

ARTICLE 3
Definitions

- A. Rules of Construction.** Unless a contrary intention clearly appears, the following words and phrases shall have, for the purposes of this Chapter, the meanings in the following clauses:
1. Words used in the present tense include the future.
 2. The singular includes the plural, the masculine includes the feminine or neuter gender.
 3. The word “person” includes a corporation, firm, institution, partnership, association or any legal entity.
 4. The word “shall” is mandatory and not directory.
 5. The word “Commission” and the words “Planning Commission” shall always mean the City of Hagerstown Planning Commission.
 6. The word “Office” and the words “Planning Office” shall always mean the Planning and Code Administration Department for the City of Hagerstown, Maryland.
 7. The words “Mayor and Council” and the words “Mayor and City Council” or “Council” shall always mean the legislative body of Hagerstown, Maryland.
 8. The word “county” shall always mean Washington County, Maryland.
 9. The word “city” shall always mean the City of Hagerstown, Maryland.
 10. Following each definition is a reference in parentheses to an article or section of an article of this Chapter. This reference is provided as a convenient reference to the place in this Chapter in which it is most frequently found and used. Regardless of the reference provided, however, all definitions as found herein apply to the entire Chapter unless specifically otherwise indicated or limited by reference to a particular article.
- B. When Terms Are Not Defined.** Any word or term not defined herein shall be used with a meaning of standard usage. When multiple definitions of a single term exist, the term shall be given the meaning for each Article hereof as indicated.

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C. **Definitions.** As used in this Chapter, the following terms shall have the meanings indicated:

ACCESSORY BUILDING, USE OR STRUCTURE –

1. As pertains to Article 4, a use or structure on the same lot or adjacent lot under the same ownership with and of a nature customarily incidental and subordinate to the principal use or structure. Typically, an accessory use occupies not more than 25% of the space occupied by the principal use and its permitted accessory uses. (*Zoning*)
2. As pertains to Article 6, a building or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure. For the purposes of these regulations, an accessory structure shall be used solely for parking of vehicles and limited storage. (*Floodplain*)

ADULT ENTERTAINMENT BUSINESS –

1. An adult book store, being an establishment having a substantial or significant portion of its stock in trade devoted to the sale or rental of books, magazines, periodicals, motion pictures, films, videos, DVDs, or other similar images by any medium which are distinguished or characterized by their emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas” (as defined in this Article), or products, devices or novelties designed or sold primarily for the purpose of stimulation of human genital or sexual gratification. (*Zoning*)
2. An adult motion picture theater or adult mini-motion picture theater, as defined in this Article. (*Zoning*)

ADULT MOTION PICTURE THEATER – An enclosed building with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas,” for observation by patrons herein. (*Zoning*)

ADULT MINI-MOTION PICTURE THEATER – An enclosed building with a capacity for less than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas,” for observation by patrons herein. (*Zoning*)

AFFORESTATION – (Forest Conservation)

1. Establishment of a forest on an area from which forest cover has been absent for a long period of time;
2. Planting of open areas which are not presently in forest cover; or
3. Establishment of a forest according to procedures set forth in the Forest Conservation Technical Manual.

AGREEMENT TO SUBMIT AN ELEVATION CERTIFICATE – A form on which the applicant for a permit to construct a building or structure, to construct certain horizontal additions, to place or replace a manufactured home, to substantially improve a building, structure, or manufactured home, agrees to have an Elevation Certificate prepared by a licensed professional engineer or licensed professional surveyor, as specified by the Floodplain Administrator, and to submit the certificate:

1. Upon placement of the lowest floor and prior to further vertical construction; and
2. Prior to the final inspection and issuance of the Certificate of Occupancy. (*Floodplain*)

AGRICULTURAL ACTIVITY – Farming activities including plowing, tillage, cropping, installation of best management practices, seeding, cultivating, and harvesting for production of food and fiber products (except commercial logging and timber harvesting operations), the grazing and raising of livestock, aquaculture, sod production, orchards, nursery, and other products cultivated as part of a recognized commercial enterprise. (*Forest Conservation*)

AGRICULTURAL AND RESOURCE AREAS – Undeveloped areas zoned for densities of less than or equal to one dwelling unit per acre. (*Forest Conservation*)

AGRI-TOURISM – Any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, wineries, ranching, historical, cultural, harvest-your-own activities, or natural activities and attractions. An activity is an agri-tourism activity whether or not the participant paid to participate in the activity. (*Zoning*)

ALLEY – A public or private way which is used primarily for vehicular service access to the rear or the side of properties otherwise abutting a street. (*Subdivision and Land Development*)

ALTERATION – Any act or process that changes one or more of the exterior architectural features of a structure, including, but not limited to, the erection, construction, reconstruction, relocation, or demolition of any structure. (*Zoning – Historic*)

ALTERATION OF A WATERCOURSE – Includes, but is not limited to widening, deepening or relocating a channel, including excavation or filling of the channel. Alteration of a watercourse does not include construction of a road, bridge, culvert, dam, or in-stream pond unless the channel is proposed to be realigned or relocated as part of such construction. (*Floodplain*)

APARTMENT BUILDING OR COMPLEX – See “dwelling, multi-family.” (*Zoning*)

APPLICANT – The party applying for permits or other approvals required by this Code. (*Subdivision and Land Development*)

APPROVED FOREST MANAGEMENT PLAN – A document: (*Forest Conservation*)

1. Approved by the Department of Natural Resources forester assigned to the City in which the property is located; and
2. Which operates as a protective agreement for forest conservation as described in the Natural Resources Article, §5-1607(e) and (f), Annotated Code of Maryland.

APPURTENANCES AND ENVIRONMENTAL SETTINGS – All that space of grounds and structures thereon which surrounds a site, structure, or district and to which it relates physically and/or visually. Appurtenances and environmental settings shall include, but not be limited to, walkways and driveways (whether paved or not), vegetation (including trees, gardens, lawns), rocks, pasture, cropland and waterways. This includes historical open spaces, i.e., setbacks, parks and public squares. (*Zoning – Historic*)

AREA, GROSS – The total horizontal space within a lot or parcel of land before public streets, environmental features, or dedications are deducted from the lot or parcel. (*Zoning*)

AREA OF SHALLOW FLOODING – A designated Zone AO on the Flood Insurance Rate Map with a 1% percent annual chance or greater of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident, such flooding is characterized by ponding or sheet flow. (*Floodplain*)

ARTICULATION – Giving of emphasis to architectural elements (such as roof lines, windows, balconies, entries, etc.) that create a complementary pattern of rhythm, dividing large buildings into smaller, identifiable spaces. See illustrative example below. (*Zoning*)



Figure 1. Note the articulation of the larger store to the left and the corresponding lack of articulation on the smaller store on the right.

