posted on the property at least ten 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 or her 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 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 30th day of this period. When the 30th day falls on a weekend or legal holiday, then the period shall expire at the end of the next business day.


   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 or her, 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.

a. **Notice of Hearing; Time Limit for Decision.** The Board of Zoning Appeals shall give public notice thereof by advertising in at least one newspaper of general circulation in the city once each week for two consecutive weeks, with the first such publication of notice appearing at least 14 days prior to the hearing, as well as due notice to the parties in interest, and decide the same within 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 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 Article.

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 article.

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 article; 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 article. 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 this article. 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 article 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 article 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 Article and address the issues identified in a.(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 article and punishable under Article 8 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 article in the zone involved or any use expressly or by implication prohibited by the terms of this article 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 75 feet from any property line nor nearer than 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 permitted sign of no more than two square feet.

   (ii) Off-street parking shall be provided; one 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-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 10% of the tract area.

   (ii) There shall be a phasing requirement which ensures that:

      [a] The residential development will precede the commercial development; and
(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 floors.

(ii) The first floor of the structure may be occupied by commercial uses allowed by right in the CL District.

(iii) At least 15% and no more than 33% 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 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 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 signs 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 Article would deprive the applicant of uses commonly enjoyed by other similar properties in the same district under the terms of this Article; and

(4) **No Special Privilege.** That granting the variance will not confer on the applicant any special privilege that is denied by this Article 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 Article; 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 Article, 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 this Article. 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 Article.

**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 Article in the zone involved or any use expressly or by implication prohibited by the terms of this Article 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.


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 article, 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 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.

There are occasions where the City of Hagerstown, Washington County Board of County Commissioners
or the State of Maryland may enter into an arrangement to purchase part of a property in the furtherance
of public interest (street right-of-way, park land, public building, etc.). When 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 by setback requirements, reduction of parking spaces
below current minimum standards, or the development would no longer comply with other bulk
requirements of this Article (or be driven further into noncompliance), neither 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.
This page intentionally left blank.
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 Subsection F.2.b(5).

**P@**  Permitted-Principal use in the N-MU and CC-MU districts, subject to certain enumerated requirements in Subsection E.7.

**P****  Permitted-Principal use in the I-MU district, subject to certain enumerated requirements in Subsection 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 Article and is non-binding upon the Zoning Administrator.

### USE CHART ORGANIZATION

<table>
<thead>
<tr>
<th>Category</th>
<th>Residential Districts Chart Page</th>
<th>All Other Districts Chart Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential Uses</td>
<td>4-135</td>
<td>4-138</td>
</tr>
<tr>
<td>Public and Institutional Uses</td>
<td>4-136</td>
<td>4-140</td>
</tr>
<tr>
<td>Office and Professional Uses</td>
<td>4-136</td>
<td>4-142</td>
</tr>
<tr>
<td>Entertainment and Hospitality Uses</td>
<td>4-137</td>
<td>4-143</td>
</tr>
<tr>
<td>Broadcast and Production</td>
<td>-------</td>
<td>4-145</td>
</tr>
<tr>
<td>Service and Sales Industries</td>
<td>4-137</td>
<td>4-145</td>
</tr>
<tr>
<td>Automobile- and Transportation-Related Uses</td>
<td>-------</td>
<td>4-148</td>
</tr>
<tr>
<td>Industrial, Manufacturing and Heavy Land Uses</td>
<td>4-137</td>
<td>4-149</td>
</tr>
<tr>
<td>Temporary Uses</td>
<td>4-137</td>
<td>4-152</td>
</tr>
</tbody>
</table>
This page intentionally left blank.
## A. USE CHART - AGRICULTURAL TRANSITION AND RESIDENTIAL ZONING DISTRICTS.

The key to the symbols used below is found on page 4-133. Refer to page 4-6 for explanation of district name abbreviations.

