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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. **Variations 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.

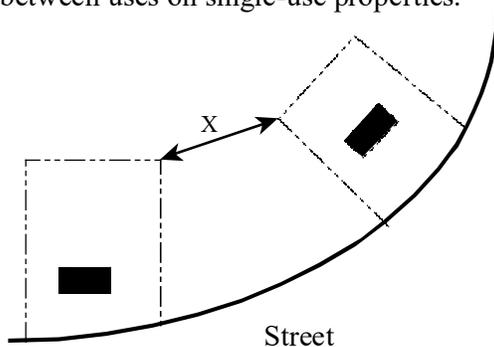
 - d. **Effective Date and Notice.** No such amendment, supplement, change, modification or repeal shall become effective until at least ten days after one review and one public hearing are held. One review shall be held by the Planning Commission within 45 days of receipt of application and recommendation 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 of the public review meeting and/or public hearings shall be provided in accordance with Maryland law. The Planning Commission and/or the Mayor and Council may adopt by policy expectations for additional notice, however failure by the City to apply the expectations of those policies shall not constitute legal defect of the process, provided the minimum requirements of Maryland Law are met.

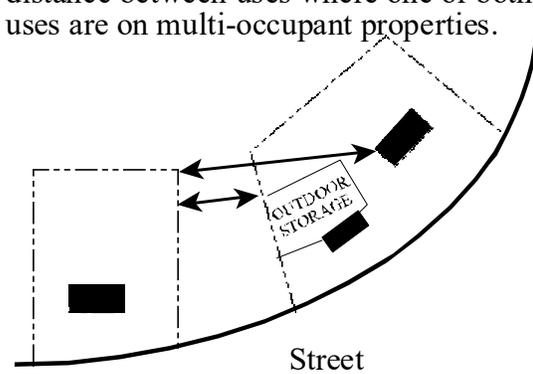
10. **Rules of Interpretation of District Boundaries.** Where uncertainty exists as to the boundaries of districts as shown on the official Zoning Map, the following rules shall apply:
 - a. Boundaries indicated as approximately following the center lines of streets, highways or alleys shall be construed 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 below.]*

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:

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

- 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.

13. Newly Annexed Areas.

- 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 the 2008-2010 Comprehensive Zoning Plan shall have an effective date of nonconformity of the last amendment of the map for this process, being November 10, 2010.

The 2020 Comprehensive Zoning Plan implemented the policies of the 2018 Comprehensive Plan, known as “VisionHagerstown 2035.” The map amendments that implemented the policies of this Plan became effective on July 23, 2020, and those uses rendered nonconforming by these map amendments shall have an effective date of nonconformity on that date.

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.7.a 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.7.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.

AT District Dimensional Requirements (Minimum)								
	Lot Area (square feet)	Lot Width (feet)	Lot Area Per Dwelling Unit (square feet)	Front Yard Depth (feet)	Rear Yard Depth (feet)	Minimum Aggregate Width of Side Yards (feet)	Minimum Width of Side Yards (feet)	Number of Side Yards Required
Dwellings, Single-family detached	Existing	Existing	n/a	40	50	20	10	2
Other principal-permitted or conditional uses	3 acres	Existing	n/a	50	50	100	40	2

6. Subdivision Prohibited.

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.7 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.7.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 (such as garden sheds, pool houses, craft studios, “she sheds” and “man caves”, but not including dwellings), subject to limitations in Subsections D.2.c(4), D.4 and D.5.b, below. Such accessory garage or building shall not be used as a dwelling or for sleeping purposes.
- (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 of 900 gross square feet or less in floor area 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 or attract persons other than the tenant, 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.

d. Storage of Motor Homes, Camping Trailers, Boats and Personal Watercraft.

See Subsection K.20.

4. Height Limitations.

No principal permitted structure shall exceed the following:

Zoning District	RMOD	RMED	RH	RO
Maximum Height	3 stories or 35 feet	3 stories or 35 feet	5 stories or 60 feet	3 stories or 40 feet

No accessory structure shall exceed one story in height. However, when a property is 20,000 square feet in area or larger, an accessory structure may be two stories in height if it complies with all required principal structure setbacks without variance.

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:

	Front Yard Depth (feet) (or to established line on same side of street for infill)	Rear Yard Depth (feet)	Minimum Aggregate Width of Side Yards (feet)	Minimum Width of Side Yards (feet)	Number of Side Yards Required
Accessory Building	25	5	8	4	2

When a property is 20,000 square feet in area or larger, an accessory structure may be up to a total of 1,800 square feet in gross floor area, provided it is built in accordance with principal structure setbacks without variance and a special exception is approved by the Board of Zoning Appeals.

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.

In a subdivision created pursuant to a Development Plan approved by the Planning Commission on or after April 21, 2022, detached garages may be constructed (or added to) with a 0-foot side setback when:

- (1). constructed at the same time with and attached to a garage on an adjacent residential lot;
- (2). is accessed via an alley constructed in accordance with the approved Development Plan;
- (3). the garage shall be no wider than 60 percent of the width of the lot, except in the case of townhouse lots, in which case garages may be attached to adjoining garages on both sides.

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.

Residential District Dimensional Requirements (Minimum)								
	Lot Area (square feet)	Lot Width (feet)	Lot Area Per Dwelling Unit (square feet)	Front Yard Depth (feet) (or to established line on same side of street for infill)	Rear Yard Depth (feet)	Minimum Aggregate Width of Side Yards (feet)	Minimum Width of Side Yards (feet)	Number of Side Yards Required
Single-family dwellings RMOD District	7,500	50	7,500	25	35 ++	15	4	2
Single-family dwellings RMED and RO Districts	5,000	40	5,000	15	30 ++	N/A	5	2
Single-family dwellings, RH District	4,000	40	4,000	15	30 ++	N/A	5	2
Two-family dwellings, RMOD District	10,000	75	5,000	25	35	20	10	2
Two-family dwellings, RMED, RH and RO Districts	8,000	50	4,000	15	30	N/A	5	2
Single-family semi-detached dwellings, RMOD District	5,000	37.5	5,000	25	35 ++	N/A	10	1
Single-family semi-detached dwellings, RMED, RH and RO Districts	3,000	25	3,000	15	30 ++	N/A	5	1
Townhomes * or to established in neighborhood if less	7,500	20	2,500	15	30 ++	N/A	8* (see note at left)	
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	Existing	Existing	N/A (see building area requirement at left)	Existing	30** (see note at left)	20** (see note at left)	10** (see note at left)	2** (see note at left)
Courtyard, New Construction Mansion House and Stacked Apartment Units ***35 when adjacent to RMOD or RMED Zoning	20,000	100	2,700	0	20*** (note at left)	N/A	20 (see note on next page)	2
Hospitals	5 acres	N/A	N/A	150	50	200	75	2
Nursing homes, Assisted Living Facilities and Rehabilitation Centers	1 acre	N/A	N/A	25	50	20	10	2
Schools, Churches, Nursery Schools, Day-Care Centers and Funeral Homes	20,000	75	N/A	25	50	20 School - 50	10 School - 25	2
Other permitted or special exception uses in RMOD and RH Districts	20,000	100	N/A	25	40	20	10	2
Other permitted or special exception uses in RMED and RO Districts	15,000	80	N/A	25	20	20	10	2

When the rear setback is shown above followed by two addition signs (++), see Subsection d.(5) on the next page.

Notes for chart on preceding 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. For accessory setback requirements to apply, all parts of the accessory structure shall be at least 3 feet from the principal structure, including any deck, porch, stoop, eave, carport on either or both structures. Three feet of clear unattached space shall be maintained between the structures at all points.

Setbacks for mobile home parks are found in Subsection D.5.h.

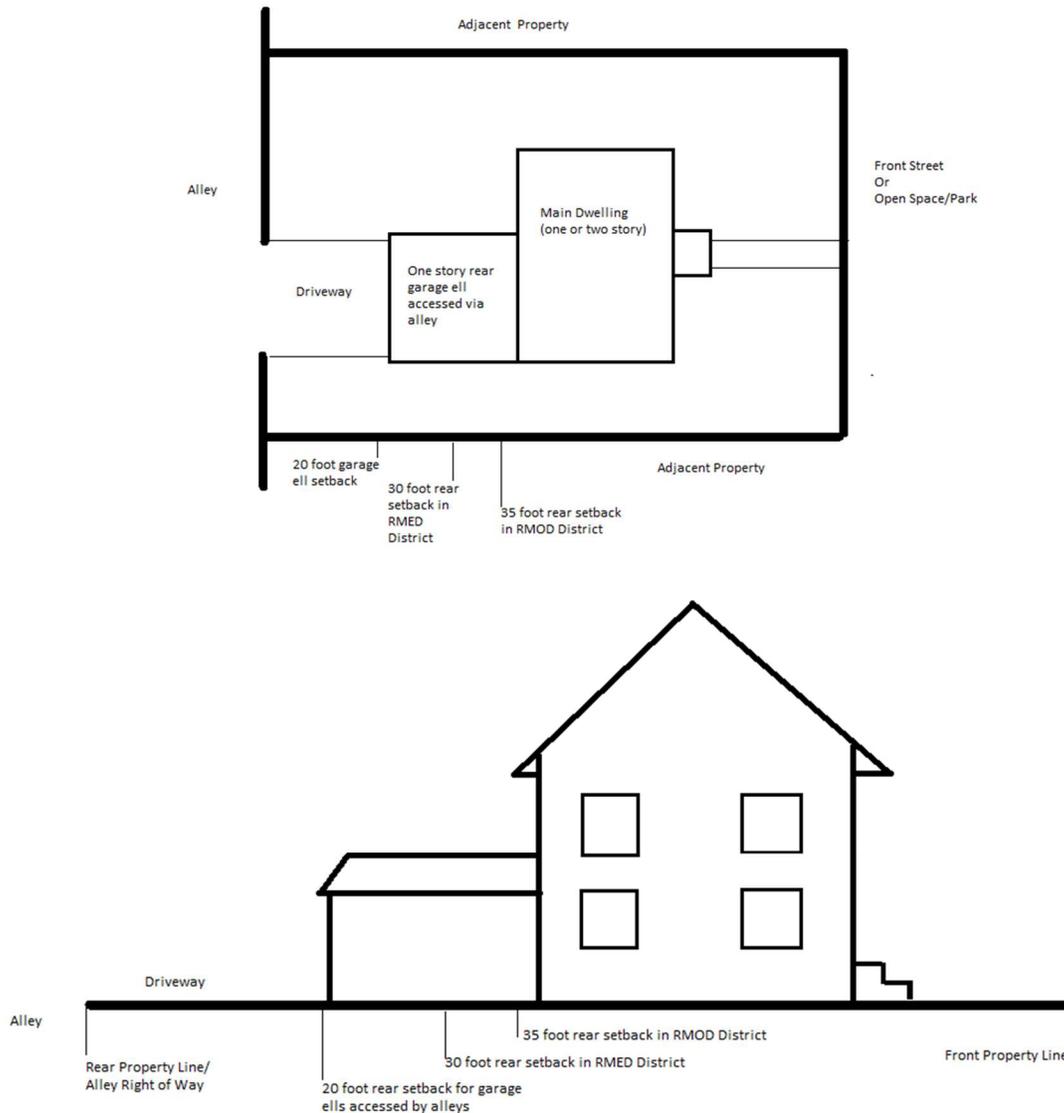
d. Projections into Yards on All Dwellings and Additions to the Rear of Semi-Detached Dwellings and Townhouses.

- (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 enclosed 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 shall not be applied to decks.

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.

- (5). A dwelling constructed in a subdivision pursuant to a Development Plan approved by the Planning Commission on or after April 21, 2022, may be constructed (or added to) without variance no closer than 20 feet to the rear property line when:
 - (a). the rear property line adjoins an improved alley constructed pursuant to the approved Development Plan,
 - (b). the portion of the building located between the codified rear setback and the point 20 feet from the rear property line shall be limited to a one-story ell containing a garage oriented and connected via driveway to the alley, and

- (c). the ell shall be no wider than 50 percent of the width of the lot at the location it is placed on the lot.
- (d). The Board of Zoning Appeals shall not grant variance relief to the provisions of this Subsection.



- 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. When a lot is approved per a development plan approved on or after April 21, 2022, and that does not front a public street and the lot fronts only open space or a public park, and is vehicularly accessed via a rear alley, the lot line fronting the open space lot or public park shall be the property line to which a front setback shall be applied.

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

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, as described in Article 5, Subsection I.4.j(1) shall be installed 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 And Use Of 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). New construction of a garage or construction of an addition to an existing garage shall not result in a building exceeding 900 square feet in area;
- (3). New construction of a garage or construction of an addition to an existing garage shall not exceed one story in height;
- (4). New construction of a garage or construction of an addition to an existing 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 occasional delivery or retrieval of vehicles or personal materials stored in the garage, nor attract persons other than the tenant;
- (6). No outdoor storage of any kind is permitted;
- (7). No garage or addition to an existing garage shall be constructed closer than five feet to any property line or alley right of way.

This provision shall not apply to a lot that is part of a Development Plan approved by the Planning Commission after April 21, 2022, that is intended for residential development, fronts a community open space lot or public park, and the rear of the lot fronts an improved alley developed in accordance with the approved Development Plan owned and maintained by the homeowners' association or dedicated to the city for public ownership and maintenance.

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.

- (e). The reduced lot area on residential lots created by the recording of a cluster subdivision shall not later be used as justification for further relaxation of setback requirements through variance sought from the Board of Zoning Appeals or any other method, as by intentionally creating a cluster subdivision, this is a self-created hardship.

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

NOTES REGARDING ABOVE CHART:

- (A) Triplexes and quadraplexes are permitted in cluster developments 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.

8. Zero Lot Line Development.

Zero lot line development as defined in this Chapter, is not permitted within the limits of the City of Hagerstown.

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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.7, 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.7.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.
- d. **Storage of Motor Homes, Camping Trailers, Boats and Personal Watercraft.** See Subsection K.20.

4. Minimum and Maximum Height Requirements.

a. **Height Limitation Chart.**

	N-MU	CC-MU
Maximum Height – Principal Structures	4 stories	7 stories
Maximum Height – Accessory Structures	25 feet	25 feet

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.7, as follows:

	N-MU	CC-MU
Maximum Permitted Height by Special Exception	6 stories	12 stories

c. **Minimum Height Requirements.**

All new principal structures shall be at least two stories in height. When a use is proposed where the Planning Commission determines the use is of significant economic benefit to the district, however by its nature, the use cannot be developed in a multi-story format, the Commission may entertain a waiver to the two-story requirement if the site plan includes elevations showing facades that, through treatments and features, gives the impression of being a two-story building.

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					
Zoning District (See Subsections b and c for specific performance standards)	Front Yard Depth (feet)	Rear Yard Depth (feet)	Minimum Aggregate Width of Side Yards (feet)	Minimum Width of Side Yards (feet)	Number of Side Yards Required
N-MU	0	5	0	0	0
CC-MU	0	0	0	0	0

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

b. Maximum Setback Requirements for Development of Undeveloped Lands in the N-MU Zoning District.

There is only one minimum setback requirement in the N-MU District and there will be few if any nearby existing buildings on undeveloped N-MU zoned lands. Therefore, when developing any tract, tracts or part of a tract that was undeveloped as of May 1, 2023, and that tract, tracts or part of a tract is five acres in area or more, building massing, setbacks, general building and parking locations and other improvements shall be proposed to the Planning Commission in the form of a sketch plan. The Commission shall determine whether the proposed subdivision or site design meets the intended purpose of the N-MU Zoning District as described in Section E.1.b, above before the development moves forward to the Development Plan or Site Plan stage.