ARTIST LIVE-WORK SPACE – The use of all or a portion of a building for both artistic use and residential use. This use is particularly viewed as a desirable means of fostering and promoting the redevelopment of former commercial and industrial buildings for non-traditional residential/workspace. (*Zoning*)

ARTISTIC USE – Artistic use shall be defined as:

1. The creation or assemblage of visual art or other fine art objects for the purpose of sale, display, commission, consignment, or trade by artists or artisans; and
2. Performance art by dancers, musicians, singers, actors, etc., that will be practiced or rehearsed in an “artist live-work space.” (*Zoning*)

ASSISTED-LIVING FACILITY FOR THE ELDERLY AND/OR DISABLED – A residential care alternative to a nursing home for the elderly and/or disabled that provides for independent living accommodations with around-the-clock supervision, communal dining and social activity facilities for the residents, and offering choices in personal care and health-related services that are customized to meet the personal needs of each resident. (See definitions of “Residential Facilities with In-House Professional Care” and “Transitional Residential Facilities” for care of persons with mental health issues or chemical dependency). (*Zoning*)

ATTACHED WIRELESS COMMUNICATION FACILITY (ATTACHED WCF) – An antenna array that is attached to an existing building or structure, with any accompanying device which attaches the antenna array to the existing building or structure, transmission cables, and an equipment facility which may be located either inside or outside the attachment structure. (*Zoning – Wireless*)

BAKERY, RETAIL – A business engaged in making and selling on-premise flour-based baked goods, such as bread, cookies, cakes, pastries, and pies. (*Zoning*)

BASE BUILDING – The building to which an addition is being added. This term is used in provisions relating to additions in Article 6. (*Floodplain*)

BASE FLOOD – The flood having a 1% chance of being equaled or exceeded in any given year. The base flood also is referred to as the 1% annual chance 100-year flood. (*Floodplain*)

BASE FLOOD ELEVATION – The water surface elevation of the base flood in relation to the datum specified on the community’s Flood Insurance Rate Map. In areas of shallow flooding, the base flood elevation is the highest adjacent natural grade elevation plus the depth number specified in feet on the Flood Insurance Rate Map, or at least four feet if the depth number is not specified. (*Floodplain*)

BASEMENT – Any area of the building having its floor subgrade (below ground level) on all sides. (*Floodplain*)

BED AND BREAKFAST – A facility that serves the traveling public with sleeping rooms and at least one meal per day for overnight guests only in a setting reflecting a residential rather than a commercial character. (*Zoning*)

BENCH MARK – A monument for which an accurate elevation has been established and shown on the plat or as defined by the United States Geological Survey, NAVD 88 or NGVD 29. (*Subdivision and Land Development*)

BLACKSMITH/FARRIER – One that forges and shapes iron with anvil, hammer, and similar tools, for the purpose of creating artisan products and/or shaping and applying horseshoes to horses. (*Zoning*)

BLOCK – Grouping of lots unseparated by streets, parks, main waterways, or other natural barriers, or subdivision boundary lines. (*Subdivision and Land Development*)

BOARDING- OR ROOMING-HOUSE – A dwelling or part thereof where meals and/or lodging are provided, for compensation, for persons not transients. (*Zoning*)

BOARD OF ZONING APPEALS – The duly appointed Board of Zoning Appeals for the City of Hagerstown, Maryland. (*Zoning*)

BREWERY – Establishments primarily engaged in brewing beer, ale, malt liquors, and nonalcoholic beer. (Zoning)

BREW PUB – A pub or restaurant that brews beer on the premises, as an accessory activity. (Zoning)

BUFFER YARD – A strip of land which is established to separate adjacent properties or zoning districts and which contains natural or planted vegetation, berms, walks, or fences. (Subdivision and Land Development – Landscaping)

BUILDING –

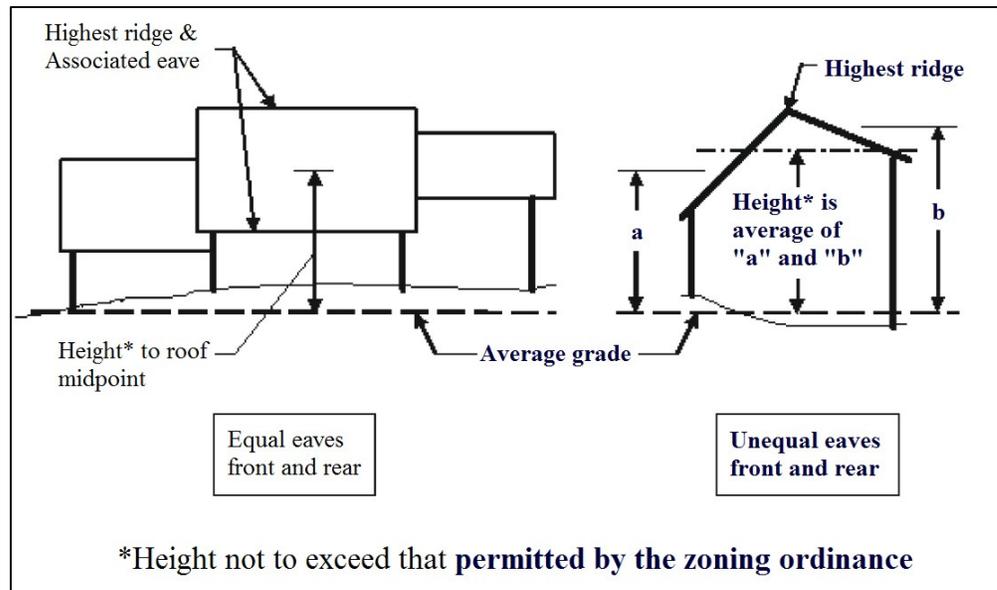
1. As pertains to Article 4, any structure which is permanently affixed to or located permanently or semi-permanently on the land, has one or more floors and a roof and is bounded by either open area or the lot lines of a zoning lot.

For the purposes of setback requirements, “building” shall include any feature such as a shed, garage, carport, breezeway, port cochere or similar feature that is attached to a building or located within three feet of a building, and carports regardless of whether it is attached to a building. Eaves and bay windows shall not be included as buildings or parts thereof for the purposes of setbacks. (Zoning)

2. As pertains to Article 5, a permanent structure having a roof which is used or intended to be used for the shelter or enclosure of persons, animals, or property. The word “building” shall include any part thereof. (Subdivision and Land Development)

BUILDING, HEIGHT OF – The vertical distance from the grade to the top of the highest roof beams, surface of a flat roof, or the mean level of the highest gable or slope of a hip roof. When a building faces on more than one street, the height shall be measured from the average of the grades at the center of each street front. For further explanation, refer to Article 4, Subsection K.2 and the following illustration. (Zoning)

Figure 2. This illustration depicts the definition of "building height"



BUILDING CODE(S) – The effective Building Construction Code of the City of Hagerstown (Chapter 64, Article I-VI, of Hagerstown’s City Code), including the building code, property maintenance code, electrical code, plumbing code, and mechanical code. This definition shall be applied only to Article 6. (*Floodplain*)