<table>
<thead>
<tr>
<th>Residential Uses</th>
<th>AT</th>
<th>RMOD</th>
<th>RMED</th>
<th>RH</th>
<th>RO</th>
</tr>
</thead>
<tbody>
<tr>
<td>One single-family dwelling per unit of land existing as of January 1, 2012.</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>One dwelling, single-family, detached, per lot, subject to minimum lot</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>requirements.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>One dwelling, two-family, per lot, subject to minimum lot requirements.</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>One dwelling, single-family semi-detached, per lot, subject to minimum lot</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>requirements.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>One dwelling, townhouse, per lot, subject to minimum lot requirements.</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>Dwelling, quadruplex, in cluster developments only, subject to minimum lot</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
<td></td>
</tr>
<tr>
<td>requirements.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dwelling, triplex, in cluster developments only, subject to minimum lot</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
<td></td>
</tr>
<tr>
<td>requirements.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dwelling, new construction mansion house apartment, subject to minimum lot</td>
<td>SE</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>area requirements.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dwelling, stacked apartment, subject to minimum lot area requirements.</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dwelling, courtyard apartment, subject to minimum lot requirements.</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dwelling, mansion house apartment, in an existing building, subject to</td>
<td>P*</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>performance requirements cited in Subsection D.5.g.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dwelling, multi-family, constructed for that purpose prior to October 1, 1956.</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Such use shall not have been expanded or enlarged to add additional units</td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>beyond that which was in existence prior to March 7, 1977. This does not</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>include large homes converted to apartment use.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dwelling, Mansion House Over-Under Flats, subject to the requirements of</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Section D.5.g(2)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rooming house in existing buildings, subject to conditions in Section K.19.</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Alternative living units, small group homes and small halfway houses.</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>Large group homes and large halfway houses.</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Large group homes and large halfway houses, only in pre-1956 apartment</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>buildings.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Large group homes and large halfway houses, only in mansion house apartment</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>buildings.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Continuing care retirement community on a minimum tract size of 20 acres.</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Model home sales office in dwellings or trailers in new home developments for</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>use within the development, provided the type and location are shown on the</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>approved site plan or development plan.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Zoning District</td>
<td>Use</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>----------------</td>
<td>-----</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mobile Home Parks, subject to the design requirements found in Subsection D.5.h.</td>
<td>AT</td>
<td>RMOD</td>
<td>RMED</td>
<td>RH</td>
<td>RO</td>
</tr>
<tr>
<td>One garage per lot that does not front a public street, subject to provisions of Subsection D.5.i.</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
</tbody>
</table>

### Public and Institutional Uses

<table>
<thead>
<tr>
<th>Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ambulance services (621910), fire protection (922160) and police protection (922120).</td>
</tr>
<tr>
<td>Adult day-care services (624120).</td>
</tr>
<tr>
<td>Cemetery, columbarium and mausoleum for humans (not pet cemeteries) and crematoriums.</td>
</tr>
<tr>
<td>Child day-care services (624410).</td>
</tr>
<tr>
<td>Commercial and private membership outdoor swimming pools, provided the pool meets distance requirements cited in Subsection D.5.j.</td>
</tr>
<tr>
<td>Community centers, including but not limited to cultural, civic and educational centers.</td>
</tr>
<tr>
<td>Country clubs, golf courses and summer camps.</td>
</tr>
<tr>
<td>Fitness and recreational sports centers.</td>
</tr>
<tr>
<td>Municipal parking lots and decks.</td>
</tr>
<tr>
<td>Museums (712), except zoological parks.</td>
</tr>
<tr>
<td>Primary and secondary schools, public and private, provided all setback, parking and other regulations are met without variance.</td>
</tr>
<tr>
<td>Primary and secondary schools, public and private, for which setback, parking or other regulations cannot be met without variance.</td>
</tr>
<tr>
<td>Private parks, playgrounds and community gardens.</td>
</tr>
<tr>
<td>Public administration (92), except correctional institutions publicly-managed (922140) and privately-managed (561210).</td>
</tr>
<tr>
<td>Public parks.</td>
</tr>
<tr>
<td>Religious sanctuaries (8131) (church, synagogue, mosque, wedding chapel, 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.</td>
</tr>
<tr>
<td>Religious sanctuaries (8131) other than those described in the previous line, or not meeting all site design requirements.</td>
</tr>
</tbody>
</table>

### Office and Professional Uses

<table>
<thead>
<tr>
<th>Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administrative support services (561).</td>
</tr>
<tr>
<td>Ambulatory health care services, with exception of outpatient substance abuse centers (621420).</td>
</tr>
<tr>
<td>Colleges, universities, trade and commercial schools, except primary and secondary schools (611).</td>
</tr>
<tr>
<td>Finance and insurance (52), monetary authorities – central bank, credit intermediation and related activities (521-522), except pawn shops (522298).</td>
</tr>
</tbody>
</table>

4-136
<table>
<thead>
<tr>
<th>Use</th>
<th>Zoning District</th>
</tr>
</thead>
<tbody>
<tr>
<td>Funeral homes (81221) including accessory crematories.</td>
<td>SE SE SE P*</td>
</tr>
<tr>
<td>Hospitals, including psychiatric, substance abuse and specialty</td>
<td>SE</td>
</tr>
<tr>
<td>hospitals (622).</td>
<td></td>
</tr>
<tr>
<td>Nursing homes, assisted living facilities and rehabilitation</td>
<td>P</td>
</tr>
<tr>
<td>centers</td>
<td></td>
</tr>
<tr>
<td>Offices, business and professional (55 and 56), except waste</td>
<td>P</td>
</tr>
<tr>
<td>management and remediation services (562).</td>
<td></td>
</tr>
<tr>
<td>Professional, scientific &amp; technical services (54), except</td>
<td>P*</td>
</tr>
<tr>
<td>veterinary services.</td>
<td></td>
</tr>
</tbody>
</table>