New development shall be designed to focus on streetscapes, pedestrian circulation, shielding parking fields from streets and promote generally urban designs consistent with Section E.1.b. The Commission shall approve no sketch plan for a proposal that is predominantly suburban in design. Should the Commission reject a sketch plan, the applicant shall be provided the reasons for that rejection in writing to provide guidance to them in formulating a revised plan.

c. Maximum Setback Requirements in the CC-MU Zoning District and in Areas of the N-MU District developed prior to May 1, 2023.

- (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: $(12 \text{ ft.} + 8 \text{ ft.} + 12 \text{ ft.} + 0 \text{ ft.}) / 4 = 8 \text{ ft.}$
- (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.

6. Residential Uses.

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 and Mixing of Dwelling Types.

Residential densities in the mixed-use districts will vary based on the planning process, but the Comprehensive Plan 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 sixteen 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.

When developing any tract, tracts or part of a tract in the N-MU District that was or were undeveloped as of December 21, 2023, and that tract, tracts or part of a tract is five acres in area or more, no sketch plan shall be approved by the Planning Commission for any development that shall be entirely of a single housing type. If the total tract or tracts with N-MU zoning is less than 50 acres, at least two dwelling types are required. If the total tract or tracts with N-MU zoning is 50 acres or more, at least three dwelling types are required. Any sketch plan for such development shall not permit more than 50 percent of the total dwelling units that could be developed on the tract or tracts to be multi-family dwelling units. This ratio shall be applied to those parts of the tract designated for exclusively residential development. If a development includes mixed use structures that contain dwellings and commercial/institutional uses, the percentage of multi-family units may be increased to 65 percent of the entire development in the N-MU zone.

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. Industrial Performance Standards.

See Subsection K.21.

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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.7.a 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.8.

(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). *[Ed. Note: Removed per ZT-2024-04] (Amended June 26, 2025)*
- (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.
- (7). Conditions for Kennels in CG and CR Zoning Districts.
 - (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, recreational vehicle, boat and/or truck sales and/or rental facility or an automotive repair and maintenance business proposed for locations which have not most recently been occupied by the same use within the past five years, and for existing facilities which are expanding or adding additional uses to the site 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 in accordance with Section O, 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.
- (9). Performance Standards for Mixed Use Buildings in the CG and CR Zoning Districts:
- (a). Commercial uses shall be located on all at-grade floors, however no dwelling shall be located on a floor below a non-residential use. At least 65% of the at-grade floor area shall be used for non-residential uses serving the general population as enumerated in the following subsection (b). Up to 35% of this floor area may be designed and used for amenities for the exclusive use of the residents of the building(s) and their guests.
 - (b). Uses of at-grade floor space shall be limited to, and contain at least two of the following:
 - (i). Restaurants.
 - (ii). Fitness and Recreational Sports Centers.
 - (iii). Administrative Support Services.
 - (iv). Ambulatory healthcare facilities, with the exception of outpatient substance abuse centers.
 - (v). Banks, savings institutions and credit unions.
 - (vi). Drinking places and brewpubs, distillery pubs and wine pubs.
 - (vii). Dry cleaning and laundry services.

- (viii). Hair, nail and skin care stores, ear piercing services, hair replacement services, tattoo parlors, permanent makeup salons, dog grooming establishments and tanning salons.
- (ix). Retail and wholesale trade, excluding auto and other motor vehicle dealers, gasoline sales and adult entertainment businesses. In the CG District, no single unit shall exceed 75,000 square feet.
- (x). Live-work spaces, provided that the residential portion of the space is located above the work space, and the work use is among those cited in this Subsection.
- (xi). Child day care centers.

Only those uses listed above shall be permitted in mixed-use buildings regardless of whether other uses are listed as a permitted use in the district.

- (c). Permitted accessory uses of residential units shall be consistent with Section F.2.d, as applicable. *[Ed. Note: See next page.]*
 - (d). The sketch plan proposed for this development shall include generalized concepts for the appearance of the proposed building. This may be as simple as providing photographs of existing developments that inspire this proposal, however customized drawings are encouraged.
 - (e). The mixed-use building shall be no less than three complete stories in height.
 - (f). Parking shall be in accordance with Section O of Article 4.
- (10). 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.
- (11). Performance Standards for Warehouse/Flex in the CR and POM Districts:
- (a). Buildings shall be occupied by professional, scientific or technical service enterprises and/or light manufacturing enterprises (a special exception shall be required for light manufacturing);
 - (b). Total floor area of a single building shall not exceed 50,000 square feet, however a property may contain more than one such building if designed within a business park setting;

- (c). Warehouse space may occupy up to 90 percent of an occupant's floor area within a building if the property is accessed directly from a major collector or arterial roadway or accesses such roadways through commercially or industrially zoned land; and
- (d). If the property does not have direct access to a major collector or arterial roadway or does not access such roadways through commercially or industrially zoned land, warehouse space shall not exceed 50 percent of the occupant's floor area.

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.7.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. See Subsection K.20 regarding storage of motor homes, camping trailers, boats and personal watercraft when accessory to a dwelling.

4. Height Limitations.

No structure shall exceed the following:

a. **Height Limitation Chart.**

	CL	CG	CR	POM	INST
Height	2 stories or 35 feet	60 feet	60 feet	100 feet	60 feet

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.7., as follows:

	CG	CR	POM	INST
Maximum Permitted Height by Special Exception	6 stories or 90 feet	150 feet	150 feet	6 stories or 90 feet

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.**

Commercial District Dimensional Requirements for All Buildings					
Measured in Feet.					
Zoning District	Minimum Front Yard Depth	Minimum Rear Yard Depth	Minimum Aggregate Width of Side Yards	Minimum Width of Side Yards	Number of Side Yards Required
CL	15	30	20	10***	2
CG	15	30	20	10***	0
CR	25	50*/**	40	20*	2
POM	15	25****	20	10****	2
INST	15	25****	20	10****	2

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:

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

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.

7. Industrial Performance Standards.

See Subsection K.21 of this Article.

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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.7.a, 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.7.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. See Subsection K.20 regarding storage of motor homes, camping trailers, boats and personal watercraft when accessory to a dwelling.

4. Height Limitation Chart.

	IR	IG	I-MU
Maximum Height	100 feet	150 feet	150 feet

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:

Industrial District Dimensional Requirements for All Buildings (Measured in feet)				
Zoning District	Front Yard Depth	Rear Yard Depth	Minimum Width of Side Yards	Number of Side Yards Required
IR	50*	25*	25*	2
IG	50*	25**	25**	2
I-MU	50*	25***	25***	2

NOTES:
 * 100 feet when an industrial building or warehouse adjoins an “R” district.
 ** 200 feet when an industrial building or warehouse adjoins an “R” district.
 *** 150 feet when an industrial building or warehouse adjoins an “R” district.

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.

See Subsection K.21 of this Article.

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.

I. Signs.

1. Purpose and Intent.

It is the purpose of this Section to promote the public health, safety and general welfare of the City through reasonable, consistent and non-discriminatory sign standards. The sign regulations in this Section are intended to serve substantial government interests by regulating the secondary effects of signs that may adversely impact aesthetics, community character, traffic safety, pedestrian safety, as well as protect and increase property values within the City, protect the general public from damage and injury which may be caused by the faulty and uncontrolled construction of signs. The regulation of signs within the City of Hagerstown have been adopted with the intent of enhancing the visual environment of the City and promoting its continued well-being, and are intended more specifically to address:

- a. **Aesthetics.** Maintain and enhance the unique character, aesthetic environment, and quality of the City of Hagerstown, that will attract commerce, businesses, economic development, residents and visitors by exercising reasonable control of the physical characteristics and structural design of signs;
- b. **Traffic and Pedestrian Safety.** Maintain and improve traffic and pedestrian safety through properly located and constructed signs so as to not interfere with, obstruct the vision of, or distract motorists, bicyclists or pedestrians;
- c. **Economic Development.** Promote economic development and the value of properties in all zoning districts and zoning overlays (as may be appropriate to the nature of those districts), through sensitivity to surrounding land uses and maintaining an attractive community appearance, and protect property values by precluding, to the greatest extent possible, sign types that create a nuisance to the occupancy or use of nearby properties as a result of their physical characteristics;
- d. **Effective Communication.** Encourage signs which are clear and legible and maximize the effective use of signs as a means of communication and aid the public and private sectors in effectively and efficiently identifying the location of goods and services and reduce visual clutter that may otherwise be caused by the proliferation, improper placement, illumination, animation, excessive height, and excessive size of signs which compete for the attention of pedestrian and vehicular traffic;
- e. **Enforcement.** Enable the fair and consistent enforcement of these signs regulations; and to provide standards regarding the non-communicative aspects of signs, which are consistent with local, county, State and Federal law.

2. 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 3.c 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 is prohibited in the residential zoning districts and the CC-MU and N-MU Zoning Districts. 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). Portable street signs, except as exempted per Subsection 3.b.(2) below, are not permitted.
 - (3). Signs on or attached to stationary equipment, such as vehicles, trailers, storage containers, etc., when conveying information or a message is the apparent principle use of the equipment on either a temporary or permanent basis.
 - (4). 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 3.b(2) below.
 - (5). Signs positioned so that it obstructs traffic visibility along streets as determined by the City Engineer.
 - (6). Window signs applied to the surface of a glass door that create a solid screen which prevents views into occupied commercial or institutional space.
 - (7). Signs for Home Workstations, which by definition are accessory residential uses.

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- 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.

3. 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 occupants and uses, and arts and entertainment uses on upper floors, provided:
 - (a). The sign must be placed within the vicinity of the entry door to the use and occupied space;
 - (b). The sign shall be taken in when the business or use is closed;
 - (c). The maximum size for these signs is 6 square feet per side;
 - (d). The signs shall be limited to one per business or use.
- (3). Wall-mounted directory signs for multiple use buildings, provided:
 - (a). Signs shall be located beside the entry door;
 - (b). 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). 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.

- (8). Theater Marquees in the CC-MU District: Historically, the movie and live theaters in the CC-MU district had large marquees projecting over the sidewalk to promote the theater and the theater's upcoming events. As marquee signs are a character defining feature of downtown theaters and performing arts venues and are crucial to their success, and to the success of uses occupying historic former theaters which are character defining features of the Downtown Historic District, the continued use of theater marquees in the CC-MU is a public goal.

Regardless of the existing or proposed use of a building, in order to allow that tradition to continue, approval of new marquee signs may be considered within the Downtown Historic District or a Landmark in the CC-MU Zoning District. Such request is subject to review and approval by the Historic District Commission. HDC review will consider requests on a case-by-case basis considering the historic nature of an existing building or, in the case of a new building, the Commission's adopted *Design Guidelines*, the architectural design of the proposed building, *The Secretary of the Interior's Standards for Historic Preservation*, and historic precedent for such signs in the Downtown Historic District.

- (9). Gasoline Price Signs As Required by Maryland Law: Maryland law requires the price of gasoline be posted on properties where it is sold, and sets minimum standards for such posting. Signs posting the price of gasoline shall not be included in the calculation of permitted sign area up to a minimum required by State Law. That which exceeds the minimum required by State Law shall be included in the calculation of sign area.
- (10). Building or house number sign, as may be required by City Code for emergency services purposes.
- (11). Business and Industrial Park Directory Signs: When business parks and industrial parks have lots which do not front on the adjoining collector or arterial roadway, park entrance signs are permitted as follows:
 - (a). One freestanding park entrance sign per entry street off the adjoining collector or arterial roadway is permitted but must be located out of the public right-of-way.
 - (b). These signs may include a directory of park tenants if so desired.
 - (c). The maximum size is 150 square feet per side.
 - (d). The maximum height is 35 feet.

c. **Exemptions from This Section.**

- (1). Temporary signs, for short term use and as defined in Article 3, are exempt from this Section.
- (2). Ornamental banners displayed on free standing posts and light poles, where the banner is constructed of a permanent material (not vinyl sheeting), does not contain graphics or references to products or services provided on the site, and display of the name, logo or

seal of the occupant on the banner does not exceed more than 40% of the surface of one side of the banner, are exempt from this Section.

- (3). The exemptions provided for in this Subsection do not exempt the temporary sign or ornamental banner from review and approval by the Historic District Commission when the property is located within a historic district or landmark under the purview of that commission.

d. **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:
 - (a). Front entrance wall: measure width as prescribed for that district;
 - (b). 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.
- (6). For warehouse and other larger industrial buildings: measure length of wall fronting or parallel to the public street.

4. **Maximum Number of Signs Permitted.**

- a. **Maximum Number of Signs.** There is no limitation on number of wall-mounted signs provided the total area of all wall-mounted signs falls within maximums prescribed for that district.
- b. **Multiple Occupant Buildings.** If a building contains multiple non-residential occupants (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.** Except in accordance with Section 5.a, below, there shall be 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.

5. 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.

Regardless of whether a sign’s installation is part of a project that requires a site plan, dimensional and design requirements are as follows in Subsection a, below.

All permit applications for freestanding signs shall include a plan for landscaping the base of the sign, which shall include, but is not limited to, low lying shrubs, flowers and other plantings. Such plantings shall be maintained and kept in presentable condition. Failure to maintain landscaping as approved as part of the permit for the sign shall constitute a violation of this Article.

a. Freestanding Signs.

(1). Chart of Dimensional Requirements.

Zoning District/Use	Maximum Height (feet)	Maximum Area (square feet)	Number of Signs Permitted
RMOD*, RMED*, RH*	10	36 for buildings set back 25 feet or less from the street, 48 for buildings set back more than 25 feet from the street.	1 per street.
RO*, N-MU, CC-MU, CL, C, LC	10	40	1 per street.
CG, CR, POM, INST, I-MU, IR, IG	30	100	1 per street.
CG, CR, I-MU, IR, IG on a four-lane road or right of way 100 feet or more wide.	35	150	1 per street.
CG, CR, I-MU, IR, IG, multi-use commercial strip/building or mega-warehouse with over 500 linear feet of arterial road frontage	40	300	1 per entrance, with a maximum of 4 signs per property and spaced at least 500 feet apart.
AT	10	100	1 per street.

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

(2). Special Exception for Height and Area of Freestanding Signs – CC-MU Zoning District.

The Board of Zoning Appeals may consider applications for a special exception to construct a freestanding sign up to 20 feet in height and up to 150 square feet in the CC-MU Zoning District. Such sign shall be located a minimum of 20 feet from any building on an adjacent property not

under common ownership. The Board shall apply the criteria for special exceptions found in Section U, Subsections 4, 6.b and 7.a. The Board shall approve no variance to increase the height of such sign to permit it to be greater than 20 feet in height, or to increase the area to exceed 150 square feet, or to reduce the required minimum 20-foot distance from a building on an adjacent property. When the property is located in the Downtown Historic District, no application shall be accepted for consideration of a special exception unless and until its design has been reviewed and approved by the Historic District Commission.

b. Flush, Wall-Mounted Signs and Roof-Mounted Signs.

Zoning District	Maximum Cumulative Area 50 feet or less of building or strip store frontage (square feet)	Maximum Cumulative Area More than 50 feet of building or strip store frontage (square feet)	Maximum Cumulative Area – more than 500 feet of wall fronting or parallel to street (square feet)
RMOD, RMED, RH*	1 per each linear foot of building frontage	1 per linear foot of building frontage	1 per linear foot of building frontage
RO*, CL, C, LC	1 per each linear foot of building frontage	1.5 per linear foot of building frontage	1.5 per linear foot of building frontage
CC-MU, N-MU	1 per linear foot of building frontage or area of existing historic sign panel space	1.5 per linear foot of building frontage or area of existing historic sign panel space	1.5 per linear foot of building frontage or area of existing historic sign panel space
CG, CR, POM, INST, AT	2 per linear foot of building frontage	2 per linear foot of building frontage	2 per linear foot of building frontage
IR, IG, I-MU	2 per linear foot of building frontage	3 per linear foot of building frontage	3 per linear foot of building frontage

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

c. Large Projecting Signs in the CC-MU Zoning District.