BUILDING LINE – The line established beyond which a building shall not extend as determined by front, side, and rear yard requirements. (*Subdivision and Land Development*)

BUTCHERING – Processing of animal meats and poultry products where meat processing is limited to making cuts of meat from pre-processed carcasses. (*Zoning*)

CALIPER – The diameter measured at two inches above the transition zone between stem and root at the ground line of a tree or seedling. (*Forest Conservation*)

CALIPER INCHES – Quantity in inches of the diameter of trees measured at six inches above the ground for trees four inches or less in trunk diameter and 12 inches above the ground for trees over four inches in trunk diameter. (*Subdivision and Land Development – Landscaping*)

CELL ON WHEELS (COW) – A mobile cell site that consists of a cellular antenna tower and electronic radio transceiver equipment on a truck or trailer, designed to be part of a cellular network for the purpose of providing additional coverage or capacity during special events, civil emergency, brief testing coverage at a particular location, or similar use for brief periods of time. (*Zoning*)

CEMETERY – A tract of land managed as a business or by a not-for-profit entity for the purpose of interring human remains and ashes in the ground, in mausoleums or columbaria. (See related definition of “Human Burial Site”). (*Zoning*)

CERTIFICATE OF APPROPRIATENESS – A certificate issued by the Historic District Commission indicating its approval of plans for alteration, construction, reconstruction, relocation, or demolition of a landmark or of a site or structure within a historic district. (*Zoning – Historic*)

CERTIFICATE OF HARDSHIP – A certificate issued by the Historic District Commission authorizing an alteration, construction, removal, or demolition, even though a Certificate of Appropriateness has previously been denied. (*Zoning – Historic*)

CITY CENTER – That area within the boundaries of the CC-MU (City Center-Mixed use) Zoning District. (*Zoning*)

CITY ENGINEER – The duly designated City Engineer of the City of Hagerstown, Maryland. (*Subdivision and Land Development*)

CITY FINANCE DIRECTOR – The duly designated Finance Director of the City of Hagerstown, Maryland. (*Subdivision and Land Development*)

CITY STANDARDS – Those improvements as defined herein which are necessary for development and which are approved and accepted by the City Engineer. See Public Ways Construction Standards and Engineering Guidelines. (*Subdivision and Land Development*)

CLUSTER DEVELOPMENT – A method of developing land where the housing is built in groups. Cluster development allows a reduction in the size of the lots. The remaining undeveloped land is required to remain as common open space. (*Subdivision and Land Development*)

CO-LOCATION – Use of a common wireless communication facility (WCF) or common site by two or more wireless license holders or by one wireless license holder for more than one type of communications technology and/or placement of a WCF on a structure owned or operated by a utility or other public entity. (*Zoning*)

COMMERCIAL AND INDUSTRIAL USES – Manufacturing operations, office complexes, shopping centers, retail and wholesale sales facilities, and other similar uses and their associated storage areas, yarding, and parking areas for either a profit or on a non-profit basis. (*Forest Conservation*)

COMMERCIAL FARMING – Crops and livestock grown for distribution to wholesalers and retail outlets or direct retail sale and not primarily intended for household consumption by the producer. Commercial farming also includes crops grown to be fed to the producer’s own livestock in a commercial farming operation. (*Zoning*)

COMMERCIAL LOGGING OR TIMBER HARVESTING OPERATIONS – The cutting and removing of tree stems from a site for commercial purposes, leaving the root mass intact. (*Forest Conservation*)

COMMERCIAL VEHICLE – Any self-propelled or towed vehicle used or designed to be used in commerce to transport passengers (other than the driver) or cargo. (*Zoning*)

COMMUNITY GARDEN – The sole principal permitted use of land managed by a public or non-profit organization or a group of individuals, and is used to grow plants and harvest food or ornamental crops for use by those cultivating the land and their households. The crops grown are not for sale or redistribution. Community gardens may be divided into separate plots for cultivation by one or more individuals or may be farmed collectively by members of the group and may include common areas maintained and used by group members. All uses shall comply with the accessory structure use setbacks for the district in which it is located. (*Zoning*)

COMMUNITY – As pertains to Article 6, a political subdivision of the state of Maryland (county, city or town) that has authority to adopt and enforce floodplain management regulations within its jurisdictional boundaries. (*Floodplain*)

COMPREHENSIVE PLAN – The policies, statements, goals and interrelated plans for private and public land use, transportation, and community facilities documented in texts and maps which constitute the guide for the City’s future development, including all amendments thereto and all related general plans, master plans, and community plans adopted by the Mayor and City Council in accordance with the Land Use Article of the *Annotated Code of Maryland*. (*Subdivision and Land Development*)

CONDOMINIUM – A system of separate ownership of individual units in multi-unit projects on land in common ownership as defined in the *Annotated Code of Maryland*. (*Zoning*)

CONFECTIONERY, RETAIL – A business engaged in making and selling on-premise candy, chocolates, and other confections that are made primarily of sugar. (*Zoning*)

CONTRIBUTING RESOURCE – An historic building or open space which contributes to the significance of the historic district, but does not appear to be eligible for individual listing on the National Register of Historic Places. In the historic resource ranking system, this is generally known as those resources ranked B and C. (*Zoning – Historic*)

CONVENIENCE STORE – An establishment which sells snack foods, packaged or prepared food and beverages, and other food and convenience items for consumption off premises, and, under the terms of this Chapter, may also sell gasoline in specified zoning districts. (*Zoning*)

CORRECTIONAL INSTITUTION – Government facilities, quasi-government facilities and facilities privately run on government contract for the purpose of confinement, correction and rehabilitation of adult and/or juvenile offenders sentenced by a court. (*Zoning*)

CRITICAL AND ESSENTIAL FACILITIES – Buildings and other structures that are intended to remain operational in the event of extreme environmental loading from flood, wind, snow or earthquakes. Critical and essential facilities typically include hospitals, fire stations, police stations, storage of critical records, facilities that handle or store hazardous materials, and similar facilities. (*Floodplain*)

CRITICAL HABITAT AREA – A critical habitat for an endangered species and its surrounding protection area. A critical habitat area shall: (*Forest Conservation*)

1. Be likely to contribute to the long-term survival of the species;
2. Be likely to be occupied by the species for the foreseeable future; and
3. Constitute habitat of the species which is considered critical under Natural Resources Article, §4-2A-04 and 10-2A-04, *Annotated Code of Maryland*.