### Entertainment and Hospitality Uses

<table>
<thead>
<tr>
<th>Use</th>
<th>Zoning District</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agri-tourism.</td>
<td>P</td>
</tr>
<tr>
<td>Bed &amp; breakfast inns (721191).</td>
<td>SE SE SE</td>
</tr>
<tr>
<td>Camping and Campgrounds (7212)</td>
<td>SE</td>
</tr>
</tbody>
</table>

### Service and Sales Industries

<table>
<thead>
<tr>
<th>Use</th>
<th>Zoning District</th>
</tr>
</thead>
<tbody>
<tr>
<td>Farms in existence on the date of the adoption of this ordinance,</td>
<td>P</td>
</tr>
<tr>
<td>or at the time of annexation into the city, may continue in use.</td>
<td></td>
</tr>
<tr>
<td>Commercial farming operations may not be expanded with respect to</td>
<td></td>
</tr>
<tr>
<td>area or intensity of usage, nor may the type of commercial</td>
<td></td>
</tr>
<tr>
<td>agricultural use be altered.</td>
<td></td>
</tr>
<tr>
<td>Hair, nail and skin care stores (81211) and dog grooming</td>
<td>SE</td>
</tr>
<tr>
<td>establishments.</td>
<td></td>
</tr>
<tr>
<td>Kennels (812910).</td>
<td>P</td>
</tr>
<tr>
<td>Mixed use building of commercial and residential units.</td>
<td></td>
</tr>
<tr>
<td>Nurseries and greenhouses - the raising of plants for sale with</td>
<td>SE P</td>
</tr>
<tr>
<td>attached commercial outlet (444220).</td>
<td></td>
</tr>
<tr>
<td>Uses permitted by right in the CL District in a location to serve</td>
<td>SE</td>
</tr>
<tr>
<td>the needs of surrounding residential uses.</td>
<td></td>
</tr>
<tr>
<td>Wineries and vineyards (312130).</td>
<td>P</td>
</tr>
</tbody>
</table>

### Industrial, Manufacturing, and Heavy Land Uses

<table>
<thead>
<tr>
<th>Use</th>
<th>Zoning District</th>
</tr>
</thead>
<tbody>
<tr>
<td>Blacksmithing and farriers services.</td>
<td>P</td>
</tr>
</tbody>
</table>

### Temporary Uses

<table>
<thead>
<tr>
<th>Use</th>
<th>Zoning District</th>
</tr>
</thead>
<tbody>
<tr>
<td>Temporary Contractor Staging Facility, subject to provisions in</td>
<td>P P P P P P</td>
</tr>
<tr>
<td>Subsection K.13.</td>
<td></td>
</tr>
<tr>
<td>Temporary Uses, subject to provisions in Section R.</td>
<td>P P P P P P</td>
</tr>
</tbody>
</table>

### B. USE CHART – MIXED-USE, COMMERCIAL, INDUSTRIAL AND OVERLAY DISTRICTS.

This chart begins on the next page and contains the complete list of uses addressed by this ordinance. When a use is not permitted in the AT, RMOD, RMED, RH and RO Districts, that line was omitted from Chart A.
The key to the symbols used below is found on page 4-133. Refer to page 4-6 for explanation of district name abbreviations.

<table>
<thead>
<tr>
<th>Residential Uses</th>
<th>Zoning District</th>
<th>Overlay Zoning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Use</td>
<td>N-MU</td>
<td>CC-MU</td>
</tr>
<tr>
<td>One single-family dwelling per unit of land existing as of January 1, 2012.</td>
<td>P@</td>
<td>P@</td>
</tr>
<tr>
<td>One dwelling, single-family, detached, per lot, subject to minimum lot requirements.</td>
<td>P@</td>
<td>P@</td>
</tr>
<tr>
<td>One dwelling, two-family, per lot, subject to minimum lot requirements.</td>
<td>P@</td>
<td>P@</td>
</tr>
<tr>
<td>One dwelling, single-family semi-detached, per lot, subject to minimum lot requirements.</td>
<td>P@</td>
<td>P@</td>
</tr>
<tr>
<td>One dwelling, townhouse, per lot, subject to minimum lot requirements.</td>
<td>P@</td>
<td>P@</td>
</tr>
<tr>
<td>Dwelling, quadraplex, in cluster developments only, subject to minimum lot requirements.</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>Dwelling, triplex, in cluster developments only, subject to minimum lot requirements.</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>Dwelling, new construction mansion house apartment, subject to minimum lot area requirements.</td>
<td>P@</td>
<td>P@</td>
</tr>
<tr>
<td>Dwelling, stacked apartment, subject to minimum lot area requirements.</td>
<td>P@</td>
<td>P@</td>
</tr>
<tr>
<td>Dwelling, courtyard apartment, subject to minimum lot requirements.</td>
<td>P@</td>
<td>P@</td>
</tr>
<tr>
<td>Dwelling, mansion house apartment, in an existing building, subject to performance requirements cited in Subsection D.5.g.</td>
<td>P*</td>
<td></td>
</tr>
<tr>
<td>Dwelling, multi-family, constructed for that purpose prior to October 1, 1956. Such use shall not have been expanded or enlarged to add additional units beyond that which was in existence prior to March 7, 1977. This does not include large homes converted to apartment use.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

4-138
### The key to the symbols used below is found on page 4-133. Refer to page 4-6 for explanation of district name abbreviations.