The purpose and intent of this provision is to permit the reintroduction of large signs displaying an economy of words and imagery, usually vertically oriented and electrified, to the downtown environment, given their historical proliferation in that area in the mid-20th Century. Due to their potential impact on the appearance of the downtown commercial area and their potential impact on residential uses in the area, strict standards are necessary to ensure compatibility with the downtown environment. This provision shall allow use of such signs that present an appearance consistent with their use in the early to mid-20th Century, as determined by the Historic District Commission, into the downtown streetscape projecting from buildings. For a large projecting sign to be permitted in the CC-MU District, the following standards shall apply.

- Minimum building height: 2 stories.
- Minimum vertical clearance over walkway: 10 feet.
- Minimum vertical clearance over driveway: 15 feet.
- Minimum distance from curb line: 36 inches
- Maximum projection from building: 60 inches
- Maximum area of sign: None.
- Maximum height: Roof peak/cornice line. Not more than 25 feet.

Maximum number of large projecting signs:	1 per public street frontage, per building.
Orientation:	Vertical.
Number of faces:	Two, including on one-way streets.
Architectural appearance of building:	Commercial, industrial or mixed-use.
Location:	Downtown Historic District or Landmark in the CC-MU Zoning District.
Appearance of background of sign:	Opaque with no internal illumination.
Illumination:	1. Floodlights shining onto the face of sign, or 2. Internally illuminated letters, or 3. Lighting behind letters shining onto opaque background, contrasting non-illuminated letters. Use of neon tube or similar permanent light accents are permitted.

No large projecting sign shall be approved unless and until its design has been reviewed and approved by the Historic District Commission.

There will be no moving elements, LCD message signs or flashing or moving lights incorporated into a large projecting sign.

In cases where adjoining buildings have, through alteration and re-platting, been combined into a single building, and each section of the building maintains a separate and distinct façade to their original construction, each section of the building shall be treated separately for the purposes of this subsection.

The presence of street trees being a priority for the quality of the urban streetscape, no applicant should expect that the City will consider removing any street tree for the purpose of improving visibility of such signage.

The Board of Zoning Appeals shall grant no variance to the provisions of this subsection.

d. Projecting Signs.

No projecting 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):

Maximum area for storefront or strip store occupant	8 square feet
Maximum area for single-user building and for upper floor occupant in multi-use buildings	No more than one 36-square foot vertically oriented sign per building frontage
Minimum vertical clearance	8 feet
Maximum vertical clearance	Below the second floor for storefront occupants and below the roof line for upper floor occupants and single-user buildings

The maximum permitted number of projecting signs shall not include those mounted interior to a site, such as on the back of a building where there is no public street frontage, in a courtyard, in a pedestrian alley between buildings or properties, and similar situations not generally visible from public street rights of way. Such projecting signs are excluded from the permitted maximums above, provided they are mounted at a doorway providing access to the use the sign advertises.

In cases where adjoining buildings have, through alteration and re-platting, been combined into a single building, and each section of the building maintains a separate and distinct façade to their original construction, each section of the building shall be treated separately for the purposes of projecting signs.

e. 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). In residential and mixed-use districts:
 - (a). Signs which automatically change messages or copy electronically must be set to maintain the image for a minimum of ten seconds.
 - (b). Such signs shall be locked in a single image between the hours of 10:00 p.m. and 6:00 a.m.
 - (c). Message changing shall be instantaneous.
 - (d). Also, see regulations in Subsection 2.b(1) above regarding flashing and animation.
- (4). In all other districts, there is no restriction on image movement.
- (5). 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.

f. Flags.

Unless otherwise required by Maryland law or specified in this Section, a flag flown from a flagpole, bracket or stanchion conveying a commercial or corporate message shall not exceed twenty-four (24) square feet. The flag shall not require a permit or zoning certificate, however requirements for obtaining building permits may apply to the pole, bracket or stanchion.

g. Roof-Mounted Signs.

One roof-mounted sign per building shall be permitted in commercial and industrial zoning districts and on buildings built for commercial or industrial purposes in the CC-MU District.

Roof-mounted signs shall not be permitted on elevations adjacent to a residential zoning district or across a local street or collector public street right of way from a residential zoning district. The area of the sign shall be considered a wall mounted sign for the purpose of calculating maximum permitted sign area, and included in the calculations for maximum allowable wall signage. The sign shall not extend more than 10 feet above the roofline of the building.

6. Graduated Progress to Conformity and Prohibition of Electronic Message Boards on Nonconforming Freestanding Signs.

- 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.

J. Overlay Zones.**1. Planned Unit Developments (PUD).****a. Purpose.**

The PUD District is established to permit and promote community scale, open air streetscape/main street style commercial and mixed-use areas consisting of businesses serving the shopping and service needs of the community at large in an attractive public realm and promote public convenience and accessibility and contain common spaces, commercial, office and residential uses, and even limited warehousing and light manufacturing if designed in keeping with the scale of the development. The PUD District is designed to be flexible in development controls, but requires integrated design and appropriate transitions to surrounding existing land uses and promotes a diverse mix of housing options. The district is not intended to be accomplished in a fragmented, lot-by-lot fashion, developed with a single type of land use, nor developed in a manner where uses are segregated into dedicated pods throughout the tract. The uses will develop in an orderly manner in order to ensure achievement of a development with multiple uses and will be developed on a harmonious architectural theme and in a manner that focuses traffic flow on vehicles, bicycles and pedestrians.

Design and scale of a PUD will vary depending on the size of the tract and intended mix of uses. PUD development will be implemented as one of the two following types:

PUD-V: The village style PUD is intended for a predominantly residential community, with an integrated mix of housing types on traditional streetscapes and village greens with a commercial component that, through necessity, must be oriented to adjoining collector and/or arterial streets, but will be developed with very small setbacks unless offset by amenity laden streetscaping.

PUD-R: The regional style PUD is intended to serve a regional market that is predominantly commercial but will contain an integrated mix of uses, using traditional streetscapes, but permit more intense commercial and light manufacturing and warehousing type uses than would otherwise be permitted in the PUD-V development scheme. While the PUD-R development concept is predominantly commercial, it will contain a significant residential element with multiple housing types.

In all PUD development, housing types are required to be mixed and to the degree possible, commercial and residential uses mixed in buildings and streetscapes. The Mayor and Council shall only approve a concept plan and the Planning Commission shall only approve development plans and site plans that generally integrate housing types and commercial types and do not create segregated areas or pods that separate housing types and commercial use types.

b. Location.

The PUD-V District may be established in the RMOD, RMED, RH, N-MU and CG Districts. The area proposed to be zoned as a PUD-V District shall have an area of at least ten (10) acres.

The PUD-R District may be established in the N-MU, CG and CR Districts. The area proposed to be zoned as a PUD-R District shall have an area of at least fifteen (15) acres.

Since the residential component of a PUD rarely supports the commercial component in its entirety, all PUD Districts established after April 24, 2020 shall front on a collector or arterial street, as defined by the City Engineer's office, or upgrade existing local street(s) to collector or arterial status that will create frontage for the development. This is for the purpose of ensuring that there is sufficient regional and drive-by traffic and visibility to contribute to the economic viability of the commercial component of the PUD development.

c. **Principal Permitted Uses and Special Exception Uses, In Accordance With Section S (Site Plan Requirements).**

- (1). All uses in these districts shall be permitted, permitted by special exception in accordance with general and specific performance criteria found in Subsection U.7.a, 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. Mixing of commercial and residential uses in mixed-use buildings and in compatible adjacency is a defining element of a PUD-R development.

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:

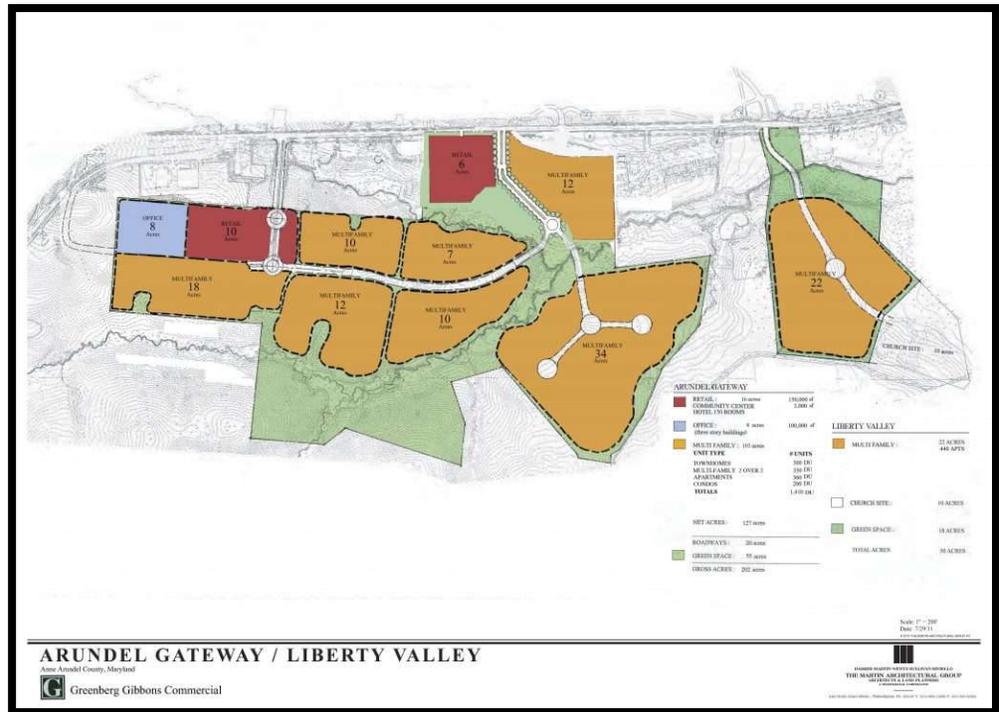
- (1). The area proposed for a planned unit development shall be in one ownership, or, if in several ownerships, the proposal shall be filed jointly by all the owners of the property included in the development plan.
- (2). The site shall be of a size and shape suitable for the development proposed.
- (3). The site is or can be served with public water and wastewater facilities. Public water and wastewater facilities shall be required in all PUDs.
- (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, as well as create exposure for commercial elements of the PUD. Opportunities for adjusting local public transportation service to the development should be explored by the developer.
- (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 securing Planning Commission approval of the development plan or site plans for the first phase of development, securing grading permits for that section or those sections, and bona-fide commencement of site construction 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.** 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 and approximate dimensions and locations of proposed major structures, general street alignments, regional and/or local open space, pedestrian walkways and project boundaries.

The Concept Plan. In addition to the basic intent of a Concept Plan as defined in Article 3, for the purposes of a PUD Overlay District, the Concept Plan is a generalized, non-specific plan that shows the general intent of the layout and arrangement of the development in what is generally known as a “bubble plan” format. It allows the developer to obtain approval of the overlay zoning provided by the PUD without having to invest in detailed engineering studies or other expensive services. See below example.



Development plans, site plans and building design are required to be substantially consistent with the Concept or “bubble” Plan. More detailed drawings, such as conceptual streetscapes, building elevations, etc. shall be provided with the Concept Plan by the developer to better explain and illustrate their proposal, and shall be considered as part of the general testimony in favor of the proposal. Detailed site analysis will occur following PUD approval with the development of site plans and development plans for the subdivision. The support drawings are illustrative only and are not intended to commit development and site plans to duplication or near duplication of them, but final plans shall be substantially consistent with them. The Concept Plan shall include the following information:

- (a). Generalized development layout.
- (b). Generalized reservations for parks, parkways, playgrounds, school sites, delineated 100-year floodplain, anticipated forest conservation areas and other open spaces, and the location of any human burial sites identified as a result of the research required by Article 5, Section K.

- (c). Generalized locations of residential uses, non-residential uses and mixed-use areas within the PUD, the location of commercial areas and a listing of those uses that are to be permitted in this PUD Development, as found among those uses found in the PUD column of Section Z (Use Chart).
- (d). Types, general locations and approximate numbers of dwellings and portions of the area proposed therefor.
- (e). A tabulation of the total number of acres in the proposed project and the percentage thereof designated for each of the proposed land use types, parks, schools and other reservations.
- (f). Generalized elevations of dwellings and commercial, industrial and institutional buildings intended to be the template upon which the final architecture of the development will be formulated, as an attachment. Renderings and/or photographs of examples from existing developments are acceptable. In PUD-R developments, generalized architectural renderings of the planned general appearance of the Regional Streetscape Focal Point (referred to hereafter as RSFP - see Subsection j, below) shall be provided and the final adopted version shall be considered part of the Concept Plan. A draft forest stand delineation shall be included as an attachment.

Traffic studies shall not be required of the developer during the PUD review and adoption process. Traffic studies will be required at development plan or site plan stage, as required by the City Engineer.

- (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.** Upon receipt of the recommendation of the Planning Commission, the Mayor and City Council shall hold a review of the application in accordance with said Subsection A.9, consider the recommendations of the Planning Commission and take formal action to approve or disapprove the PUD District Zoning Map amendment.
- (4). **Step IV. Development Plan and Site Plan Review and Action.** Upon Mayor and City Council approval of a PUD District Zoning Map Amendment, the applicant shall prepare detailed development plans and site plans, as may be required in accordance with the site plan requirements delineated in Section S of this Article, and in accordance with the subdivision and site development standards found in Article 5, as may be applicable. Development plans and site plans shall be in substantial conformance with the Concept Plan adopted with the creation of the PUD, or as may later be amended by the Mayor and City Council.

g. **Off-Street Parking.**

See Section O of this Article for parking requirements for all uses in the PUD Districts. See Subsection K.20 regarding storage of motor homes, camping trailers, boats and personal watercraft when accessory to a dwelling.

h. **Density of Development, Minimum Lot Size and Other Bulk Requirements.**

There is no specific prescribed permitted residential density, setbacks, height limitations or minimum lot size for a PUD Development.

As part of the Concept Plan proposed in the application for a PUD Overlay, the developer shall propose maximum building heights, maximum “build-to” lines, minimum lot area requirements, minimum building setbacks, sign regulations and any other bulk requirements that would impact the development, its uses, separation of uses when necessary, and specific requirements in any specific use areas (when the nature of the development warrants bulk requirements that vary within the District). The proposed bulk regulations shall create a dense, traditional neighborhood environment.

i. **Special Design Requirements in the PUD-V Overlay.**

(1). **Design Requirements.** A PUD-V Development shall be designed in accordance with design requirements as set forth in Article 5, Section E (Subdivision Design Principles and Standards).

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

(3). **Open Space.**

(a). Open space shall be so located and designed to complement the development and serve as an amenity to the development. Common open space shall comprise not less than ten percent (10%) of the total gross area.

(b). 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, but this shall be included in the total amount of open space required in Subsection (a) above.

(c). Forest retention and reforestation required to meet the terms of Article 7 may be included as part 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. The relationship and interaction of forest conservation with required open space shall be demonstrated to the Planning Commission’s and Mayor and City Council’s satisfactions that sufficient open space is provided meeting the general recreational needs of the development.

- (d). 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 village environment experience subject to the approval of the Planning Commission based on reasons set forth in this Article.
- (e). 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.
- (f). 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 as a city park.