CRITICAL HABITAT FOR ENDANGERED SPECIES – A habitat occupied by an endangered species as determined or listed under Natural Resources Article, §4-2A-04 and 10-2A-04, *Annotated Code of Maryland*. (*Forest Conservation*)

CUL-DE-SAC – A street with a single common ingress and egress and with a turnaround at the end. (*Subdivision and Land Development*)

DAY-CARE, ADULT – A facility providing care for the elderly and/or functionally impaired adults, not the relatives of the provider, in a protective setting for periods of less than 24 hours per day, in a place other than the care recipient's own dwelling unit. (*Zoning*)

DAY-CARE, CHILD – The care of five or more children, not the children or relatives of the provider, on a regular basis for periods of less than 24 hours per day, in a place other than the child's own dwelling unit. (*Zoning*)

DECLARATION OF INTENT – A signed and notarized statement by a landowner or the landowner's agent certifying that the activity on the landowner's property is exempted and complies with Article 7, Subsection A.3.c of this Chapter. (*Forest Conservation*)

DECLARATION OF LAND RESTRICTION (NONCONVERSION AGREEMENT) – A form signed by the owner to agree not to convert or modify in any manner that is inconsistent with the terms of the permit and these regulations, certain enclosures below the lowest floor of elevated buildings and certain accessory structures. The form requires the owner to record it on the property deed to inform future owners of the restrictions. (*Floodplain*)

DEDICATION – The dedication of land by the developer for any general and public uses, in accordance with the provisions herein. (*Subdivision and Land Development*)

DEMOLITION BY NEGLIGENCE – The failure to provide ordinary and necessary maintenance and repair to a landmark or site or structure within an historic district, whether by negligence or willful neglect, purpose or design, by the owner or any party in possession of such a site, which results in any of the following conditions:

1. The deterioration of the foundations, exterior walls, roofs, chimneys, doors, or windows, so as to create or permit a hazardous or unsafe condition to exist; or
2. The deterioration of the foundations, exterior walls, roofs, chimneys, doors, windows, the lack of adequate waterproofing, or the deterioration of interior features which will or could result in permanent damage, injury, or loss of or loss to foundations, exterior walls, roofs, chimneys, doors, or windows. (*Zoning – Historic*)

DENSITY, GROSS – The number of dwelling units within the gross area of a development divided by the total gross area. (*Zoning*)

DESTINATION RETAIL USE – Any development containing one or more retail units occupying more than 75,000 square feet of gross floor area, including outdoor seasonal display areas. (*Zoning*)

DEVELOPER – Any person commencing proceedings under these Regulations to effect a subdivision or development of land as defined herein. (*Subdivision and Land Development*)

DEVELOPER AGREEMENT – A written document between the Developer and the City which may limit, condition, or further define the process for a particular development. (*Subdivision and Land Development*)

DEVELOPMENT – Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, placement of manufactured homes, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. (*Floodplain*)

DEVELOPMENT PLAN – A set of plans indicating the proposed layout of the subdivision or site showing lots, roads, water, sewer, engineering data, utilities, and other requirements prepared in accordance with these Regulations, which is presented for construction approval, prior to preparation of the Final Plat. (*Subdivision and Land Development*)

DEVELOPMENT PROJECT – The grading or construction activities occurring on a specific tract that is 40,000 square feet or greater. “Development project” includes redevelopment. (*Forest Conservation*)

DEVELOPMENT PROJECT COMPLETION – For the purposes of afforestation, reforestation, or payment into a fund: (*Forest Conservation*)

1. The release of the performance bond, or surety, if required by Article 7 of this Chapter; or
2. Designation by the Planning and Code Administration Department that a:
 - a. Development project has been completed, or
 - b. Particular stage of a staged development project, including a planned unit development, has been completed.
3. The release of any bond or surety not required under Article 7 of this Chapter shall not be construed to mean the completion of afforestation, reforestation, or payment into a fund, as required by this Chapter.

DISTILLERY – Establishments primarily engaged in distilling potable liquors, distilling and blending liquors, and/or blending and mixing liquors and other ingredients. (*Zoning*)

DISTRICT, HISTORIC – A district designated by the Mayor and City Council for its historical, archaeological, or architectural significance to Hagerstown, the preservation of which is deemed to be for the educational, cultural, economic and general welfare of the citizens of Hagerstown. An historic district includes all property within its boundaries, whether publicly or privately owned. (*Zoning – Historic*)

DISTRICT, ZONING – A portion of territory designated on the Official Zoning Map within which certain uniform regulations and requirements of various combinations thereof apply under the provisions of this Chapter. (*Zoning*)

DORMITORY – A structure specifically designed and used for a long-term stay by students of a college, university, or other academic or trade school for the purpose of providing rooms for sleeping purposes. Eating facilities may be permitted either in-unit or in a common kitchen/dining room. A dormitory shall include common gathering rooms for social purposes, and shall not be used for year-round uninterrupted use. (*Zoning*)

DWELLING – A building containing one or more dwelling units. The term, “dwelling,” or any combination thereof shall not be deemed to include hotel, rooming house, motel, clubhouse, hospital, or other accommodations used for more or less transient occupancy. A dwelling may be constructed in the traditional stick-built open-frame construction process or assembled from industrialized building components (modular homes). (*Zoning*)

DWELLING, COURTYARD APARTMENTS – A multi-family building containing three or more dwelling units arranged around an internal parking court, or an open space designed as an aesthetic benefit, each with its own outside entrance, each separated by a party wall or walls extending vertically from the ground to the roof, on land in common ownership without subdivided lot lines, with at least one side of the structure fronting on a public street. (*Zoning*)

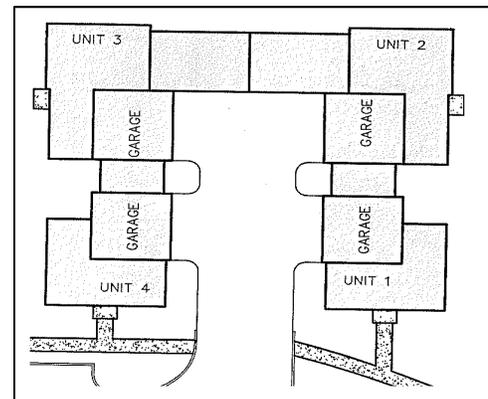


Figure 3. Courtyard Apartments

DWELLING, MANSION APARTMENT HOUSE – Three or more dwelling units arranged in a flat-over-flat configuration in a single building with an exterior design of a large single-family, attached or detached house fronting a public street. (*Zoning*)

DWELLING, MOBILE (MANUFACTURED) – A dwelling structure that is transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without permanent foundation when connected to the required utilities. The term manufactured home or mobile home shall not include a recreational vehicle. (*Zoning and Floodplain*)

DWELLING, MODULAR (INDUSTRIALIZED BUILDING) – A building assembly or system of building subassemblies manufactured in its entirety, or in substantial part, off site and transported to a site for installation or erection, with or without other specified components, as a building or as part of a finished building that comprises two or more industrial building units, and includes the electrical, plumbing, heating, ventilation, insulation and other service systems necessary for residential occupancy. This definition shall not be interpreted to include mobile (“manufactured”) homes. (*Zoning*)

DWELLING, MULTIPLE-FAMILY – A building containing three or more dwelling units (an apartment house), including triplex and quadraplex. (*Zoning*)