<table>
<thead>
<tr>
<th>Use</th>
<th>N-MU</th>
<th>CC-MU</th>
<th>CL</th>
<th>CG</th>
<th>CR</th>
<th>POM</th>
<th>INST</th>
<th>I-MU</th>
<th>IR</th>
<th>IG</th>
<th>C</th>
<th>LC</th>
<th>PUD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dwelling, mansion house apartment and stacked apartments, both new construction and conversion of existing buildings, subject to minimum lot area requirements and criteria in Subsection F.5.b.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dwelling, Mansion House Over-Under Flats, subject to the requirements of Section D.5.g(2)</td>
<td>P</td>
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<tr>
<td>Dormitories for secondary and post-secondary educational institutions.</td>
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<tr>
<td>Rooming house in existing buildings, subject to conditions in Section K.19.</td>
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<tr>
<td>Rooming house in existing buildings outside the Smart Growth A&amp;E District, subject to conditions in Section K.19.</td>
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<tr>
<td>Rooming house in existing buildings, over 16 rooming units, subject to conditions in Section K.19.</td>
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<tr>
<td>Alternative living units, small group homes and small halfway houses.</td>
<td>P</td>
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</tr>
<tr>
<td>Large group homes and large halfway houses.</td>
<td>P</td>
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</tr>
<tr>
<td>Large group homes and large halfway houses – in a PUD if the PUD development contains multi-family dwelling units.</td>
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</tr>
<tr>
<td>Large group homes and large halfway houses, only in pre-1956 apartment buildings.</td>
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<tr>
<td>Large group homes and large halfway houses, only in mansion house apartment buildings.</td>
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<tr>
<td>Artist Live-Work Space in large former commercial, industrial or institutional buildings.</td>
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</tr>
<tr>
<td>Artist Live-Work Space in buildings approved for a Local Conversion District Overlay, without regulation on the size and composition of the resident household.</td>
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</tr>
</tbody>
</table>

4-139
The key to the symbols used below is found on page 4-133. Refer to page 4-6 for explanation of district name abbreviations.

<table>
<thead>
<tr>
<th>Use</th>
<th>N-MU</th>
<th>CC-MU</th>
<th>CL</th>
<th>CG</th>
<th>CR</th>
<th>POM</th>
<th>INST</th>
<th>I-MU</th>
<th>IR</th>
<th>IG</th>
<th>C</th>
<th>LC</th>
<th>PUD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to two dwelling units in a building that previously contained no dwelling units or one dwelling unit, provided that commercial uses as outlined in the LC District are included within the building.</td>
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<td>P</td>
</tr>
<tr>
<td>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).</td>
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</tr>
<tr>
<td>Continuing care retirement community on a minimum tract size of 20 acres.</td>
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</tr>
<tr>
<td>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.</td>
<td>P</td>
<td>P</td>
<td>P</td>
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</tr>
<tr>
<td>Mobile Home Parks, subject to the design requirements found in Subsection D.5.h.</td>
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</tr>
<tr>
<td>One garage per lot that does not front a public street, subject to provisions of Subsection D.5.i.</td>
<td>P</td>
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Public and Institutional Uses

<table>
<thead>
<tr>
<th>Use</th>
<th>SE</th>
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<th>P</th>
<th>P</th>
<th>P</th>
<th>P</th>
<th>P</th>
<th>P</th>
<th>SE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ambulance services (621910), fire protection (922160) and police protection (922120).</td>
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</tr>
<tr>
<td>Adult day-care services (624120).</td>
<td>P</td>
<td>P</td>
<td>SE</td>
<td>P</td>
<td></td>
<td>P</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
<td>SE</td>
</tr>
<tr>
<td>Cemetery, columbarium and mausoleum for humans (not pet cemeteries) and crematoriums.</td>
<td></td>
<td></td>
<td></td>
<td>SE</td>
<td></td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Child day-care services (624410).</td>
<td>P</td>
<td>P</td>
<td>SE</td>
<td>P</td>
<td></td>
<td>P</td>
<td></td>
<td>P**</td>
<td></td>
<td></td>
<td>P</td>
</tr>
<tr>
<td>Civic and social organizations (8134).</td>
<td>SE</td>
<td>P</td>
<td>SE</td>
<td>P</td>
<td>P</td>
<td></td>
<td></td>
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<td></td>
<td></td>
<td>SE</td>
</tr>
</tbody>
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<thead>
<tr>
<th>Use</th>
<th>Zoning District</th>
<th>Overlay Zoning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial parking lots and decks.</td>
<td>N-MU</td>
<td>CC-MU</td>
</tr>
<tr>
<td>Commercial and private membership outdoor swimming pools, provided the pool meets distance requirements cited in Subsection D.5.j.</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Community centers, including but not limited to cultural, civic and educational centers.</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Country clubs, golf courses and summer camps.</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Fitness and recreational sports centers.</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Libraries</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Municipal parking lots and decks.</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Museums (712), except zoological parks.</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Primary and secondary schools, public and private, provided all setback, parking and other regulations are met without variance.</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Primary and secondary schools, public and private, for which setback, parking or other regulations cannot be met without variance.</td>
<td>SE</td>
<td>P</td>
</tr>
<tr>
<td>Private parks, playgrounds and community gardens.</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Public administration (92), except correctional institutions publicly-managed (922140) and privately-managed (561210).</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Public parks.</td>
<td>P</td>
<td>P</td>
</tr>
</tbody>
</table>
The key to the symbols used below is found on page 4-133. Refer to page 4-6 for explanation of district name abbreviations.