- (4). **Maximum Allocation of Commercial Uses and Residential Uses.** All planned unit developments shall include both non-residential (commercial) and residential elements.

The intent of the PUD-V Overlay is to be predominantly residential in character and land use. While this Section does not establish minimum or maximum percentages of land that shall be allocated for commercial or residential use, the Planning Commission shall not recommend and the Mayor and City Council shall not approve a PUD-V Overlay proposal that is not predominantly residential in nature.

- (5). **Compatibility with Neighboring Developments.** The perimeter of infill PUD developments shall consider neighboring developments and established building patterns with regards to use, density, street orientation, and landscaping.
- (6). **Fences.** Requirements for fencing on residential properties in the PUD-V District shall be the same as is required for all residential properties, per Section K.1. Fences that define the boundaries of village greens and open spaces shall be consistent with the environment thereof, and subject to site plan review and approval by the Planning Commission.

j. **Special Design Requirements in the PUD-R Overlay.**

- (1). **Design Requirements.** A PUD-R Development shall be designed in accordance with design requirements as set forth in Article 5, Section E (Subdivision Design Principles and Standards).

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- (2). **Minimum Size of Dwelling Units.** All new residential units shall comply with the requirements of Section K.18.
- (3). **Regional Streetscape Focal Point (RSFP) and Mixture of Residential Uses.** A PUD-R Overlay shall have as its focus a mixed use traditional “main street” corridor consisting of mixed-use buildings three or more stories in height, that include residential uses, utilizing minimal setbacks, a mixture of green and hardscape open space amenities, rear-load parking and such other design features that accomplish this design expectation. The Planning Commission and the Mayor and Council may consider a design that contains this feature on only one side of a streetscape if necessary only to accommodate the unique site constraints of a property proposed for this form of development. However the preferred design is a two-sided urban mixed use streetscape and the one-side option shall be applied only when it is clearly shown that a two-sided mixed-use streetscape cannot be achieved due to site limitations and is not created by developer intent or choice.

Housing types (single-family, semi-detached, townhouse and apartment dwellings) shall be mixed and not segregated into individualized pods. An exception can be made when it is necessary to transition effectively to existing surrounding development in accordance with (6) below.

- (4). **Open Space.**
- (a). Open space shall be so located and designed to complement the development and serve as an amenity to the development. Common open space shall comprise not less than ten percent (10%) of the total gross area.
- (b). Character-defining open space in the form of hardscaped areas in the RSFP that are available to all residents and visitors shall be included in meeting the minimum ten percent (10%) open space requirement.
- (c). Forest retention and reforestation required to meet the terms of Article 7 may be included as part 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. The relationship and interaction of forest conservation with required open space shall be demonstrated to the Planning Commission’s and Mayor and City Council’s satisfactions that sufficient open space is provided meeting the general recreational needs of the development.
- (d). Such open space shall include land area to be developed as recreational areas or which is designated for the common use of all occupants and visitors 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, but shall include hardscaped community areas in the RSFP. 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 environment experience subject to the approval of the Planning Commission based on reasons set forth in this Article.

- (e). 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.
- (f). Open space will be for the benefit of the residents and visitors of the development, however, these features and amenities (other than the RSFP hardscape/greenscape) may be made available for use by the general public through dedication to and acceptance by the Mayor and City Council as a city park.

- (5). **Maximum Allocation of Commercial Uses and Residential Uses.** All PUD-R developments shall include both non-residential (commercial) and residential elements.

The intent of the PUD-R Overlay is to be predominantly non-residential and mixed-use in character and land use. While this Section does not establish minimum or maximum percentages of land that shall be allocated for commercial or residential use, the Planning Commission shall not recommend and the Mayor and City Council shall not approve a PUD-R Overlay proposal that is not predominantly non-residential and mixed-use in nature.

- (6). **Compatibility with Neighboring Developments.** The perimeter of infill PUD developments shall consider neighboring developments and established building patterns with regards to use, density, street orientation, and landscaping.
- (7). **Fences.** Requirements for fencing on residential properties in the PUD-R District shall be the same as is required for all residential properties, per Section K.1.
- (8). **Industrial Performance Standards.** See Subsection K.21.

k. **Approval at the Discretion of the Mayor and Council.**

No party is entitled by law to approval of a PUD Overlay. Approval of such an overlay is a discretionary legislative act of the Mayor and City Council. No PUD Overlay shall be approved unless determined to be in compliance with the requirements of this Subsection and achieves the purpose of this Subsection.

1. **Existing PUD Developments in Effect on April 24, 2020.**

Existing PUD Developments that are valid and appear on the adopted Zoning Map on April 24, 2020, approved under previously effective versions of the Zoning Ordinance and appearing without an R or V suffix, shall remain in full force and effect and shall be administered per the zoning map amendment by which they were created. They may be revised and amended as the Zoning Ordinance required and permitted prior to the above date. In such cases, the procedures and text that were in effect prior to the above date shall control and be used to process and decide any amendments or revisions to those previously existing PUDs.

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.7.a, 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 in which all proposed uses, except parking, and uses approved for additions and outdoor dining areas will be contained. However, the following uses, if approved, may include an outdoor dining area provided the area is identified on the concept plan approved by the Mayor and City Council and the area is screened from adjacent residential uses to the satisfaction of the Planning Commission as determined with the review and approval of a site plan:
 - (a). Small scale brewery, distillery or winery;
 - (b). Hotel or motel with in-house restaurant or dining facility;
 - (c). Bed and breakfast inns;
 - (d). Restaurant;
 - (e). Banquet and reception facilities; and/or
 - (f). Drinking places, brew pubs, distillery pubs and wine pubs.
- (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. See Subsection K.20 regarding storage of motor homes, camping trailers, boats and personal watercraft when accessory to a dwelling.

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.
- (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 and vacant non-residential and mixed-use 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. A Local Conversion District can be overlaid on an active or expired non-conforming non-residential or mixed-use structure provided that it has not been converted to a use permitted by right or special exception, which voids the nonconformity.

It is acknowledged that such uses will be outwardly commercial or mixed-use 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.7.a, 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 Local 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 or altered to that configuration 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 uses proposed for a Local Conversion District may be:
 - (a). Those dwelling uses that last occupied the non-residential or mixed-use structure, provided those dwelling units comply with the occupancy limitations of the

Property Maintenance Code, and provided that residential uses not occupy all spaces in the building, and/or

- (b). The building contains a non-residential use or uses that are listed as permissible for Local Conversion Districts in Section Z (Chart of Permitted and Special Exception Uses).

Final approval of the list of uses for the proposed Local Conversion District shall be by the Mayor and City Council, but shall not include uses not listed in Subsections (a) and (b) above, and shall contain at least one non-residential use, per (b) above.

- (4). 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.
- (5). 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.
- (3). See Subsection K.20 regarding storage of motor homes, camping trailers, boats and personal watercraft when accessory to a dwelling.

i. **Special Design Requirements.**

- (1). Additions shall be designed consistent with the architectural theme of the structure. If the zoning overlay is approved by the Mayor and City Council in accordance with the required public hearing process, and a proposed addition is illustrated on the approved zoning exhibit that does not comply with the base district's setback requirements, Board of Zoning Appeals approval of a variance is not required.
- (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.

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 (except as regulated by Section K.1.a, above):

District	Front Yard	Side Yard	Rear Yard
Residential Zoning Districts <i>[ADMINISTRATIVE NOTE: see illustration on next page]</i>	4 feet b(1)	6 feet b(1) and b(4)	6 feet b(1) and b(4)
Residential Uses in a Mixed-Use District	4 feet b(1)	6 feet b(1) and b(4)	6 feet b(1) and b(4)
Commercial Zoning Districts	Not Permitted c.2	8 feet c(1)	8 feet c(1)
Commercial and Industrial uses in a Mixed-Use District	Not Permitted c.2	8 feet c(1)	8 feet c(1)
Industrial Zoning Districts, Including the I-MU District	10 feet c.2	10 feet c(1)	10 feet c(1)

[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.]

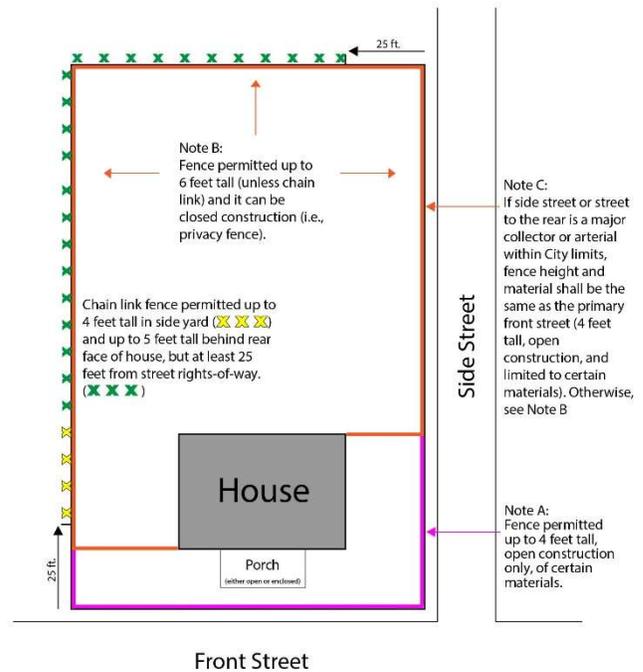
(1). Residential Districts and Residential Uses in Mixed Use Districts.

- (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 a major collector or arterial roadway as determined by the City Engineer, and the adjoining street is located within the municipal boundary. In such cases, the

front yard fence limitations shall continue to apply. [Ed. Note: See drawing to right.]

- (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 one inch wide or half the width of the picket, whichever is greater.



- (c). Chain link and wire fences are specifically prohibited within 25 feet of a street right of way. However, wire mesh may be used as a backing to a picket, paddock or similar fence material. On residential properties, chain link fencing shall be limited to no more than four feet in height in side yards and five feet in height behind the rear face of a dwelling in 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.

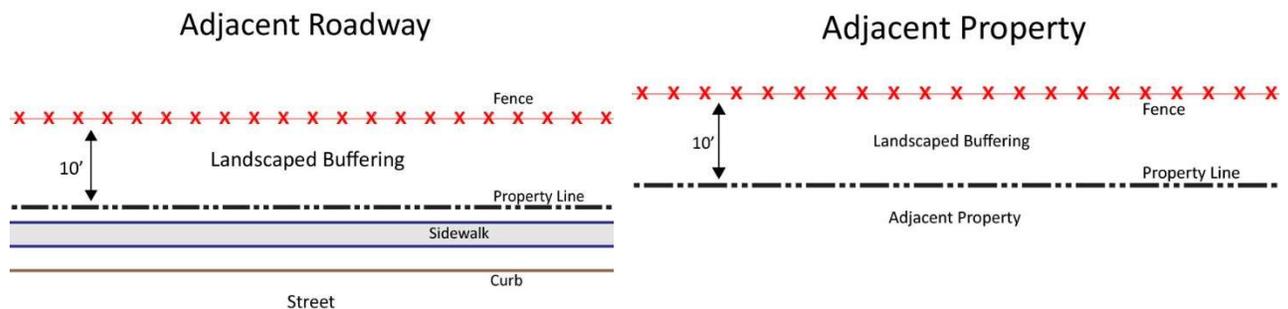
c. **Buffers.**

(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. 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.

Notwithstanding the above, this provision shall not apply to lots created as part of a development plan approved by the Planning Commission after April 21, 2022, where the lot is intended for residential development, the lot fronts a community open space lot or public park, and the rear of the lot fronts an alley constructed in accordance with the approved Development Plan and is owned and maintained by the homeowners' association or dedicated to the city for public ownership and maintenance.

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.

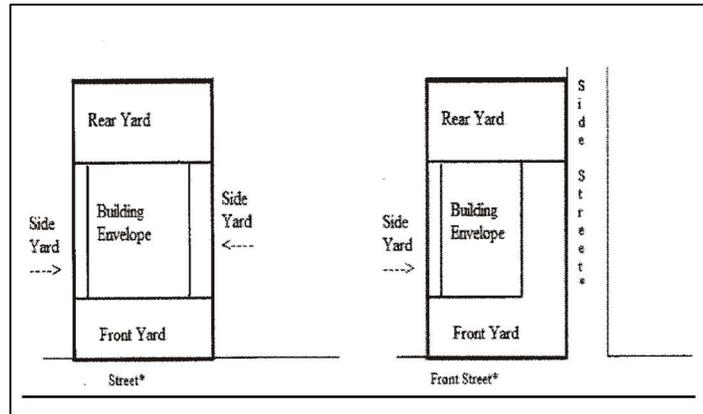
b. Rear Yard.

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.

8. **New Residential Development Sales and Leasing Facilities.**

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 Use of Vehicles and Trailers as a Substitute for a Building for Vending.**

a. **Use of Semi-Trailers.**

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. Use of Vehicles and Trailers as a Substitute for a Building for Vending.

Any vehicle used for vending purposes shall be fully operational and capable of being legally driven on public streets or towed on public streets in the case of trailers. Vehicles or trailers may not be placed on blocks or jacks. No permanent or temporary foundation may be placed or constructed for a temporary vending operation.

All vehicles used for vending purposes effectively become permanent structures by remaining immobile at the same location and not removed from the premises each day upon the conclusion of business. In cases where such vehicle and/or trailer is to remain in place when closed and unoccupied;

- (1). A site plan approved by staff or the Planning Commission shall be required; and
- (2). The location of the vehicle and/or trailer shall comply with building setbacks for the district in which it is located without variance; and
- (3). The vehicle and/or trailer shall not occupy parking spaces necessary for the property to comply with the Requirements of Section O of this Article; and
- (4). The vehicle and/or trailer shall not occupy landscaped areas installed pursuant to an approved site plan.
- (5). The vehicle and/or trailer shall be self-contained and may not use the utilities on the site on which it is operating.

Any vehicle and/or trailer that does not comply with this paragraph shall be removed within 180 days of the adoption of this provision.

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.

12. Alternative Energy Sources/Generators.

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.

a. Small Wind Energy Systems.

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.

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- (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.

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- (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 12.a.9 through 18 of this Section shall also apply to Building-Mounted Wind Energy Systems.

d. **Ground-Mounted Solar Collection Systems.**

- (1). Ground-Mounted Solar Collection Systems are permitted as an accessory use in any zoning district.
 - (a). 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.
 - (b). In commercial and industrial districts, Ground-Mounted Solar Collections Systems shall meet the height and setback requirements for accessory structures in that district.
- (2). Ground-Mounted Solar Collection Systems are permitted as a principal permitted use in certain districts as described in Section Z (Land Use Chart) only as a means of providing productive use of land otherwise seriously curtailed by deed restriction imposed by the Environmental Protection Agency or the Maryland Department of the Environment due to remediated environmental contamination on site which would cause risk to the health of persons living or working on the property for concentrated periods of time. Ground-Mounted Solar Collection Systems as a principal use are not an effective and optimal use of land valuable for the purpose of commerce, employment and productivity within a municipality and are otherwise prohibited.

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.

13. Temporary Contractor Staging Facilities.

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.]*

Tents shall be used for temporary uses only, for a period of up to 60 days within any 365 day period. Tents shall not be used for a use that is intended to be a semi-permanent or permanent use.