DWELLING, QUADRAPLEX – A building containing four dwelling units, each with its own outside entrance and each separated by a party wall or walls extending vertically from the ground to the roof. (*Zoning*)

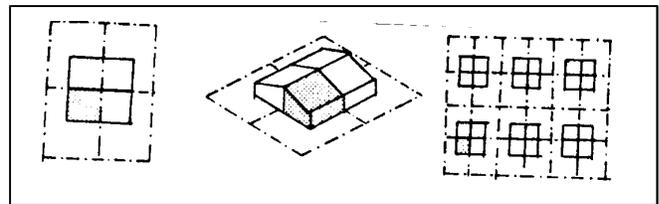


Figure 4 – Quadraplex Dwelling

DWELLING, SEMI-DETACHED – One of two buildings arranged or designed as single-family dwellings located on abutting lots and attached by a wall, without openings, extending from the cellar floor to the highest point of the roof along the common lot line and separated from any other building or structures by space on all sides. (*Zoning*)

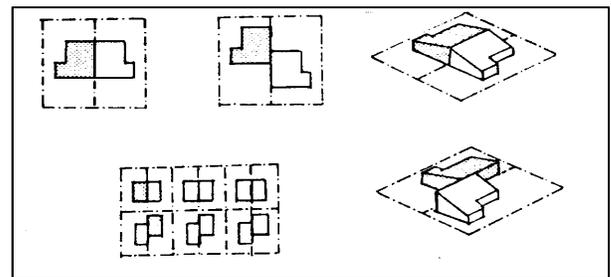


Figure 5 – Semi-Detached Dwelling

DWELLING, SINGLE-FAMILY – A detached building containing not more than one dwelling unit and not occupied by more than one family, constructed on a fully enclosed masonry foundation. (*Zoning*)

DWELLING, STACKED APARTMENT UNITS – Three or more dwelling units arranged along a corridor, in a single building with multiple stories and fronting a public street. (*Zoning*)

DWELLING, TOWNHOUSE – One of a series of three or more attached dwelling units separated from one another by continuous vertical party walls without openings from basement floor to roof. (*Zoning*)

DWELLING, TRIPLEX – A building containing three dwelling units arranged or designed each with its own outside entrance and each separated by a party wall or walls extending vertically from the ground to the roof. (*Zoning*)

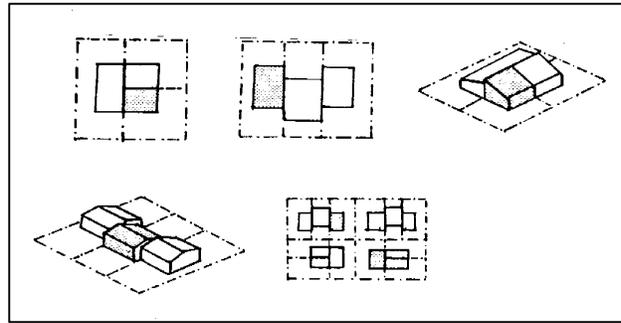


Figure 6 – Triplex Dwelling

DWELLING, TWO-FAMILY – A building located on one zoning lot containing not more than two dwelling units, arranged one above the other or side by side, sharing a common wall or floor and not occupied by more than two families. (*Zoning*)

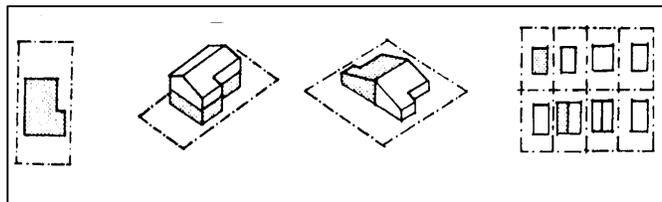


Figure 7 – Two-Family Dwelling

DWELLING UNIT – One or more rooms in a residential building or in a mixed-use building which are arranged, designed, used or intended for use by one or more persons living together and maintaining a common household and which include lawful cooking space and lawful sanitary facilities reserved for the occupants thereof. (*Zoning*)

EARTH TONE – A color scheme that draws from a color palette of browns, tans, greys, greens, oranges, whites and reds. The colors in an earth tone scheme are muted and flat in an emulation of the natural colors found in soil, moss, trees and rocks. Many earth tones originate from clay earth pigments such as umber, ochre and sienna. (*Subdivision and Land Development*)

EASEMENT – An interest in real property generally established in a real estate document or on a recorded plat to reserve, convey or dedicate the use of land for a specialized or limited purpose without the transfer of fee title. (*Subdivision and Land Development*)

ELEVATION CERTIFICATE – FEMA Form 81-31, on which surveyed elevations and other data pertinent to a property and a building are identified and which shall be completed by a licensed professional land surveyor or a licensed professional engineer, as specified by the Floodplain (*Zoning*) Administrator. When used to document the height above grade of buildings in special flood hazard areas for which base flood elevation data are not available, the Elevation Certificate shall be completed in accordance with the instructions issued by FEMA. (*Floodplain*)

ENCLOSURE BELOW THE LOWEST FLOOR – An unfinished or flood-resistant enclosure that is located below an elevated building, is surrounded by walls on all sides, and is usable solely for parking of vehicles, building access or storage, in an area other than a basement area, provided that such enclosure is built in accordance with the applicable design requirements specified in Article 6. Also see “lowest floor”. (*Floodplain*)

ENVIRONMENTALLY SENSITIVE FEATURES – Those features contained in areas defined in the Comprehensive Plan, including such features as excessive slopes, flooding, high water tables, shallow depth to bedrock, unique natural features, desirable natural growths, water courses and other water areas, and scenic points. (*Subdivision and Land Development*)

EQUIPMENT FACILITY – Any structure used to contain ancillary equipment for a wireless communication facility which includes cabinets, shelters, a build out of an existing structure, pedestals and other similar structures. (*Zoning – Wireless*)

ESSENTIAL UTILITY EQUIPMENT – Underground or overhead electrical, gas, communications, water or sewerage systems, including poles, towers or pole structures, wires, lines, mains, drains, sewers, conduits, cables, fire alarm boxes, public telephone stations, police call boxes, traffic signals, hydrants, regulating and measuring devices, water pumping stations, elevated storage tanks, ground storage tanks and the structures in which they are housed, substations and associated equipment and other similar equipment and accessories in connection therewith. It does not include:

1. Buildings, yards or stations used for storage, repair or processing of equipment or material;
2. Buildings, yards, stations or substations for transforming, boosting, switching or pumping purposes where such facilities are constructed on the ground;
3. Wireless telecommunications facilities, as regulated in Article 4, Section Q of this Chapter;
4. Communications towers, unless otherwise pre-empted by law, or a project of the state or federal government; or
5. Solar collection and wind energy systems. (*Zoning*)

EXTERIOR FEATURES – The architectural style, design and general arrangement of the exterior of a site or structure, including the nature and texture of building materials, and the type and style of all windows, doors, light fixtures, signs or other similar items found on or related to the exterior of a site or structure. (*Zoning – Historic*)

FAÇADE – The side of a building below the eaves. (*Zoning*)

FAMILY –

1. A single person occupying a dwelling and maintaining a household, or
2. Two or more persons related by blood, marriage, cohabitation or adoption, occupying a dwelling, living together, and maintaining a common household.