<table>
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<tr>
<th>Use</th>
<th>Zoning District</th>
<th>Overlay Zoning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Religious sanctuaries (8131) (church, synagogue, mosque, wedding chapel, 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.</td>
<td>P P SE P P SE</td>
<td>P</td>
</tr>
<tr>
<td>Religious sanctuaries (8131) other than those described in the previous line, or not meeting all site design requirements.</td>
<td>P P SE P</td>
<td>SE P</td>
</tr>
</tbody>
</table>

**Office and Professional Uses**

<table>
<thead>
<tr>
<th>Use</th>
<th>Zoning District</th>
<th>Overlay Zoning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ambulatory health care services, with exception of outpatient substance abuse centers (621420).</td>
<td>P P SE P P P P P</td>
<td>P P P P P</td>
</tr>
<tr>
<td>Artist Studios</td>
<td>P P P P P P P</td>
<td>P P</td>
</tr>
<tr>
<td>Banks, savings institutions &amp; credit unions (521-522), except pawn shops (522298).</td>
<td>P P P P P</td>
<td>P</td>
</tr>
<tr>
<td>Business Service Centers (56143) and Quick Printing Services (323114).</td>
<td>P P P P P P P</td>
<td>P</td>
</tr>
<tr>
<td>Colleges, universities, trade and commercial schools, except primary and secondary schools (611).</td>
<td>P P SE P P P P P</td>
<td>P P P P</td>
</tr>
<tr>
<td>Finance and insurance (52), monetary authorities – central bank, credit intermediation and related activities (521-522), except pawn shops (522298).</td>
<td>P P SE P P P</td>
<td>P P P SE</td>
</tr>
<tr>
<td>Funeral homes (81221) including accessory crematories.</td>
<td>P SE P P</td>
<td>SE</td>
</tr>
<tr>
<td>Hospitals, including psychiatric, substance abuse and specialty hospitals (622).</td>
<td>P P P P P</td>
<td>P</td>
</tr>
<tr>
<td>Large animal veterinary clinic (541940).</td>
<td>P P P P</td>
<td>P</td>
</tr>
</tbody>
</table>

4-142
The key to the symbols used below is found on page 4-133. Refer to page 4-6 for explanation of district name abbreviations.

<table>
<thead>
<tr>
<th>Use</th>
<th>Zoning District</th>
<th>Overlay Zoning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Medical and diagnostic laboratories (6215).</td>
<td>N-MU CC-MU CL</td>
<td>C LC PUD</td>
</tr>
<tr>
<td>Nursing homes, assisted living facilities and rehabilitation centers</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Offices, business and professional (55 and 56), except waste management and remediation services (562).</td>
<td>P P SE  P P P P P</td>
<td></td>
</tr>
<tr>
<td>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.</td>
<td>P P P P P P P</td>
<td></td>
</tr>
<tr>
<td>Outdoor Automated Teller Machines (ATM), not accessory to a banking institution.</td>
<td>P P P P P</td>
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</tr>
<tr>
<td>Outpatient substance abuse centers, including disbursement of addiction treatment drugs.</td>
<td>P P P P</td>
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</tr>
<tr>
<td>Photography Studios.</td>
<td>P P P P P</td>
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</tr>
<tr>
<td>Professional, scientific &amp; technical services (54), except veterinary services.</td>
<td>P P SE  P P P</td>
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</tr>
<tr>
<td>Veterinary services (54194), completely enclosed.</td>
<td>SE SE SE  P P P</td>
<td></td>
</tr>
<tr>
<td>Veterinary services (54194), with outdoor runs, not kennels (as defined in Article 3 and permitted in other districts).</td>
<td>SE</td>
<td>P P</td>
</tr>
</tbody>
</table>