16. Dumpster Enclosures.

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 shall be in accordance with Article 5, Section I.13. 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 April 24, 2020, except as approved by the Board of Zoning Appeals as part of an approved change of a nonconforming use or otherwise unless specifically exempted elsewhere in this Article, 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:

Efficiency Unit:	400 square feet.
One-bedroom Unit:	500 square feet.
Two-bedroom Unit:	650 square feet.
Three-or-more bedroom Unit:	900 square feet.
Efficiency Unit with live/work space:	800 square feet.
One-bedroom Unit with live/work space:	1,000 square feet.
Two-bedroom Unit with live/work space:	1,300 square feet.
Three-or-more bedroom Unit with live/work space:	1,800 square feet.

When units are being created in existing buildings, and the existing configuration of the structure makes it difficult, awkward or impossible to meet these minimum requirements, the Zoning Administrator may approve minor variations from these standards, reducing them up to a maximum of 15 percent when offset by space provided in another newly created unit that exceeds the minimum floor area requirement for that unit by a like or greater amount. Reduction to 85% or less of the requirement shall require a variance approved by the Board of Zoning Appeals.

The portion of a live/work space used for residential purposes shall meet the minimum square footage requirement for the same type of unit that does not include work space.

19. Rooming Houses.

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 sixteen (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 three (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.

20. Parking and Storage of Motor Homes, Camping Trailers, Boats, Personal Watercraft and Similar Vehicles on Residentially Zoned Properties and Other Properties Used for Residential Purposes.

Parking typically provided on residential properties is in volumes sufficient for the transient use of personal vehicles owned and maintained for use in the normal course of a resident's daily activities. Given the dense nature of development found in cities, the storage of recreational vehicles on many lots can influence the parking of personal vehicles, forcing vehicles to be parked in the street, which is not in the public interest when off-street parking is available. It can also impact the reasonable use, enjoyment and marketability of adjoining properties.

Therefore, unless stored or parked within a completely enclosed building, the parking and storage of motor homes, camping trailers, boats and similar vehicles in all zoning districts in the City shall comply with the following:

- a. Two off-street parking spaces shall be provided and available for each dwelling unit on the property. If this requirement is not met, storage of such recreational vehicles is prohibited.
- b. The vehicle(s) shall be the personal property of a resident of a dwelling on the property, displaying current registration and license plates, and maintained sufficiently to be removed and driven or (if a trailer) towed on the streets in accordance with Maryland law.

- c. The vehicle(s) shall be stored on a stable surface consisting of gravel, asphalt, concrete, pavers or similar surface at least two inches in thickness and at least as wide and as long as the vehicle.
- d. For vehicles over six feet in height, the vehicle shall comply with the same setback requirements as is required for an accessory structure. However, the prohibition in the ordinance regarding accessory buildings in the front yard shall not be applied to such vehicles and it (or they) may be parked in front of a dwelling, provided that when the vehicle is over six feet in height, the vehicle complies with the required front yard principal structure setback required for the property.
- e. The vehicle is not used on-site for camping or dwelling purposes.

The Board of Zoning Appeals shall not grant a variance to any provision of this subsection.

21. Industrial Performance Standards.

The following industrial performance standards shall be met for any industrial use prior to the issuance of a zoning permit:

- a. **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.
- b. **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.
- c. **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.

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 the event in which the structure or use was damaged or destroyed, pursuant to a valid building permit or zoning certificate. In the event that said notice is not filed, then the nonconforming use in question shall be deemed to have been abandoned. Should the owner(s) fail to keep a building permit for the reconstruction valid and unexpired, the nonconformity shall expire on the date the building permit lapses. Per the Hagerstown Building Code, a permit is valid for six (6) months if no work has begun and may be renewed one time.
- 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. **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. Nonconforming 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 valid, un-expired 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, and the Board of Zoning Appeals determines, the following:

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.

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 since the proposed use is permitted in that district and the new 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 and parking requirements of this Article and the landscaping buffer requirements of Article 5. The Planning Commission may consider requests for waivers to this requirement for appropriate cause. 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 or Townhouses.

A structure is exempt from the effects of the expiration period of nonconformity and the limitations cited in foregoing subsections of this Section, under the following conditions:

- a. The building is located in the RMOD, RMED, RH or RO Zoning District and when first constructed was originally constructed as and appears as a two-family dwelling or stick of townhouses, displaying such features as separate front doors, separate driveways, separate porches, addresses, and/or other physical characteristics of a two-family dwelling or stick of townhouses; and
- b. That building may be in its originally constructed use configuration or has been modified to combine units, in which case an owner may modify the building back to its originally intended occupancy, including townhouses when in districts where townhouses are not currently permitted uses. This provision does not apply to units added after the original construction of the building.
- c. The building is located in a zoning district that permits two-family dwellings or townhouses, but is rendered noncomplying or nonconforming due to the property not meeting lot area, width, and other bulk requirements, or in the case of townhouses, in a district that does not currently permit

this use. Under the above conditions, each of the units may be reoccupied regardless of any period that the building has been vacant and units previously combined into a single unit may be redivided by party wall to re-establish the originally intended number of units created when the building was first constructed.

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 (except in the case of additions made to foster the re-occupancy of the nonconforming two-family homes and townhouses addressed in Section M, Subsection 11).
- 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, Exceptions and Application.** 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% and by no more than 20,000 square feet of building area 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.
 - (5). These standards shall be administered as follows:
 - (a) Compliance with current parking standards is not required when the use of a building or property changes to another use permitted by right in the zoning district within which it is located, unless specifically stated otherwise in this Article, and no site plan is in effect for the existing development of the property. When the property has been developed in accordance with a site plan, the new use shall comply with current standards unless a variance is sought and obtained from the Board of Zoning Appeals.
 - (b) Compliance with parking standards is required for any new special exception use. However unless otherwise stated, there is no prohibition that prevents the Board of Zoning Appeals considering and approving variances in conjunction with a special exception application. Considering parking variances associated with a special exception shall be done in accordance with the criteria used to consider requests for variances.
 - (c) Uses described in the use charts found in Section Z that include a requirement to comply with the parking standards shall mean that the Board of Zoning Appeals is precluded from considering applications for variances to reduce that parking requirement. Full compliance with current parking standards of Section O is required for the use to be permitted.

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 Existing Residential Development.

While this Code requires new development to address off-street parking to be part of the design of a new subdivision, many long-developed residential properties have no on-lot parking in urban communities or at least no front-street driveway access. On-street parking is part of the culture of urban communities. Many communities are characterized by their streetscape with few if any front yard driveways, and a large percentage of Hagerstown residential lots are developed with rear alley access.

Per Subsection O.1.a above, there is no requirement in this Ordinance for existing dwellings without driveways to provide off-street parking, nor is there a requirement for providing off-street parking when building on an unimproved lot within an existing developed community. However, some property owners will desire to add off-street parking on an existing developed lot or during construction on an infill lot.

Adding driveway access to front streets for existing properties leads to the deterioration of character-defining community streetscapes, creates additional new potential vehicular and pedestrian points of conflict, creates more opportunities for vehicles to be parked blocking sidewalks, creates additional impervious surface and frequently results in no net increase in available parking once on-street spaces are lost in order to create the driveway apron. It is not in the public interest to permit adding new front street driveway access to existing developed residential lots when alternatives, such as rear-alley access are available. Even if there are no alternatives on a given lot, ultimately, no property owner has entitlement to a new driveway entrance to a front street in an urban jurisdiction, and it is good public policy to discourage this practice to the greatest extent practicable.

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 (non-gravel) surfaces or permeable pavers;
- (2). Rear yard parking garages or parking pads are the expected off-street parking system. When rear yard area is accessible to provide off-street parking, the parking shall be installed in the rear yard with access via alleys;
- (3). When approved by the City Engineer and the Zoning Administrator, driveways accessing the lot from a front or side street shall be one vehicle in width;
- (4). When approved by the City Engineer and the Zoning Administrator, driveways serving garages from front and/or side streets shall be permitted to be as wide as the garage;
- (5). Installation of a driveway on property in a locally designated historic district shall only be approved after obtaining a Certificate of Appropriateness from the Historic District Commission upon findings that the proposed driveway is consistent with the applicable design standards for such improvements, as adopted by the Commission.

2. Application Procedure.

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 and Requirement to Maintain Parking Lots and Striping.

- a. Off-street parking and dimensional requirements are found in Article 5, Section I (Site Plan Standards).
- b. Paving of all parking lots accessed by and used for employees, customers and residents shall be maintained in a safe and professional condition, free of potholes and areas of disintegrating paving materials. Failure to comply with this provision shall constitute a violation of this Chapter.
- c. Parking lots that are built in accordance with an approved site plan shall have their striping maintained and repainted as necessary to ensure a professional appearance and vehicular and pedestrian safety. If the parking lot is of such age that it was developed prior to the requirement for a site plan and there is no applicable site plan to use as a guide, the following shall occur:
 - (1) When the Zoning Administrator determines that the lot's previous striping is worn and needs repainting or needs to be demarked in cases where the lot was never striped before, a zoning certificate or zoning approval of a building permit shall not be approved for the property.
 - (2) Before zoning approvals are provided, the property owner or tenant shall submit a plan for marking the lot in accordance with the requirements of Article 5, Section I, creating as many

spaces as the existing site conditions allow, bringing the designated parking on the site as close to full compliance with current ordinance requirements as practicable. The plan shall be consistent with the Maryland Manual on Uniform Traffic Control Devices (MdMUTCD) as determined by the City Engineer.

- (3) The Zoning Administrator and the City Engineer review and approve the plan.
- (4) No final zoning certificate or final use and occupancy permit is provided for the property until the repainting is completed in accordance with the approved site plan or the zoning administrator-approved striping plan.

Failure to maintain parking lot striping in accordance with an approved site plan or approved striping plan approved by the Zoning Administrator shall be a violation of this Chapter.

4. Required Number of Parking Spaces.

Use	Required Spaces
Ambulance facility	Two spaces per ambulance
Assisted-living facility	One space per every four beds plus one space per employee on largest shift
Auto sales and service	One space per employee plus one per 2,000 square feet of lot area.
Auto service station	Two spaces per service bay, plus one per employee
Banks and financial institutions	One space per 200 square feet of net floor area
Barber shops, beauty parlors and similar uses	Two spaces per practitioner
Bed and breakfast inns	One space per guest room
Bowling lanes	Three spaces per bowling lane
Buildings consisting of a mixture of residential and commercial uses in the CG and CR Districts	1.5 parking spaces per dwelling unit. Ground floor commercial space shall meet the requirements of this Subsection for a shopping center.
Child day care center	One space per 5 children, calculated based on the maximum number of children cared for at one time, with adequate drop-off area.
Cluster development	Two spaces per dwelling unit (may include garage, carport or driveway)
Commercial retail sale (less than 2,000 square feet of floor area)	One space per 350 square feet of net floor area
Commercial retail sale (freestanding and 2,000 square feet or greater of floor area)	5.5 spaces per 1,000 square feet net floor area
Community center, library, museum	One space per 400 square feet net floor area
Drive in/Walk up restaurant or food service	0.8 parking spaces per employee on largest shift, plus 1 space per 25 square feet of walk-up service counter and outdoor seating areas
Educational (schools)	One space per employee; ample student and visitor parking as determined by the Planning Commission
Elderly housing	One space per every three units
Fire stations	10 spaces minimum
Group quarters, including rooming houses, dormitories, alternative living units, group homes and halfway houses	One space per employee on largest shift plus one space for each sleeping room or one space for each two beds, whichever is greater
Hospitals	Four spaces per bed

Use	Required Spaces
Hotel, resort, motels	One space per guest room (see restaurant and meeting/banquet hall, if applicable – additional space is required)
Manufacturing plant	The greater of one space per employee on maximum working shift or one space per each 1,000 square feet gross floor area and one space for each 200 square feet net floor area of office space or sales floor space.
Medical or dental offices/clinics	The greater of four spaces per practitioner or one space per 200 square feet of net floor area
Mortuary or funeral home	One space per 150 square feet of visitor floor area
Apartment dwellings	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.
New residential units in new construction in the CC-MU Zoning District	0.5 spaces per dwelling unit plus 0.5 spaces per bedroom, rounded up to the nearest whole number
Nursing homes and rehabilitation centers	One space for every four beds plus one space per employee on the largest shift.
Office building	One space per 200 square feet of net floor area
Outpatient substance abuse centers, including disbursement of addiction treatment drugs	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.
Place of worship	One space for each 5 persons for which seating is provided in sanctuary, except where mass transit is provided by the church
Private club/lodge	One space for each 2 persons for which seating or lodging is provided
Recreational establishment (other than theaters, swimming pools and bowling lanes)	One space per 80 square feet of floor space and/or as determined by the extent of outdoor use by the Planning Commission
Residential	Two spaces per unit for single-family detached dwellings, two-family dwellings, semi-detached dwellings, townhouses, mansion apartment houses
Restaurants, taverns, lounges, night clubs, meeting room/banquet hall	One space per 50 square feet customer floor space. When the floor area of outdoor seating exceeds 25% of the floor area of the seating area in the interior of the building or buildings, the floor area of all outdoor seating areas shall be included in calculating parking requirements for the use. <i>[NOTE: See separate requirements for walk up or drive in restaurants]</i>
Shopping center, per 1,000 square feet customer floor space:	25,000 to 400,000 square feet - 4.0 spaces 400,000 to 600,000 square feet - 4.25 spaces More than 600,000 square feet - 4.5 spaces
Small scale brewery, distillery or winery	One space per 50 gross square feet of tasting room or similar public spaces, and for the manufacturing and/or warehousing area, the greater of one space per employee on the maximum working shift or one space per 1,000 gross square feet.
Swimming pool	One space per every seven persons lawfully permitted at any one time
Theaters, auditoriums, stadiums	One space per every four seats
Townhouses or single-family attached dwellings	Two spaces per unit

Use	Required Spaces
Transportation terminals (trucking, etc.)	One space per main shift employee
Two-family dwelling	Two spaces per unit
Warehouses or wholesale establishments	For custom-built facilities which will include large areas of fully-automated, non-manned building areas, the parking requirement is one space per 1.2 employees on the maximum working shift. For all other facilities, the parking requirement is one space per 2,000 square feet gross floor space and one space for each 200 square feet net floor area of office or sales floor space (<i>Amended July 18, 2024 per ZT-2024-01</i>).

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 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 facilities are preferred and delineates uniform standards for the siting, design, permitting, maintenance, and use of wireless communications facilities in the City of Hagerstown. These provisions shall only apply to wireless communication facilities located outside of the public right-of-way. For facilities proposed for location within the public right-of-way, contact the City Engineer.

2. Requirements and Standards for Wireless Communications Facilities.

The following regulations shall apply to all Wireless Communication Facilities, except those operated by a federally licensed amateur radio operator:

- a. **Standard of Care.** All wireless communication facilities shall be designed, constructed, operated, maintained, repaired, modified and removed in strict compliance with all current applicable technical, safety and safety-related codes, including but not limited to the most recent editions of the Maryland Building Performance Standards and National Electrical Code. Wireless communication facilities shall at all times be kept and maintained in good condition, order, and repair by qualified maintenance and construction personnel, so that the same shall not endanger the life of any person or any property in the City.
- b. **Permitted in all zoning districts with priority given to certain locations and zoning districts.** Wireless communication facilities are permitted pursuant to this Zoning Ordinance in all zoning districts throughout the City, so long as they comply with all of the terms and conditions of this Ordinance and other pertinent ordinances of the City Code.
- c. **Wind.** Wireless communication facilities shall be designed to withstand the effects of wind gusts to the standard designed by the American National Standards Institute as prepared by the engineering departments of the Electronics Industry Association, and Telecommunications Industry Association (ANSI/TIA-222, as amended)
- d. **Aviation safety.** Wireless communication facilities shall comply with all federal and state laws and regulations concerning aviation safety.
- e. **Public safety communications and other communication services.** Wireless communication facilities shall not interfere with public safety communications or the reception of broadband, television, radio or other communication services enjoyed by occupants of nearby properties.
- f. **Radio frequency emissions.** A wireless communication antenna shall not, by itself or in conjunction with other antennas and/or communication towers, generate radio frequency emissions in excess of the standards and regulations of the FCC, including but not limited to, the FCC Office or Engineering Bulletin 65 entitled "Evaluating Compliance with FCC Guidelines for Human Exposure to Radio Frequency Electromagnetic Fields," as amended.