The term “family” shall not be construed to include a fraternity or sorority, club, rooming house, residential care facility or similar use. (*Zoning*)

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) – The federal agency with the overall responsibility for administering the National Flood Insurance Program. (*Floodplain*)

FENCE – A barrier constructed of any allowable material including concrete, stone, brick, tile, wood, metal or similar type of material for the purpose of providing a boundary, separating lots or enclosing space. A fence shall be made of materials made for that purpose. This definition shall not be construed to include shrubs or hedges. (*Zoning*)

FLEA MARKET – An outdoor commercial activity, not including shopping centers, individual retail operations, or sales that is open to the general public and composed of five or more semi-enclosed or outdoor stalls, rooms, stands, or spaces used for the purpose of display and sale, exchange, or barter of merchandise. The regulation of flea markets in Article 4 shall not apply to such activities conducted no more than three times per year by a nonprofit or charitable organization on their property. (*Zoning*)

FLOOD OR FLOODING – A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters, and/or
2. The unusual and rapid accumulation or runoff of surface waters from any source. (Floodplain)

FLOOD DAMAGE-RESISTENT MATERIALS – Any construction material that is capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair. For more information, consult NFIP Technical Bulletin #2, “Flood Damage-Resistant Materials Requirements.” (*Floodplain*)

FLOOD INSURANCE RATE MAP (FIRM) – An official map of which the Federal Emergency Management Agency has delineated special flood hazard areas to indicate the magnitude and nature of flood hazards, to designate applicable flood zones, and to delineate floodways, if applicable. FIRMs that have been prepared in digital format or converted to digital format are referred to as Digital FIRMs (DFIRMs). (*Floodplain*)

FLOOD INSURANCE STUDY (FIS) – The official report in which the Federal Emergency Management Agency has provided flood profiles, floodway information, and the water surface elevations. (*Floodplain*)

FLOOD, 100-YEAR – A flood which has a 1% chance of being equaled or exceeded in any given year. Except for Class III waters (natural trout streams), a body of water with a watershed less than 400 acres is excluded. (*Forest Conservation*)

FLOODPLAIN, 100 YEAR – An area along or adjacent to a stream or body of water, except tidal waters, that is capable of storing or conveying floodwaters during a 100-year frequency storm event, or a 100-year flood as shown on FEMA 100-year floodplain maps and regulated by Article 6 of this Chapter. (*Forest Conservation*)

FLOOD OPENING – A flood opening (non-engineered) is an opening that is used to meet the prescriptive requirement of one square inch of net open area for every square foot of enclosed area. An engineered flood opening is an opening that is designed and certified by a licensed professional engineer, or licensed architect, as meeting certain performance characteristics, including providing automatic entry and exit of floodwaters. The certification requirement may be satisfied by an individual certification or issuance of an Evaluation Report by the ICC Evaluation Service, Inc. (*Floodplain*)

FLOOD PROTECTION ELEVATION (FPE) – The base flood elevation plus one foot freeboard. Freeboard is a factor of safety that compensates for uncertainty in factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, obstructed bridge openings, debris and ice jams, climate change and the hydrologic effect of urbanization in a watershed. (*Floodplain*)

FLOOD PROTECTION SETBACK – A distance measured perpendicular to the top of bank of a watercourse that delineates an area to be left undisturbed to minimize future flood damage and to recognize the potential for bank erosion. Along non-tidal waters of the state, the flood protection setback is:

1. 100 feet, if the watercourse has special flood hazard areas shown on the FIRM, except where the setback extends beyond the boundary of the flood hazard area; or
2. 50 feet, if the watercourse does not have special flood hazard areas shown on the FIRM. (*Floodplain*)

FLOODPLAIN – Any land area susceptible to being inundated by water from any source (see definition of “Flood” or “Flooding”). (*Floodplain*)

FLOODWAY – The channel of a river or other watercourse and adjacent land area that must be reserved in order to pass the base flood discharge such that the cumulative increase in the water surface elevation of the base flood discharge is no more than a designated height. When shown on a FIRM, the floodway is referred to as the “designated floodway” (*Floodplain*)

FLOOD PROOFING OR FLOOD PROOFED – Any combination of structural and nonstructural additions, changes or adjustments to buildings or structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents, such that the buildings or structures are watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Maryland state regulations do not allow new non-residential buildings in non-tidal waters of the state to be flood proofed. (*Floodplain*)

FLOOD PROOFING CERTIFICATE – FEMA Form 81-65 that is to be completed, signed and sealed by a licensed professional engineer or licensed architect to certify that the design of flood proofing and proposed methods of construction are in accordance with the applicable requirements of Article 6 of this Chapter. (*Floodplain*)

FLOOD ZONE – A designation for areas that are shown on Flood Insurance Rate Maps:

1. Zone A: Special flood hazard areas subject to inundation by the 1% annual chance 100-year flood; base flood elevations are not determined.
2. Zone AE and Zone A1-30: Special flood hazard areas subject to inundation by the 1% annual chance 100-year flood; base flood elevations are determined; floodways may or may not be determined.
3. Zone AH and Zone AO: Areas of shallow flooding, with flood depths of one to three feet (usually areas of ponding or sheet flow on sloping terrain), with or without BFEs or designated flood depths.

4. Zone B and Zone X (shaded): Areas subject to inundation by the 0.2-percent annual chance 500-year flood; areas subject to the 1% annual chance 100-year flood with average depths of less than one foot or with contributing drainage area less than one square mile; and areas protected from the base flood by levees.
5. Zone C and Zone X (unshaded): Areas outside of Zones designated A, AE, A1-30, AO, VE, V1-30, B, and X (shaded).
6. Zone VE and Zone V1-30: Special flood hazard areas subject to inundation by the 1% annual chance 100-year flood and subject to high velocity wave action (also see coastal high hazard area).
(*Floodplain*)

FOREST – (*Forest Conservation*)

1. "Forest" means a biological community dominated by trees and other woody plants covering a land area of 10,000 square feet or greater.
2. "Forest" includes:
 - a. Areas that have at least 100 live trees per acre with at least 50% of those trees having a two-inch or greater diameter at four-and-a-half feet above the ground and larger; and
 - b. Areas that have been cut but not cleared.
3. "Forest" does not include orchards.