**Entertainment and Hospitality Uses**

<table>
<thead>
<tr>
<th>Use</th>
<th>Zoning District</th>
<th>Overlay Zoning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adult entertainment business uses, subject to the provisions of Subsection F.2.b.(4).</td>
<td></td>
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<tr>
<td>Agri-tourism.</td>
<td></td>
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</tr>
<tr>
<td>Amusement and recreation establishments (713120, 71395 and 713990).</td>
<td>P P P P</td>
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</tr>
</tbody>
</table>
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<table>
<thead>
<tr>
<th>Use</th>
<th>N-MU</th>
<th>CC-MU</th>
<th>CL</th>
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<th>CR</th>
<th>POM</th>
<th>INST</th>
<th>I-MU</th>
<th>IR</th>
<th>IG</th>
<th>C</th>
<th>LC</th>
<th>PUD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Banquet and reception facilities (722320).</td>
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<td>P</td>
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<tr>
<td>Bed &amp; breakfast inns (721191).</td>
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<tr>
<td>Camping and Campgrounds (7212)</td>
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<tr>
<td>Catering kitchens, for preparation of food for off-site delivery and associated office and storage use (722320).</td>
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<tr>
<td>Convention and Conference Centers.</td>
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</tr>
<tr>
<td>Drinking places (722410) and brewpubs, distillery pubs and wine pubs within the Smart Growth A&amp;E District.</td>
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</tr>
<tr>
<td>Drinking places (722410) and brewpubs, distillery pubs and wine pubs outside the Smart Growth A&amp;E District.</td>
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<td>SE</td>
<td>SE</td>
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<td>SE</td>
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<tr>
<td>Entertainment club.</td>
<td></td>
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<tr>
<td>Hotels and motels (72111).</td>
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<tr>
<td>Multi-purpose arenas for sporting events, entertainment and other assembly events.</td>
<td>P</td>
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<tr>
<td>Night clubs.</td>
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<td>SE</td>
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<tr>
<td>Performing arts companies (7111).</td>
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<tr>
<td>Restaurants (7221 and 7222), no limit on size.</td>
<td>P</td>
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<td>P**</td>
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</tr>
<tr>
<td>Restaurants (7221 and 7222) not to exceed 3,000 square feet per establishment.</td>
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</tr>
<tr>
<td>Satellite Simulcast (off track) Betting Facilities.</td>
<td>P</td>
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<th>CG</th>
<th>CR</th>
<th>POM</th>
<th>INST</th>
<th>I-MU</th>
<th>IR</th>
<th>IG</th>
<th>C</th>
<th>LC</th>
<th>PUD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Theater, movie (512131).</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
<td></td>
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<td></td>
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</tr>
<tr>
<td>Theater, performing arts (711310).</td>
<td>P</td>
<td></td>
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</tr>
<tr>
<td>Tobacco stores and vapor and hookah lounges, located at least 500 feet from any existing tobacco store or vapor or hookah lounge.</td>
<td>P</td>
<td>P</td>
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</tr>
<tr>
<td>Visitor Welcome Center.</td>
<td>P</td>
<td></td>
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<td></td>
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</tr>
<tr>
<td>Visual and performing arts studios.</td>
<td>P</td>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
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<td></td>
<td>P P</td>
</tr>
</tbody>
</table>

**Broadcast and Production**

<table>
<thead>
<tr>
<th>Use</th>
<th>N-MU</th>
<th>CC-MU</th>
<th>CL</th>
<th>CG</th>
<th>CR</th>
<th>POM</th>
<th>INST</th>
<th>I-MU</th>
<th>IR</th>
<th>IG</th>
<th>C</th>
<th>LC</th>
<th>PUD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Broadcasting (515).</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td></td>
<td>P P P</td>
</tr>
<tr>
<td>Broadcasting (515) except transmission points.</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Motion picture and sound recording industries (512).</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
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<td></td>
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<td>P P P</td>
</tr>
<tr>
<td>Telecommunications (517).</td>
<td>P</td>
<td></td>
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<td></td>
<td>P P P</td>
</tr>
</tbody>
</table>

**Service and Sales Industries**

<table>
<thead>
<tr>
<th>Use</th>
<th>N-MU</th>
<th>CC-MU</th>
<th>CL</th>
<th>CG</th>
<th>CR</th>
<th>POM</th>
<th>INST</th>
<th>I-MU</th>
<th>IR</th>
<th>IG</th>
<th>C</th>
<th>LC</th>
<th>PUD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Check cashing services (522390).</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>P P</td>
</tr>
<tr>
<td>Convenience store without fuel pumps (445120).</td>
<td>P</td>
<td>P</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dry cleaning and laundry services (8123).</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P#</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

4-145
The key to the symbols used below is found on page 4-133. Refer to page 4-6 for explanation of district name abbreviations.