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- g. **Removal.** In the event that use of a Wireless Communications Facility is discontinued, the owner shall provide written notice to the City of its intent to discontinue use and the date when the use shall be discontinued. Unused or abandoned wireless communication antennas or structures shall be removed as follows:
1. All abandoned or unused wireless communication antennas and related equipment and structures shall be removed within two (2) months of the cessation of operations at the site unless a time extension is approved by the City.
 2. If the wireless communications antenna or related equipment and structures is not removed within two (2) months of the cessation at a site, or within any longer period approved by the City, the antenna or related equipment and structures may be removed by the City. As security, the City reserves the right to the salvage value of any removed antenna or related equipment and structures, if such facilities are not removed by the owner within the specific timeframe enumerated in this Ordinance.
- h. **Indemnification.** Each person that owns or operates a WCF shall, at its sole cost and expense, indemnify, defend and hold harmless the City, its elected and appointed officials, employees and agents, at all times against any and all claims for personal injury, including death, and property damage arising in whole or in part from, caused by or connected with any act or omission of the person, its officers, agents, employees or contractors arising out of, but not limited to, the construction, installation, operation, maintenance or removal of the communication antenna. Each person that owns or operates a WCF shall submit a Certificate of Insurance with the building permit naming the City as an additional insured and certificate holder. Each person that owns or operates a WCF shall defend any actions or proceedings against the City in which it is claimed that personal injury, including death, or property damage was caused by the construction, installation, operation, maintenance or removal of a WCF. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgements, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs and all other costs of indemnification.
- i. **Maintenance.** To the extent permitted by law, the following maintenance requirements shall apply:
1. The communication antenna shall be fully automated and unattended on a daily basis and shall be visited only for maintenance or emergency repair.
 2. Such maintenance shall be performed to ensure the upkeep of the facility in order to promote the safety and security of the City's residents.
 3. All maintenance activities shall utilize nothing less than the best available technology for preventing failure and accidents.
- j. **Removal, replacement and modification.**
1. To the extent permitted by law, the removal and replacement of communication antennas and/or related equipment for the purpose of upgrading or repairing the WCF is permitted, so long as such repair or upgrade does not substantially change the overall size of the wireless support structure.

2. To the extent permitted by law, any material modification to a WCF shall require notice to be provided to the City, and possible supplemental permit approval to the original permit or authorization as specified in 3.b.9 below.

3. Development Standards.

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. **Location Standards.** Prioritized locations for wireless communication facilities in the city include the following in order of priority with one (1) being the highest priority and four (4) being the lowest priority:

1. Co-located on existing wireless communication facilities;
2. On properties owned by an agency of local, State or Federal government or located in the INST Zoning District;
3. On properties located in the IR, IG, I-MU, and AT Zoning Districts;
4. On properties located in the POM, CG, and CR Zoning Districts;

If the proposed site is not proposed for the highest priority listed above, then a detailed explanation must be provided as to why all sites of higher priority were not selected. If the proposed site is not proposed for any of the identified priorities listed above, special exception approval is required from the Board of Zoning Appeals. The applicant seeking such exception must satisfactorily demonstrate the reason or reasons why such a permit should be granted for the proposed site, and the hardship that would be incurred if the special exception was not granted for the proposed site.

- b. **Design Standards.** The following design standards shall apply for new WCF installations and modification to existing installations.

1. **Co-location of Antenna Arrays on Existing Wireless Communications Support Structures in Any Zoning District.**

- (a). **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.
- (b). **Height and Setback.** There are no height and setback restrictions.
- (c). **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). **Timing of Approval.** Per the FCC's 2009 and 2014 rulings, review shall be expedited to ensure:

(1). The applicant is notified within 30 days of submittal of any required additional information; and

(2). The City makes its final decision on whether to approve the application within 90 days of a complete application being submitted by the applicant.

2. **Small Wireless Communication Facility in Any Zoning District.**

(a). **Application Procedures.** If the small wireless communication antenna is attached to an existing structure, but new equipment facilities and/or sheds are located on the ground, a minor site plan will not be required unless located within an existing fenced compound. If a small wireless communication facility is located in a historic district, the application must be approved by the Historic District Commission in the Certificate of Appropriateness process. If a new structure is constructed to support a small wireless communication antenna which is not located in an existing wireless communication compound, a site plan must be approved by the Planning Commission. When all support structures and lines are located within an existing compound, but the compound is not landscaped in accordance with the requirements of this Section, a minor site plan is not required but accurate drawings showing the addition of landscaping to bring the compound into compliance with this Section will be required at the building permit stage. A building permit must be obtained for all WCFs and attached WCFs.

(b). **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 fifteen (15) feet above the highest point of the building or structure. Per FCC ruling, any structure constructed to support small wireless communication antennas shall be subject to the following height maximums:

(1). No taller than 50 feet in height, or

(2). No more than 10 percent taller than other adjacent structures.

(c). **Setback.** For attached antenna, the setback requirement is the same as for the underlying zoning district. For a stealth structure, the setback is as specified

in 3(c) below. For any other structure, it shall be setback a minimum distance from any property line equal to 125% of the proposed tower height.

- (d). **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.
- (e). **Timing of Approval.** Per the FCC's 2019 ruling, review shall be expedited to ensure:
 - (1). The applicant is notified within 10 days of submittal of any required additional information; and
 - (2). The City makes its final decision on whether to approve the application within 60 days of a complete application being submitted by the applicant for collocation or 90 days of a complete application being submitted by the applicant for a new structure.

3. **WCF, Attached or With Support Structure, of Stealth Design in Any Zoning District.**

- (a). **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.
- (b). **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. However, a stealth structure marquee concealment shall comply with the WCF height limitations found in Subsection 6(c) below.
- (c). **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, or a marquee concealment in which case the tower shall be setback a minimum distance from any property line equal to 125% of the proposed tower height.
- (d). **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, clock tower, smoke stack, chimney, etc., or disguised as a tree, monument, clock tower, flagpole, field light pole, 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.

- (e). **Limitations on Marquee Concealment.** Marquee Concealment, using graphics at the top of a tower to approximate a sign in order to disguise the intent of the structure as a WCF, shall be permitted only on properties owned and used by an agency of local, State or Federal government, or on property used for institutional purposes. Since the primary purpose of such a structure is the underlying communication facility and the graphics mounted thereon are almost entirely intended only for the purpose of concealment and stealth of the WCF, the graphics affixed to such a facility shall not be otherwise subject to the requirements of this Article governing signs. Such graphics shall serve only to identify the principal use of the property and shall not be used as an off-premise sign as regulated by Chapter 204 of the City Code.
- (f). **Timing of Approval.** Per the FCC's 2009 and 2014 rulings, review shall be expedited to ensure:
 - (1). The applicant is notified within 30 days of submittal of any required additional information; and
 - (2). The City makes its final decision on whether to approve the application within 90 days of a complete application being submitted by the applicant for collocation or 150 days of a complete application being submitted by the applicant for a new structure.

4. **Attached WCF in All Districts With The Exception of Historic Districts.**

- (a). **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.
- (b). **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.
- (c). **Setback.** The setback requirement is the same as for the underlying zoning district.
- (d). **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). **Timing of Approval.** Per the FCC's 2009 and 2014 rulings, review shall be expedited to ensure:

- (1). The applicant is notified within 30 days of submittal of any required additional information; and
- (2). The City makes its final decision on whether to approve the application within 90 days of a complete application being submitted by the applicant.

5. **Attached WCF in Historic Districts.**

- (a). **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.

- (b). **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.
- (c). **Setback.** The setback requirement is the same as for the underlying zoning district.
- (d). **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.
- (e). **Timing of Approval.** Per the FCC’s 2009 and 2014 rulings, review shall be expedited to ensure:
 - (1). The applicant is notified within 30 days of submittal of any required additional information; and
 - (2). The City makes its final decision on whether to approve the application within 90 days of a complete application being submitted by the applicant.

6. **WCF in Any Zoning District.**

- (a). **Application Procedures.** This is a two-step application. First, the application must be approved by the Planning Commission in the site plan review process.

Following approval, a building permit is 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.

(b). **Submittal Requirements.**

- (1). 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 documentation from WCF tower owners refusing co-location stating reason for refusal;
- (2). A feasibility study is required if proposed for a non-priority zoning district to demonstrate that locations in the AT, 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).

(c). **Height.** Maximum height shall be as shown in the following chart:

Zoning District	Maximum Height (feet)
RMOD, RMED, RH (residential principal uses), RO, and N-MU	50
RH (non-residential principal uses) and CC-MU	100
INST, POM, CG and CR	140
AT, I-MU, IR and IG	199

Any wireless communication facility not meeting the above maximum height for the zoning district must receive special exception approval of the Board of Zoning Appeals.

- (d). **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.
- (e). **Screening.** Landscaping and privacy screening shall be employed to screen outdoor equipment facilities from view.
- (f). **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). **Timing of Approval.** Per the FCC's 2009 and 2014 rulings, review shall be expedited to ensure:
 - (1). The applicant is notified within 30 days of submittal of any required additional information; and
 - (2). The City makes its final decision on whether to approve the application within 150 days of a complete application being submitted by the applicant.

7. **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).

8. **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.

9. **Modification to an existing WCF installation.**

- (a). **Application Procedures.** If an existing tower is to be replaced or new 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.
- (b). **Height and Setback.** The same height and setback restrictions apply as granted with the original approval for the WCF installation. If additional height is

required then permitted for the type of WCF installation specified above, a special exception approval is required by the Board of Zoning Appeals.

- (c). **Screening.** Landscaping and privacy screening shall be employed to screen outdoor equipment facilities from view.
- (d). **Timing of Approval.** If proposed changes do not substantially change the dimensions of the existing wireless support structure or the proposal otherwise falls under the pertinent provisions of the FCC's 2012 and 2014 Rulings, review shall be expedited to ensure:
 - (1). The applicant is notified within 30 days of submittal of any required additional information; and
 - (2). The City makes its final decision on whether to approve the application within 60 days of a complete application being submitted by the Applicant.

4. Exemption.

City residents and businesses utilizing micro wireless antenna and satellite dishes for the purpose of maintaining television, telephone, radio and/or internet connections at their respective residences or businesses, as well as amateur radio, are exempt from the provisions of this Article. A building permit must be obtained for all WCF's and attached WCF's.

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 Subsection U.2.

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.**

- (1). **Zoning Certificate.** When zoning approval for a use or activity is issued for a use that does not involve development (reoccupying existing buildings and spaces), a zoning certificate shall expire when the use or activity is no longer conducted by the party to which it was issued. It is not transferrable. A new zoning certificate shall be required when the activity or uses is transferred to a new owner, tenant or operator.
- (2). **Zoning Approval Through Site Plan Approval.** 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 Subsection (1) above and this Subsection 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.

6. Demolition of Potential Landmarks.

- 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.
 - (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.

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 Administrative Appeals, Special Exceptions, Confirmation, Enlargement and Change of Nonconforming Uses and for 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 and provide notice in accordance with the Land Use Article of the Annotated Code of Maryland.
 - 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. However, in the case of an administrative appeal, if the appellant does not have control over a property subject to appeal and cannot secure permission from the property owner to post the property, the appellant shall provide written notice to the Board and the hearing may proceed without the property displaying the sign.
 - d. The owner of the property subject to appeal 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.
 - e. At the hearing, having been advertised and notice provided to parties in accordance with the requirements of the Land Use Article of the Annotated Code of Maryland, any party may appear in person or by agent or by attorney. The Board of Zoning Appeals shall provide a written decision within 45 days of the hearing. Failure of the Board to comply with this time limitation shall be construed as approval of a requested administrative appeal, variance, special exception, or confirmation, enlargement or change of a nonconforming use, and shall vacate a notice of violation appealed to the Board.
 - f. Upon request of the applicant or a party with standing, 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.
 - g. Upon request of the applicant or a party with standing 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.

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.

3. Stay of Proceedings on Appeal.

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.

4. 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, nonconforming use and variance standards prescribed in Subsection 7 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, nonconforming use 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 comments, recommendations or 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 application for the proposed use in accordance with the evidence in the record before it.

5. 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.

6. Appeals, Special Exceptions, Nonconforming Use Actions and Variances.

- a. **Administrative Appeals.** 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.7.a and when applicable, the specific criteria for particular special exception uses in specific districts found in Subsection U.7.a.7 are met.
- c. **Nonconforming Use – Confirmation, Enlargement and Change.** The Board of Zoning Appeals is empowered to hear and decide applications requesting confirmation of a nonconforming use, enlargement of a nonconforming use in accordance with the limitations in Section M, and the change of a nonconforming use to another use that is not a permitted or special exception use in that zoning district. Authority to approve the change of a nonconforming use is subject to certain limitations and exceptions found in Section M.7. In order to approve the change of a nonconformity to another use not permitted within that zoning district, the Board shall make the finding set forth in Section M.7.
- d. **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 and sign area 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.7.b are met.

7. **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.

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- (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. See Article 5, Section I.4.h(10) for parking buffer requirements.
 - (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
 - [b] The commercial development will never exceed the 10% ratio for the ultimate build-out of the residential development.

- (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 for 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

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- (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.
- c. **Confirmation of a Nonconforming Use.**
- No confirmation of a nonconforming use shall be approved by the Board of Zoning Appeals until and unless the Board, in its written order, finds that a sufficient preponderance of evidence has been provided by the applicant of the existence and extent of the nonconforming use. The written order of the Board in such matters shall include a summary of its understanding of the size, location, nature, extent and intensity of the nonconforming use.
- d. **Enlargement of a Nonconforming Use.**
- No enlargement of a nonconforming use shall be approved by the Board of Zoning Appeals until and unless the nonconformity has previously been confirmed to exist by the Zoning Administrator or the Board. After the legal existence of the nonconformity is confirmed, the Board may permit the enlargement of the use, in accordance with the provisions of Section M.5. The written order of the Board in such matters shall include a summary of the approved enlargement regarding size, location, nature, extent and intensity of the enlarged nonconforming use.
- e. **Change of a Nonconforming Use.**
- No change of a nonconforming use to another use not permitted by right or special exception in the district in which a property is located shall be approved by the Board of Zoning Appeals until and unless the nonconformity has previously been confirmed to exist by the Zoning Administrator or the Board. After the legal existence of the nonconformity is confirmed, the Board may permit changing the use to another use, in accordance with the provisions of Section

M.7. The written order of the Board in such matters shall include a summary of the new approved use regarding the activity, size, location, nature extent and intensity of the new use.

f. **Universal Requirements for All Applications.**

- (1). **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.
- (2). **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.
- (3). **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.
- (4). **Setback Variances in Cluster Subdivisions Prohibited.** The Board of Zoning Appeals shall not grant a variance to the required building setbacks for residential uses and accessory buildings on residential properties where the lot for which the variance is sought was created at less than the minimum lot area requirement for the zoning district in which it is located through the cluster subdivision process. Creating lots that do not comply with minimum lot area requirements for the district is a self-created hardship which is a prohibition against granting relief through the variance process.

8. Decisions of the Board of Zoning Appeals.

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.

9. 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.

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V. Reserved.