FOREST CONSERVATION DISTRICT BOARD – The forestry board created for each state forestry conservancy district under Natural Resources Article, §§5-601 through 5-610, Annotated Code of Maryland. (*Forest Conservation*)

FOREST CONSERVATION – The retention of existing forest or the creation of new forest at the levels set by this Article 7 of this Chapter. (*Forest Conservation*)

FOREST CONSERVATION AND MANAGEMENT AGREEMENT – An agreement as applicable and described in COMAR 08.19.05.01. (*Forest Conservation*)

FOREST CONSERVATION PLAN – A plan prepared pursuant to Article 7 of this Chapter. (*Forest Conservation*)

FOREST CONSERVATION TECHNICAL MANUAL – The technical manual incorporated by reference, used to establish standards of performance required in preparing forest stand delineations and forest conservation plans. (*Forest Conservation*)

FOREST COVER – The area of a site meeting the definition of forest. (*Forest Conservation*)

FOREST MANAGEMENT PLAN – A plan establishing best conservation and management practices for a landowner in assessment of the resource values of forested property. (*Forest Conservation*)

FOREST STAND DELINEATION – The methodology for evaluating the existing vegetation on a site proposed for development, as provided in the City of Hagerstown Forest Conservation Technical Manual. (*Forest Conservation*)

FUNCTIONALLY DEPENDENT USE – A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. This term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities. This definition shall be applied only to Article 6. (*Floodplain*)

GRADING – Any act by which soil is cleared, stripped, stockpiled, excavated, scarified, filled or any combination thereof. (*Forest Conservation*)

GRAPHIC – Any permanent or temporary structure or part thereof, or any device attached, painted or represented directly or indirectly on a structure or other surface that shall display or include any letter, word, insignia, flag or representation used as, or which is the nature of, an advertisement, announcement, visual communication, direction or is designed to attract the eye or bring the subject to the attention of the public. Flags of any governmental unit or branch are excluded. (*Zoning*)

GRAPHIC, ANIMATION OR ANIMATED – The movement or the optical illusion of movement of any part of the street graphic structure, design, or pictorial segment, including the movement of any illumination or the flashing or varying of light intensity; the automatic changing of all or any part of the facing of a street graphic. (*Zoning*)

GRAPHIC, CHANGEABLE COPY – Copy that changes at intervals including through the use of LCD, LED or other electronic technology. (*Zoning*)

GRAPHIC, GROUND – A street graphic supported by one or more uprights, posts, or bases placed upon or affixed in the ground and not attached to any part of a building. It includes a pole graphic and a monument graphic. (*Zoning*)

GRAPHIC, MONUMENT – A ground graphic permanently affixed to the ground at its base, supported entirely by a base structure, and not mounted on a pole. (*Zoning*)

GRAPHIC PORTABLE – A street graphic not permanently attached to the ground or a building or not designed to be permanently attached to the ground or a building. (*Zoning*)

GRAPHIC, PROJECTING – Any graphic attached to a building or structure that is not oriented parallel to the building frontage or structure. Marquees, awnings, canopies, banners, and freestanding signs are not considered projecting signs. (*Zoning*)

GRAPHIC, ROOF – A graphic painted, erected, constructed, or maintained on the roof of a building. (*Zoning*)

GRAPHIC, TEMPORARY – A sign, banner, pennant, poster, or advertising display constructed of cloth, plastic or vinyl sheet, cardboard, wallboard or other like materials, that by its design or use is temporary in nature and not permanently attached to a building or the ground. (*Zoning*)

GRAPHIC, WALL – A graphic attached directly to an exterior wall of a building or dependent upon a building for support, with the exposed face of the graphic located in a place substantially parallel to the exterior building wall to which the graphic is attached or which supports the graphic. (*Zoning*)

GRAPHIC, WINDOW – A graphic or sign established on the exterior or interior of a window or within 12 inches of a window pane intended to be viewed from outside of the building, or any illuminated sign within a building intended to be viewed from outside. Merchandise displays located in a window are not considered a window graphic. (*Zoning*)

GROSS LEASABLE AREA (GLA) – The total floor area of a commercial building designed for tenant occupancy and exclusive use, including basements, mezzanines and upper floors, and exterior spaces designated for the display and sale of outdoor-oriented merchandise, expressed in square feet as measured from the center line of joint partitions and from outside wall faces. For purposes of calculating parking requirements, parking and loading areas as well as the floor area occupied by HVAC, mechanical, electrical, communications, and security equipment are all deducted from gross leasable area. (*Zoning*)

GROWING SEASON – The period of consecutive frost-free days as stated in the current soil survey for this county published by the National Cooperative Soil Survey Program, 16 U.S.C. §590 (a) through (f). (*Forest Conservation*)

HEALTH DEPARTMENT – The Washington County Health Department, Environmental Services Division. (*Subdivision and Land Development*)

HIGH DENSITY RESIDENTIAL AREAS – Areas zoned for densities greater than one dwelling unit per acre, including both existing and planned development and their associated infrastructure, such as roads, utilities, and water and sewer service. In the City of Hagerstown, residential development in the RMOD, RMED, RH, RO, CC-MU, N-MU Districts and the Planned Unit Development (PUD) Overlay, qualifies as high density residential areas. (*Forest Conservation*)

HIGHEST ADJACENT GRADE – The highest natural elevation of the ground surface, prior to construction, next to the proposed foundation of a structure. (*Floodplain*)

HOME WORKSTATION – A customary and incidental accessory use of a dwelling consisting of an office or workstation used for business or employment purposes within a dwelling or accessory structure where that dwelling is permitted by right, special exception or bona fide nonconforming use, used by a resident living in the dwelling unit, subject to the provisions of Article 4, Subsection K.10. (*Zoning*)

HOMEOWNERS ASSOCIATION – A community association organized within a development in which individual owners share common interests, expenses, and responsibilities for the organization's activities, such as maintenance, open space, landscaping, or facilities. (*Subdivision and Land Development*)

HOOKAH LOUNGE – Any facility, establishment, or location whose business operation, whether as its primary use or as an accessory use, includes the smoking of tobacco or other substances through one or more hookah pipes (also commonly referred to as a hookah, waterpipe, shisha, or nareghile), including but not limited to establishments known variously as hookah bars, hookah lounges, or hookah cafes. (*Zoning*)

HUMAN BURIAL SITE – Any land or structure used for the interment of human remains. The sprinkling of ashes or their burial in a biodegradable container or their placement in a columbarium, shall

not constitute the creation of a human burial site. This term shall include the terms graveyard and burial grounds. (*Zoning and Subdivision and Land Development*)

HYDROLOGIC AND HYDRAULIC ENGINEERING ANALYSIS – Analyses performed by a licensed professional engineer, in accordance with standard engineering practices that are accepted by the Maryland Department of the Environment (MDE) and FEMA, used to determine the base flood, other frequency floods, flood elevations, floodway information and boundaries, and flood profiles. (*Floodplain*)