<table>
<thead>
<tr>
<th>Use</th>
<th>Zoning District</th>
<th>Overlay Zoning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Farms in existence on the date of the 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.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Farm equipment and supply stores (444220).</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Flea Markets, subject to performance criteria found in Subsection F.2.b(9) or Subsection H.2.c, as applicable.</td>
<td>P</td>
<td>P P</td>
</tr>
<tr>
<td>Gasoline and diesel fuel, sale to the public.</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Hair, nail and skin care stores (81211) and dog grooming establishments.</td>
<td>P P P P P P P P**</td>
<td>P P</td>
</tr>
<tr>
<td>Hair, nail and skin care stores, ear piercing services, hair replacement services, permanent makeup salons (81211) and dog grooming establishments.</td>
<td>P P P P P P P P P P P</td>
<td>P P</td>
</tr>
<tr>
<td>Kennels (812910).</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Kennels, day boarding and over-night boarding, subject to conditions enumerated in Subsection F.2.b(7) (812910).</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Kennels, day boarding and over-night boarding, subject to conditions in I-MU enumerated in Subsection H.2.b (812910).</td>
<td>P</td>
<td>P P P</td>
</tr>
<tr>
<td>Internet publishing and broadcasting (516).</td>
<td>P</td>
<td>P P P P P P P P</td>
</tr>
<tr>
<td>Internet service providers web search portals and data processing services (518).</td>
<td>P</td>
<td>P P P P P P P P</td>
</tr>
<tr>
<td>Mixed use building of commercial and residential units.</td>
<td>P@</td>
<td>P P P</td>
</tr>
<tr>
<td>Mixed-use building of Commercial and Residential Units, subject to criteria in Subsection F.5.b.</td>
<td>P</td>
<td>P P P</td>
</tr>
</tbody>
</table>

4-146
The key to the symbols used below is found on page 4-133. Refer to page 4-6 for explanation of district name abbreviations.

<table>
<thead>
<tr>
<th>Use</th>
<th>Zoning District</th>
<th>Overlay Zoning</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>N-MU</td>
<td>CC-MU</td>
</tr>
<tr>
<td>Nurseries and greenhouses - the raising of plants for sale</td>
<td></td>
<td></td>
</tr>
<tr>
<td>with attached commercial outlet (444220).</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>Outdoor vending machines entirely on private property in</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>active use and not in a public street right-of-way, provided</td>
<td></td>
<td></td>
</tr>
<tr>
<td>that the vending machines(s) comply with building</td>
<td></td>
<td></td>
</tr>
<tr>
<td>setbacks unless abutting a building.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pawn shops (522298), provided a 500 foot separation is</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>maintained from any other pawn shop (also see next page).</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Personal and household goods repair and maintenance</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>(8114).</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Photo finishing (81292).</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Retail and wholesale sale of home improvement materials</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>and supplies, with a minimum floor area of 25,000 square feet and</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a maximum of 75,000 square feet (444110).</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Retail and wholesale trade (44-45) excluding auto and other</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>motor vehicle dealers unless all vehicle storage is</td>
<td></td>
<td></td>
</tr>
<tr>
<td>indoors and excluding adult businesses – up to 5,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>square feet in net floor area per business. This provision</td>
<td></td>
<td></td>
</tr>
<tr>
<td>shall also include retail bakeries (311811) and retail</td>
<td></td>
<td></td>
</tr>
<tr>
<td>confectioneries (311320). Regulation of specific trade</td>
<td></td>
<td></td>
</tr>
<tr>
<td>uses that are found elsewhere in this chart shall prevail. (Ed. Note</td>
<td></td>
<td></td>
</tr>
<tr>
<td>See Page 4-146 regarding gasoline sales)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Same as above, up to 15,000 square feet in net floor area per</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>business.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Same as above, up to 75,000 square feet in net floor area per</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>business.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

4-147
The key to the symbols used below is found on page 4-133. Refer to page 4-6 for explanation of district name abbreviations.

<table>
<thead>
<tr>
<th>Use</th>
<th>Zoning District</th>
<th>Overlay Zoning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Same as above, no limit in floor area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Retail and wholesale trade (44-45), and pawn shops (522298), 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. A pawn shop is only permitted if 500 foot separation is maintained from any other pawn shop.</td>
<td></td>
<td>SE        SE</td>
</tr>
<tr>
<td>Sale of fireworks only from single-user, freestanding buildings, not to exceed 5,000 square feet of floor area (453998).</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Tanning and depilatory salons (812199).</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Tattoo parlors and massage parlors, steam baths and saunas (812199).</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Uses permitted by right in the CL District in a location to serve the needs of surrounding residential uses.</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>Wineries and vineyards (312130).</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Automobile and Transportation Related Uses**

<table>
<thead>
<tr>
<th>Automotive Repair &amp; Maintenance (8111).</th>
<th>SE</th>
<th>P</th>
</tr>
</thead>
<tbody>
<tr>
<td>Automotive Repair and Maintenance (8111) in buildings constructed prior to 2010 with outdoor storage and service areas screened with opaque fencing and landscaping in accordance with Article 5.</td>
<td></td>
<td>P</td>
</tr>
<tr>
<td>Automotive and truck sales, subject to performance standards found in Subsection F.2.b(8) (4411 &amp; 4412), including motor vehicle rental or leasing when a principal use. Storage of for-sale inventory and rental (cont'd.)</td>
<td>P</td>
<td>P</td>
</tr>
</tbody>
</table>
The key to the symbols used below is found on page 4-133. Refer to page 4-6 for explanation of district name abbreviations.