W. Reserved.

X. Reserved.

Y. Reserved.

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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

Category	Residential Districts Chart	All Other Districts Chart
	Page	Page
Residential Uses	4-153	4-156
Public and Institutional Uses	4-154	4-158
Office and Professional Uses	4-154	4-160
Entertainment and Hospitality Uses	4-155	4-162
Broadcast and Production	-----	4-164
Service and Sales Industries	4-155	4-164
Automobile- and Transportation-Related Uses	-----	4-168
Industrial, Manufacturing and Heavy Land Uses	4-155	4-169
Temporary Uses	4-155	4-173

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1. USE CHART - AGRICULTURAL TRANSITION AND RESIDENTIAL ZONING DISTRICTS.

The key to the symbols used below is found on page 4-149. Refer to page 4-6 for explanation of district name abbreviations.					
Use	Zoning District				
	AT	RMOD	RMED	RH	RO
Residential Uses					
One single-family dwelling per unit of land existing as of January 1, 2012.	P				
One dwelling, single-family, detached, per lot, subject to minimum lot requirements.		P	P	P	P
One dwelling, two-family, per lot, subject to minimum lot requirements.		P	P	P	P
One dwelling, single-family semi-detached, per lot, subject to minimum lot requirements.		P	P	P	P
One dwelling, townhouse, per lot, subject to minimum lot requirements.			P	P	P
Dwelling, quadraplex, in cluster developments only, subject to minimum lot requirements.				P	P
Dwelling, triplex, in cluster developments only, subject to minimum lot requirements.				P	P
Dwelling, new construction mansion house apartment, subject to minimum lot area requirements.				SE	P
Dwelling, stacked apartment, subject to minimum lot area requirements.				P	
Dwelling, courtyard apartment, subject to minimum lot requirements.				P	
Dwelling, mansion house apartment, in an existing building, subject to performance requirements cited in Subsection D.5.g.			P*		P*
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.		P	P		
Dwelling, Mansion House Over-Under Flats, subject to the requirements of Section D.5.g(2)			P		P
Rooming house in existing buildings, subject to conditions in Section K.19.				P	P
Alternative living units, small group homes and small halfway houses. When a building contains 3 or more units, small group homes and small halfway houses occupied by 4 to 9 residents shall be limited to 1 unit within the building.		P	P	P	P
Large group homes and large halfway houses, one per structure.				P*	
Large group homes and large halfway houses, only in pre-1956 apartment buildings, one per structure.		P			
Large group homes and large halfway houses, only in mansion house apartment buildings, one per structure.			P		P
Continuing care retirement community (623311) on a minimum tract size of 20 acres.				P	

The key to the symbols used below is found on page 4-149. Refer to page 4-6 for explanation of district name abbreviations.					
Use	Zoning District				
	AT	RMOD	RMED	RH	RO
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.		P	P	P	P
Mobile Home Parks, subject to the design requirements found in Subsection D.5.h.				P	
One garage per lot that does not front a public street, subject to provisions of Subsection D.5.i.		P	P	P	P
Public and Institutional Uses					
Ambulance services (621910), fire protection (922160) and police protection (922120).		SE	SE	SE	SE
Adult day-care services (624120).		SE	SE	SE	SE
Cemetery, columbarium and mausoleum for humans (not pet cemeteries) and crematoriums.		SE	SE	SE	SE
Child day-care services (624410).		SE	SE	SE	SE
Commercial and private membership outdoor swimming pools, provided the pool meets distance requirements cited in Subsection D.5.j.		P*	P*	P*	
Community centers, including but not limited to cultural, civic and educational centers.		SE	SE	SE	SE
Country clubs, golf courses and summer camps.	P				
Fitness and recreational sports centers.		SE	SE	SE	SE
Municipal parking lots and decks.		P	P	P	P
Museums (712), except zoological parks.		SE	SE	SE	SE
Primary and secondary schools, public and private, provided all setback, parking and other regulations are met without variance.		P	P	P	P
Primary and secondary schools, public and private, for which setback, parking or other regulations cannot be met without variance.		SE	SE	SE	SE
Private parks, playgrounds and community gardens.		SE	SE	SE	SE
Public administration (92), except correctional institutions publicly-managed (922140) and privately-managed (561210).					P
Public parks.		P	P	P	P
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.		P	P	P	P
Religious sanctuaries (8131) other than those described in the previous line, or not meeting all site design requirements.		SE	SE	SE	SE
Office and Professional Uses					
Administrative support services (561).					P*
Ambulatory health care services, with exception of outpatient substance abuse centers (621420).					P*
Colleges, universities, trade and commercial schools, except primary and secondary schools (611).		SE	SE	SE	SE

The key to the symbols used below is found on page 4-149. Refer to page 4-6 for explanation of district name abbreviations.					
Use	Zoning District				
	AT	RMOD	RMED	RH	RO
Finance and insurance (52), monetary authorities – central bank, credit intermediation and related activities (521-522), except pawn shops (522298).					P*
Funeral homes (81221) including accessory crematories.		SE	SE	SE	P*
Hospitals, including psychiatric and specialty hospitals (622).				SE	
Nursing homes, assisted living facilities and rehabilitation centers				P	
Offices, business and professional (55 and 56), except waste management and remediation services (562).					P
Professional, scientific & technical services (54), except veterinary services.					P*
Entertainment and Hospitality Uses					
Agri-tourism.	P				
Bed & breakfast inns (721191).		SE	SE		SE
Camping and Campgrounds (7212)	SE				
Service and Sales Industries and Industrial, Manufacturing, and Heavy Land Uses					
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.	P				
Hair, nail and skin care stores (81211) and dog grooming establishments.					SE
Kennels (812910).	P				
Mixed use building of commercial and residential units.				SE	P
Nurseries and greenhouses - the raising of plants for sale with attached commercial outlet (444220).	P				
Uses permitted by right in the CL District in a location to serve the needs of surrounding residential uses.				SE	
Uses permitted by right in the CL District, in commercial spaces in buildings constructed or later modified to be mixed-use buildings.					SE
Wineries and vineyards (312130).	P				
Blacksmithing and farriers services.	P				
Temporary Uses					
Temporary Contractor Staging Facility, subject to provisions in Subsection K.13.	P	P	P	P	P
Temporary Uses, subject to provisions in Section R.	P	P	P	P	P

2. 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 1.

The key to the symbols used below is found on page 4-149. Refer to page 4-6 for explanation of district name abbreviations.														
Use	Zoning District										Overlay Zoning			
	N-MU	CC-MU	CL	CG	CR	POM	INST	I-MU	IR	IG	C	LC	PUD-V	PUD-R
Residential Uses														
One single-family dwelling per unit of land existing as of January 1, 2012.														
One dwelling, single-family, detached, per lot, subject to minimum lot requirements.	P@	P@	P										P	P
One dwelling, two-family, per lot, subject to minimum lot requirements.	P@	P@	P										P	P
One dwelling, single-family semi-detached, per lot, subject to minimum lot requirements.	P@	P@	P								P	P	P	P
One dwelling, townhouse, per lot, subject to minimum lot requirements.	P@	P@									P		P	P
Dwelling, quadraplex, in cluster developments only, subject to minimum lot requirements.														
Dwelling, triplex, in cluster developments only, subject to minimum lot requirements.														
Dwelling, new construction mansion house apartment, subject to minimum lot area requirements.	P@	P@	P										P	P
Dwelling, stacked apartment, subject to minimum lot area requirements.	P@	P@									P	P		P
Dwelling, courtyard apartment, subject to minimum lot requirements.	P@													P
Dwelling, mansion house apartment, in an existing building, subject to performance requirements cited in Subsection D.5.g.		P*												
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.														

The key to the symbols used below is found on page 4-149. Refer to page 4-6 for explanation of district name abbreviations.														
Use	Zoning District										Overlay Zoning			
	N-MU	CC-MU	CL	CG	CR	POM	INST	I-MU	IR	IG	C	LC	PUD-V	PUD-R
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.			P											
Dwelling, Mansion House Over-Under Flats, subject to the requirements of Section D.5.g(2)		P												
Dormitories for secondary and post-secondary educational institutions.		P												
Rooming house in existing buildings, subject to conditions in Section K.19.				P										
Rooming house in existing buildings outside the Smart Growth A&E District, subject to conditions in Section K.19.		P												
Rooming house in existing buildings, over 16 rooming units, subject to conditions in Section K.19.				SE										
Alternative living units, small group homes and small halfway houses. When a building contains 3 or more units, small group homes and small halfway houses occupied by 4 to 9 residents shall be limited to 1 unit within the building.	P*	P*	P*								P	P	P	P
Large group homes and large halfway houses, one per structure.	P*	P*	P*								P	P		
Large group homes and large halfway houses – in a PUD if the PUD development contains multi-family dwelling units, one per structure.													P	P
Large group homes and large halfway houses, only in pre-1956 apartment buildings, one per structure.														
Large group homes and large halfway houses, only in mansion house apartment buildings, one per structure.														
Artist Live-Work Space in large former commercial, industrial or institutional buildings.	P	P						P	P		P			

The key to the symbols used below is found on page 4-149. Refer to page 4-6 for explanation of district name abbreviations.														
Use	Zoning District										Overlay Zoning			
	N-MU	CC-MU	CL	CG	CR	POM	INST	I-MU	IR	IG	C	LC	PUD-V	PUD-R
Artist Live-Work Space in buildings approved for a Local Conversion District Overlay, without regulation on the size and composition of the resident household.												P		
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.												P		
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).												P		
Continuing care retirement community (6323111) on a minimum tract size of 20 acres.					P		P							P
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.	P	P	P								P	P	P	P
Mobile Home Parks, subject to the design requirements found in Subsection D.5.h.														
One garage per lot that does not front a public street, subject to provisions of Subsection D.5.i.	P	P												
Public and Institutional Uses														
Ambulance services (621910), fire protection (922160) and police protection (922120).	SE	SE	SE	P	P	P	P	P	P	P				
Adult day-care services (624120).	P	P	SE	P	P	P	P	P			P		P	P
Cemetery, columbarium and mausoleum for humans (not pet cemeteries) and crematoriums.		SE					P		P	P				
Child day-care services (624410).	P	P	SE	P	P	P	P	P			P		P	P

The key to the symbols used below is found on page 4-149. Refer to page 4-6 for explanation of district name abbreviations.														
Use	Zoning District										Overlay Zoning			
	N-MU	CC-MU	CL	CG	CR	POM	INST	I-MU	IR	IG	C	LC	PUD-V	PUD-R
Civic and social organizations (8134).	SE	P	SE	P	P				P		P	P	P	P
Commercial parking lots and decks.	P	P		P										P
Commercial and private membership outdoor swimming pools, provided the pool meets distance requirements cited in Subsection D.5.j.				P			P						P	P
Community centers, including but not limited to cultural, civic and educational centers.	P	P	SE	P	P		P		P		P	P	P	P
Country clubs, golf courses and summer camps.							P						P	P
Fitness and recreational sports centers without outdoor fields and courts. <i>(Amended June 26, 2025)</i>	P	P	SE	P	P	P <i>(Am'd. June 26 2025)</i>	P	P**	P	P	P	P <i>(Am'd 6/26/ 2025)</i>	P	P
Fitness and recreational sports centers with outdoor fields and courts. <i>(Amended – Added - June 26, 2025)</i>				P	P	SE	P	SE	P	P	P		P	P
Homeless Shelter				SE			SE		SE	SE				
Libraries.	P	P		P	P		P							P
Municipal parking lots and decks.	P	P		P			P							P
Museums (712), except zoological parks.	P	P		P	P		P		P	P	P	P		
Primary and secondary schools, public and private, provided all setback, parking and other regulations are met without variance.	P	P	P	P	P	P	P	P			P	P	P	
Primary and secondary schools, public and private, for which setback, parking or other regulations cannot be met without variance.	SE	P		SE		SE	SE	P						

The key to the symbols used below is found on page 4-149. Refer to page 4-6 for explanation of district name abbreviations.														
Use	Zoning District										Overlay Zoning			
	N-MU	CC-MU	CL	CG	CR	POM	INST	I-MU	IR	IG	C	LC	PUD-V	PUD-R
Private parks, playgrounds and community gardens.	P	P					P						P	P
Public administration (92), except correctional institutions publicly-managed (922140) and privately-managed (561210).	P	P	SE	P	P	P	P	P	P	P	P			P
Public parks.	P	P	P	P	P	P	P	P	P	P	P	P	P	P
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.	P	P	SE	P			P						P	P
Religious sanctuaries (8131) other than those described in the previous line, or not meeting all site design requirements.	P	P	SE	P			P				P			
Office and Professional Uses														
Administrative support services (561).	P	P	SE	P	P	P		P	P	P	P	P		P
Ambulatory health care services, with exception of outpatient substance abuse centers (621420).	P	P	SE	P	P	P	P	P	P	P	P	P	P	P
Artist Studios	P	P	P	P	P			P	P	P	P	P	P	P
Banks, savings institutions & credit unions (521-522), except pawn shops (522298).	P	P	P	P	P	P		P			P	P	P	P
Business Service Centers (56143) and Quick Printing Services (323114).	P	P	P	P	P	P		p**			P	P	P	P
Colleges, universities, trade and commercial schools, except primary and secondary schools (611).	P	P	SE	P	P	P	P	P	P	P	P			P
Finance and insurance (52), monetary authorities – central bank, credit intermediation and related activities (521-522), except pawn shops (522298).	P	P	SE	P	P	P		P	P	P	P		P	P

The key to the symbols used below is found on page 4-149. Refer to page 4-6 for explanation of district name abbreviations.														
Use	Zoning District										Overlay Zoning			
	N-MU	CC-MU	CL	CG	CR	POM	INST	I-MU	IR	IG	C	LC	PUD-V	PUD-R
Funeral homes (81221) including accessory crematories.		P	SE	P	P									
Hospitals, including psychiatric and specialty hospitals (622).				P	P	P	P	P						
Large animal veterinary clinic (541940).										P				
Medical and diagnostic laboratories (6215).		P		P	P	P		P						P
Nursing homes, assisted living facilities, rehabilitation centers and crisis care facilities.				P	P	P	P		P	P	P			P
Offices, business and professional (55 and 56), except waste management and remediation services (562).	P	P	SE	P	P	P		P	P	P	P	P	P	P
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.		P		P		P		P	P	P				
Outdoor Automated Teller Machines (ATM), not accessory to a banking institution, located on properties in active commercial use and not in the public street right of way, provided that the ATM(s) comply with the building setbacks unless abutting a building. This use shall be prohibited on properties that are exclusively residential or institutional in use.	P	P	P	P	P			P					P	P
Outpatient substance abuse centers, including disbursement of addiction treatment drugs.				P	P	P	P	P						P
Photography Studios.	P	P	P	P	P	P		P	P	P	P	P	P	P
Professional, scientific & technical services (54), except veterinary services.	P	P	SE	P	P	P		P	P	P	P	P	P	P
Veterinary services (54194), completely enclosed.	SE	SE	SE	P	P	P		P			P		P	P