<table>
<thead>
<tr>
<th>Use</th>
<th>Zoning District</th>
<th>Overlay Zoning</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>N-MU</td>
<td>CC-MU</td>
</tr>
<tr>
<td>fleets shall be calculated separate from requirements for customer and employee parking.</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>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.</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Motor Vehicle Impound and Storage Lots, provided that a six-foot opaque fence encloses the storage yard and landscaped buffers are provided as required by Article 5, Subsection I.4.j when adjacent to residential, commercial or mixed-use zoning districts.</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Parking Lots &amp; 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.</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Transit and Ground Transportation (485) provided area for parking vehicle fleets be enclosed with an opaque fence at least six feet in height (eight 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.</td>
<td>P</td>
<td>P</td>
</tr>
</tbody>
</table>

**Industrial, Manufacturing, and Heavy Land Uses**

<table>
<thead>
<tr>
<th>Use</th>
<th>Zoning District</th>
<th>Overlay Zoning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adult day care with vocational centers.</td>
<td>SE</td>
<td>SE</td>
</tr>
<tr>
<td>Blacksmithing and farriers services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Breweries and distilleries.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Butchering.</td>
<td></td>
<td>P</td>
</tr>
<tr>
<td>Carpet and upholstery cleaning services (56174).</td>
<td></td>
<td>P</td>
</tr>
</tbody>
</table>
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<table>
<thead>
<tr>
<th>Use</th>
<th>Zoning District</th>
<th>Overlay Zoning</th>
</tr>
</thead>
<tbody>
<tr>
<td>N-MU</td>
<td>CC-MU</td>
<td>CL</td>
</tr>
<tr>
<td>Construction and landscaping contractors with storage Yards.</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Fossil fuel electric power generation (221112).</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Foundries (3315).</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Indoor plant cultivation and processing facilities, when</td>
<td>P</td>
<td>SE</td>
</tr>
<tr>
<td>interior space is 25,000 square feet or less in gross floor area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Indoor plant cultivation and processing facilities, when</td>
<td>SE</td>
<td></td>
</tr>
<tr>
<td>interior space is over 25,000 square feet in gross floor area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Landfills and rubble fills (562212).</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Livestock auction facilities.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Manufacturing, Light, when interior space is 25,000</td>
<td>P</td>
<td>SE</td>
</tr>
<tr>
<td>square feet or less in gross floor area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Manufacturing, Light, when interior space exceeds 25,000</td>
<td>SE</td>
<td></td>
</tr>
<tr>
<td>square feet in gross floor area.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Manufacturing, General.</td>
<td>SE</td>
<td></td>
</tr>
<tr>
<td>Manufacturing, Heavy.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Motor vehicle supplies and new parts wholesalers (421112).</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Natural gas distribution (2212).</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other support activity for road transportation (48849).</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
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<table>
<thead>
<tr>
<th>Use</th>
<th>Zoning District</th>
<th>Overlay Zoning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Petroleum and petroleum products wholesalers (4247).</td>
<td>SE</td>
<td>SE</td>
</tr>
<tr>
<td>Rail transportation facilities with outdoor storage but without on-site processing.</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Recycling Operation, with all sorting and separating activity occurring indoors.</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Remediation Service (562910).</td>
<td>SE</td>
<td>SE</td>
</tr>
<tr>
<td>Research and development facilities.</td>
<td>SE</td>
<td>P</td>
</tr>
<tr>
<td>Self-Storage Mini-Warehouse Facilities (531130).</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Septic Tank and Related Service (562991).</td>
<td>SE</td>
<td>SE</td>
</tr>
<tr>
<td>Social Service Industries (624).</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Solid waste collection (562111).</td>
<td>SE</td>
<td></td>
</tr>
<tr>
<td>Specialty Trade Contractors (238).</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Specialty Trade Contractors (238), with storage and preparation confined to interior of building.</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>Vocational Rehabilitation Services (624310).</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Warehousing and storage (493).</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Warehousing &amp; Storage (493) in buildings erected prior to October 1, 1956.</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>Use</td>
<td>Zoning District</td>
<td>Overlay Zoning</td>
</tr>
<tr>
<td>--------------------------------------------------------------------</td>
<td>-----------------</td>
<td>----------------</td>
</tr>
<tr>
<td>Warehouse/Flex space, provided such space does not exceed more than 50% of the total gross floor area of the building.</td>
<td></td>
<td>SE</td>
</tr>
<tr>
<td>Wastewater treatment facilities (22132).</td>
<td></td>
<td>P</td>
</tr>
<tr>
<td>Wholesale and retail sales of products manufactured or stored on the premises in conjunction with any other principal permitted use.</td>
<td></td>
<td>P</td>
</tr>
<tr>
<td><strong>Temporary Uses</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Temporary Contractor Staging Facility, subject to provisions in Subsection K.13.</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Temporary Uses, subject to provisions in Section R.</td>
<td>P</td>
<td>P</td>
</tr>
</tbody>
</table>

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