The key to the symbols used below is found on page 4-149. Refer to page 4-6 for explanation of district name abbreviations.														
Use	Zoning District										Overlay Zoning			
	N-MU	CC-MU	CL	CG	CR	POM	INST	I-MU	IR	IG	C	LC	PUD-V	PUD-R
Veterinary services (54194), with outdoor runs, not kennels (as defined in Article 3 and permitted in other districts).				SE	SE				P	P				
Entertainment and Hospitality Uses														
Adult entertainment business uses, subject to the provisions of Subsection F.2.b.(4).				P										
Agri-tourism.														
Amusement and recreation establishments (713120, 71395 and 713990).	P	P		P	P						P		P	P
Banquet and reception facilities (722320) subject to the parking requirements in Section O in all districts where permitted except the CC-MU District.		P		P	P						P			
Bed & breakfast inns (721191).	P	P	P	P							P	P	P	P
Camping and Campgrounds (7212)														
Catering kitchens, for preparation of food for off-site delivery and associated office and storage use (722320).	P	P	P	P	P						P	P		P
Convention and Conference Centers.		P												
Convention and conference centers and banquet and reception facilities when part of a bona-fide hotel use on the same property.					P			P						P
Drinking places (722410) and brewpubs, distillery pubs and wine pubs within the Smart Growth A&E District.		P												
Drinking places (722410) and brewpubs, distillery pubs and wine pubs outside the Smart Growth A&E District.	SE	SE	SE	P	P						P		P	P

The key to the symbols used below is found on page 4-149. Refer to page 4-6 for explanation of district name abbreviations.														
Use	Zoning District										Overlay Zoning			
	N-MU	CC-MU	CL	CG	CR	POM	INST	I-MU	IR	IG	C	LC	PUD-V	PUD-R
Entertainment club, subject to the parking requirements in Section O in all districts where permitted except the CC-MU District.	SE	SE		SE	P									P
Hotels and motels (72111).		P		P	P	P		P			P			P
Multi-purpose arenas for sporting events, entertainment and other assembly events.		P		P	P		P							P
Night clubs, subject to the parking requirements in Section O in all districts where permitted except the CC-MU District.	SE	P		P	P				P	P				P
Performing arts companies (7111).		P		P										P
Restaurants (7221 and 7222), no limit on size. <i>(Amended June 26, 2025)</i>	P	P		P	P	<i>(Am'd. June 26 2025)</i>		P**			P		P	P
Restaurants (7221 and 7222) not to exceed 3,000 square feet per establishment. <i>(Amended June 26, 2025)</i>			P			<i>P (Added June 26 2025)</i>					P	P		
Satellite Simulcast (off track) Betting Facilities.		P		P										P
Sports Wagering Facility, as defined, permitted, regulated and licensed by the State of Maryland. This use may be independent of any other business or located within a restaurant, drinking place, brew pub, distillery pub, wine pub, or multi-purpose arena for sporting events and entertainment that is permitted in the district, subject to the parking requirements in Section O in all districts where permitted except the CC-MU District.		P			P									
Theater, movie (512131), subject to the parking requirements in Section O in all districts where permitted except the CC-MU District.		P		P	P									P

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Use	Zoning District										Overlay Zoning			
	N-MU	CC-MU	CL	CG	CR	POM	INST	I-MU	IR	IG	C	LC	PUD-V	PUD-R
Theater, performing arts (711310) subject to the parking requirements in Section O in all districts where permitted except the CC-MU District.		P												
Tobacco stores, vapor and hookah lounges, CBD and hemp stores, alcoholic beverage stores and cannabis dispensaries and sales facilities located at least 500 feet from any existing use in this category. These uses shall also be located at least 500 feet from any pre-existing primary or secondary school, licensed or registered child day-care provider, playground, fitness and recreational sports center, library, public park or religious sanctuary. <i>(Amended June 26, 2025)</i>				P	P								P	P
Visitor Welcome Center.		P		P	P		P							
Visual and performing arts studios.		P		P	P				P		P	P	P	P
Broadcast and Production														
Broadcasting (515).		P					P	P	P	P	P			P
Broadcasting (515) except transmission points.				P	P	P								
Motion picture and sound recording industries (512).		P		P	P	P		P	P	P	P			P
Telecommunications (517).		P				P	P	P	P	P				P
Service and Sales Industries														
Check cashing services (522390).				P	P									P
Convenience store without fuel pumps (445120).	P	P											P	P

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Use	Zoning District										Overlay Zoning			
	N-MU	CC-MU	CL	CG	CR	POM	INST	I-MU	IR	IG	C	LC	PUD-V	PUD-R
Dry cleaning and laundry services (8123). <i>(Amended June 26, 2025)</i>	P	P	P	P	P	P <i>(Am'd. June 26 2025)</i>			P**	P	P	P	P	P
Electric vehicle charging station as a principal use of property.			SE	P	P				P	P	P	P		
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.														
Farm equipment and supply stores (444220).				P	P									
Flea Markets, subject to performance criteria found in Subsection F.2.b(10) or Subsection H.2.c, as applicable.				P					P	P				
Gasoline and diesel fuel, sale to the public.				P	P								P	P
Hair, nail and skin care stores (81211) and dog grooming establishments.									P					
Hair, nail and skin care stores, ear piercing services, hair replacement services, permanent makeup salons (81211) and dog grooming establishments. <i>(Amended June 26, 2025)</i>	P	P	P	P	P	P <i>(Am'd. June 26 2025)</i>			P**			P	P	P
Kennels (812910).														
Kennels, day boarding and over- night boarding, subject to conditions enumerated in Subsection F.2.b(7) (812910).				P	P									
Kennels, day boarding and over- night boarding, subject to conditions in I-MU enumerated in Subsection H.2.b (812910).									P	P	P			

The key to the symbols used below is found on page 4-149. Refer to page 4-6 for explanation of district name abbreviations.														
Use	Zoning District										Overlay Zoning			
	N-MU	CC-MU	CL	CG	CR	POM	INST	I-MU	IR	IG	C	LC	PUD-V	PUD-R
Internet publishing and broadcasting (516).	P	P		P	P	P		P	P	P	P		P	P
Internet service providers web search portals and data processing services (518).	P	P		P	P	P	P	P	P	P	P		P	P
Mixed use building of commercial and residential units.	P@	P@									P	P	P	P
Mixed-use building of Commercial and Residential Units, subject to criteria in Subsection F.5.b.			P											
Mixed use building(s) of commercial and residential units subject to criteria in Section F.2.b(9), and performance standards as found in Article 5, Section I.11. Existing buildings converted or added to for the purpose of introducing mixed-use shall provide parking for the entire building in accordance with Section O and all new buildings and retrofitted existing buildings shall create a minimum of at least six new dwelling units				P	P									
Newspaper publishers (511110).		P		P	P	P		P			P			
Nurseries and greenhouses - the raising of plants for sale with attached commercial outlet (444220).				P				SE	SE	P				
Outdoor vending machines entirely on private property in active commercial use and not in a public street right-of-way, provided that the vending machines(s) comply with building setbacks unless abutting a building. This use shall be prohibited on properties that are exclusively residential or institutional in use.	P	P	P	P	P			P						
Pawn shops (522298), provided a 500 foot separation is maintained from any other pawn shop (also see next page).				P										P
Personal and household goods repair and maintenance (8114).	P	P	P	P	P			P	P	P	P	P	P	P

The key to the symbols used below is found on page 4-149. Refer to page 4-6 for explanation of district name abbreviations.														
Use	Zoning District										Overlay Zoning			
	N-MU	CC-MU	CL	CG	CR	POM	INST	I-MU	IR	IG	C	LC	PUD-V	PUD-R
Photo finishing (81292).	P	P		P	P	P		P					P	P
Produce stands (812910).	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Retail and wholesale sale of home improvement materials and supplies, with a minimum floor area of 25,000 square feet and a maximum of 75,000 square feet (444110).									P	P				
Retail and wholesale trade (44-45) excluding auto and other motor vehicle dealers unless all vehicle storage is indoors and excluding adult entertainment businesses – up to 5,000 square feet in net floor area per business. This provision shall also include retail bakeries (311811) and retail confectioneries (311320). Regulation of specific trade uses that are found elsewhere in this chart shall prevail. <i>(Ed. Note: See Page 4-165 regarding gasoline sales)</i>			P								P	P		
Same as above, up to 15,000 square feet in net floor area per business. <i>(Amended June 26, 2025)</i>	P					P <i>(Am'd. June 26 2025)</i>		P**						
Same as above, up to 75,000 square feet in net floor area per business.		P		P									P	
Same as above, no limit in floor area.					P									P
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.									SE	SE				

The key to the symbols used below is found on page 4-149. Refer to page 4-6 for explanation of district name abbreviations.														
Use	Zoning District										Overlay Zoning			
	N-MU	CC-MU	CL	CG	CR	POM	INST	I-MU	IR	IG	C	LC	PUD-V	PUD-R
Sale of fireworks only from single-user, freestanding buildings, not to exceed 5,000 square feet of floor area (453998).									P	P				
Tanning and depilatory salons (812199). <i>(Amended June 26, 2025)</i>	P	P	P	P	P	P <i>(Am'd. June 26 2025)</i>		P**			P	P	P	P
Tattoo parlors and massage parlors, steam baths and saunas (812199).		P		P									P	P
Uses permitted by right in the CL District in a location to serve the needs of surrounding residential uses.											P			
Wineries and vineyards (312130).														
Automobile and Transportation Related Uses														
Automotive Repair & Maintenance (8111) subject to performance standards found in Subsection F.2.b(8).			SE	P	P				P	P				P
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.								P						
Automobile and truck, boat and recreational vehicle sales and rental facilities, subject to performance standards found in Subsection F.2.b(8) (4411 & 4412), including motor vehicle rental or leasing when a principal use. Storage of for-sale inventory and rental fleets shall be calculated separate from requirements for customer and employee parking.			P	P	P									
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.		P		P					P	P				

The key to the symbols used below is found on page 4-149. Refer to page 4-6 for explanation of district name abbreviations.														
Use	Zoning District										Overlay Zoning			
	N-MU	CC-MU	CL	CG	CR	POM	INST	I-MU	IR	IG	C	LC	PUD-V	PUD-R
Motor Vehicle Towing, Impound and Storage Lots, including those storage lots accessory to mini-warehouse storage facilities for storing recreational vehicles, boats, etc., 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. from all property lines, regardless of adjacent zoning or land use, and street rights of way.									P	P				
Parking Lots & 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.	P	P		P	P	P	P	P	P	P				
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.							P		P	P				
Industrial, Manufacturing, and Heavy Land Uses														
Adult day care with vocational centers.		SE		P		SE	P	SE	P	P	P			P
Blacksmithing and farriers services.									P	P				
Breweries, wineries and distilleries.										P				
Breweries, wineries and distilleries, with interior space of 25,000 square feet of gross floor area or less.											P			P
Small Scale Brewery, Distillery, Winery; 15,000 square feet or less in building area, with or without outdoor tables.		P									P			

The key to the symbols used below is found on page 4-149. Refer to page 4-6 for explanation of district name abbreviations.														
Use	Zoning District										Overlay Zoning			
	N-MU	CC-MU	CL	CG	CR	POM	INST	I-MU	IR	IG	C	LC	PUD-V	PUD-R
Small Scale Brewery, Distillery, Winery; 25,000 gross square feet or less in building area, with or without outdoor tables.		SE									SE			
Small Scale Brewery, Distillery, Winery; 25,000 gross square feet or less in building area, in industrial buildings built before October 1, 1956, with or without outdoor tables.				SE		SE			SE	SE				
Butchering.				P				P	P	P				
Cannabis incubator, when interior space is 25,000 square feet or less in gross floor area (<i>Amended June 26, 2025</i>)								P <i>Added June 26, 2025</i>	P <i>Added June 26, 2025</i>	P <i>Added June 26, 2025</i>				
Cannabis incubator, when interior space is over 25,000 square feet in gross floor area (<i>Amended June 26, 2025</i>)								SE <i>Added June 26, 2025</i>	P <i>Added June 26, 2025</i>	P <i>Added June 26, 2025</i>				
Carpet and upholstery cleaning services (56174).				P	P			P	P	P				P
Construction and landscaping contractors with storage yards.									P	P				
Fossil fuel electric power generation (221112).									P	P				
Foundries (3315).										SE				
Indoor plant cultivation and processing facilities, when interior space is 25,000 square feet or less in gross floor area. (<i>Amended June 26, 2025</i>)						<i>Removed June 26, 2025</i>		P	P	P				P
Indoor plant cultivation and processing facilities, when interior space is over 25,000 square feet in gross floor area. (<i>Amended June 26, 2025</i>)						<i>Removed June 26, 2025</i>		SE	P	P				P <i>Added June 26, 2025</i>

The key to the symbols used below is found on page 4-149. Refer to page 4-6 for explanation of district name abbreviations.														
Use	Zoning District										Overlay Zoning			
	N-MU	CC-MU	CL	CG	CR	POM	INST	I-MU	IR	IG	C	LC	PUD-V	PUD-R
Indoor plant cultivation and retail facility, when interior space is 5,000 square feet or less in gross floor area. (Amended June 26, 2025)		<i>Removed June 26, 2025</i>												
Landfills and rubble fills (562212).										SE				
Livestock auction facilities.										SE				
Manufacturing, Light, when interior space is 25,000 square feet or less in gross floor area.		P			SE	SE		P	P	P	P			P
Manufacturing, Light, when interior space exceeds 25,000 square feet in gross floor area.		SE				SE		SE	P	P				
Manufacturing, General.								SE	P	P				
Manufacturing, Heavy.										P				
Motor vehicle supplies and new parts wholesalers (42112).									P	P				
Natural gas distribution (2212).										SE				
Other support activity for road transportation (48849).									P	P				
Petroleum and petroleum products wholesalers (4247).									SE	SE				
Rail transportation facilities with outdoor storage but without on- site processing.									P	P				
Recycling Operation, with all sorting and separating activity occurring indoors.									P	P				
Remediation Service (562910).									SE	SE				

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Use	Zoning District										Overlay Zoning			
	N-MU	CC-MU	CL	CG	CR	POM	INST	I-MU	IR	IG	C	LC	PUD-V	PUD-R
Research and development offices and laboratories, including physical, chemical and biological subjects.		SE			P	P		P	P	P				P
Self-Storage Mini-Warehouse Facilities (531130).									P	P				
Self-Storage Mini-Warehouse Facilities (531130), on properties subject to a remediation plan approved by the U.S. Environmental Protection Agency and/or Maryland Department of the Environment, subject to design standards for this use found in Article 5, Section I.9.b.						P								
Septic Tank and Related Service (562991).									SE	SE				
Social Service Industries (624).									P	P				
Solar Collection Systems, Ground Mounted, on properties subject to a remediation plan approved by the U.S. Environmental Protection Agency and/or Maryland Department of the Environment. (221119)						P			P	P				
Solid waste collection (562111).										SE				
Specialty Trade Contractors (238).					P			P	P	P				
Specialty Trade Contractors (238), with storage and preparation confined to interior of building.				P	P									P
Vocational Rehabilitation Services (624310).						P	P	P	P	P	P		P	P
Warehousing and storage (493).								P	P	P				
Warehousing & Storage (493) in buildings erected prior to October 1, 1956.		P												
Warehouse/Flex space, provided warehouse space does not exceed more than 50% of the total gross floor area					P	P		P						P

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Use	Zoning District										Overlay Zoning			
	N-MU	CC-MU	CL	CG	CR	POM	INST	I-MU	IR	IG	C	LC	PUD-V	PUD-R
of the building. <i>[Ed. Note: See performance standards for this use in Section F.2.b.(11) when in CR and POM Districts. If space includes light manufacturing in a POM District, a special exception is required.]</i>														
Wastewater treatment facilities (22132).									P	P				
Wholesale and retail sales of products manufactured or stored on the premises in conjunction with any other principal permitted use.								P	P	P				P
Temporary Uses														
Temporary Contractor Staging Facility, subject to provisions in Subsection K.13.	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Temporary Uses, subject to provisions in Section R.	P	P	P	P	P	P	P	P	P	P	P	P	P	P

End of Article.