ILLUMINATION OR ILLUMINATED – A source of any artificial or reflected light, either directly from a source of light incorporated in, or indirectly from an artificial source, so shielded that no direct illumination from it is visible elsewhere than on and in the immediate vicinity of the street graphic. (*Zoning*)

ILLUMINATION, EXTERNAL – Illumination of a graphic that is affected by an artificial source of light not contained within the graphic itself. (*Zoning*)

ILLUMINATION, FLASHING – Illumination in which the artificial source of light is not maintained stationary or constant in intensity and color at all times when a street graphic is illuminated, including illuminated lighting. Such illumination could consist of flashing bulb, LCD/LED electronic lighting or other artificial lighting source. (*Zoning*)

ILLUMINATION, INTERNAL – A light source that is concealed or contained within the street graphic and becomes visible in darkness through a translucent surface. (*Zoning*)

ILLUMINATION, INDIRECT – A source of external illumination, located away from the graphic that lights the graphic, but which is itself not visible to persons viewing the sign from any street, sidewalk or adjacent property. (*Zoning*)

ILLUMINATION, NEON TUBE – A source of light for externally lit street graphics supplied by a neon tube that is bent to form letters, symbols, or other shapes. (*Zoning*)

INDOOR PLANT CULTIVATION AND PROCESSING FACILITY – Indoor cultivation of plants for wholesale distribution of plant and/or fruit, seeds, or flowers of the plant. This use may include refinement of plant materials into end products for human consumption or personal use, including canned, preserved or frozen fruits and vegetables, dried culinary and medicinal herbs, other medicinal products, essential and infused oils, spices, teas, dried flowers, potpourri, sauces and salsas, etc. This use shall not include refinement of plant materials with other manufactured components into lotions, creams, gels, or other cosmetic products. This use shall not include refinement of plant materials into industrial products, such as paper, textiles, rubber, etc. (*Zoning*)

INSTITUTIONAL DEVELOPMENT AREA – Schools, colleges and universities, military installations, transportation facilities, utility and sewer projects, government offices and facilities, golf courses, recreation areas, parks, and cemeteries. (*Forest Conservation*)

JURISDICTION – The geographical area within which the powers of the City of Hagerstown may be exercised. (*Subdivision and Land Development*)

JUNKYARD – A parcel of land on which waste materials, such as metals, glass, paper, plastics, rags and rubber tires, also including discarded or inoperable motor vehicles, are collected, stored, processed,

sorted, salvaged or sold. A lot on which three or more inoperable vehicles are stored shall be deemed a junkyard. This does not include hazardous waste materials or spent nuclear fuels. (*Zoning*)

KENNEL – Any building or structure and/or land used, designed, or arranged for housing or boarding of more than five adult dogs, over the age of four months, including household pets. Kennels shall not be used for breeding operations that result in the housing of puppies on the premises. (*Zoning*)

LANDMARK – Any site or structure on publicly or privately owned land outside of the historic districts designated by the Mayor and City Council for its exceptional individual historical, archaeological or architectural significance, that is worthy of rehabilitation, restoration and preservation, and any alteration shall be reviewed in the same manner by the Historic District Commission as a site or structure within the historic district. (*Zoning - Historic*)

LANDSCAPING – The installation and maintenance, usually of a combination of trees, shrubs, plant materials, or other ground cover, including grass, mulch, decorative stone and similar materials, but excluding bare soil, uncultivated vegetation, impervious pavement materials, and gravel. (*Subdivision and Land Development - Landscaping*)

LANDSCAPING PLAN FOR FOREST CONSERVATION – A plan: (*Forest Conservation*)

1. Drawn to scale, showing dimensions and details for reforesting an area at least 35 feet wide and covering 2,500 square feet or greater in size;
2. Using native or indigenous plants when appropriate; and
3. Which is made part of an approved forest conservation plan.

LARGE ANIMAL VETERINARY CLINIC – A veterinary clinic or hospital that is equipped and staffed to treat animals that include large species such as horses and cattle. (*Zoning*)

LETTER OF MAP CHANGE (LOMC) – A Letter of Map Change is an official FEMA determination, by letter, that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

1. Letter of Map Amendment (LOMA): An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property or structure is not located in a special flood hazard area.
2. Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. A Letter of Map Revision Based on Fill (LOMR-F), is a determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer exposed to flooding associated with the base flood. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.
3. Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed *flood* protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the

effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA, to revise the effective FIRM. (*Floodplain*)

LICENSED – As used in these regulations, licensed refers to professionals who are authorized to practice in the state of Maryland by issuance of licenses by the Maryland Board of Architects, Maryland Board of Professional Engineers, Maryland Board of Professional Land Surveyors, and the Maryland Real Estate Appraisers and Home Inspectors Commission. (*Floodplain*)

LINEAR PROJECT – A project which: (*Forest Conservation*)

1. Is elongated with nearly parallel sides;
2. Is used to transport a utility product or public service not otherwise contained in an application for subdivision, such as electricity, gas, water, sewer, communications, trains, and vehicles; and
3. May traverse fee simple properties through defined boundaries, or established easement rights.

LIVESTOCK – Animals typically grown for the purpose of production of animal byproducts (e.g., eggs, milk, meat, wool, leather, etc.) for household consumption or sale or grown for purposes of labor for the owner (e.g., transportation, plowing, etc.). For the purposes of this provision, livestock does not include animals typically owned as pets (e.g. cats, dogs, goldfish, etc.) or for service to people with disabilities (e.g., “seeing eye” dogs). All hoofed animals and fowl (chickens, turkeys, etc.) shall be considered livestock. The keeping of more than five adult rabbits and/or similar animals for any purpose (including household pets) outside of a dwelling shall be considered livestock. The keeping of livestock is only permitted in the AT district as part of a permissible land use. (See Article 4, Subsection K.11). (*Zoning*)

LOCAL AGENCY – Each unit in the executive, legislative or judicial branch of a county or municipal government, including an office or department of public works. (*Forest Conservation*)

LOOP LANE – Cul-de-sac design in which a broad median planted with shade trees runs the entire length of the street, bounded by travel lanes on both sides (typically one way). (*Subdivision and Land Development*)

LOT –

1. A parcel of land either vacant or occupied by one principal building structure, or use and its accessory buildings, uses or structures, or a group of principal buildings as allowed by Article 4 and including open spaces and landscaped areas as required. (*Subdivision and Land Development*)
2. For the purposes of Article 7, a unit of land, the boundaries of which have been established as a result of a deed or previous subdivision of a larger parcel, and which will not be the subject of further subdivision without an approved forest stand delineation and forest conservation plan. (*Forest Conservation*)

LOT AREA – The total area in square feet circumscribed by the lot lines of a lot, except that when the legal instrument creating a lot shows the boundary of the lot extending into a public street right-of-way, then the lot boundary for purposes of computing the lot area shall be the street right-of-way line. (*Subdivision and Land Development.*)

LOT, CORNER – A lot abutting on two or more streets at their intersection, where the interior angle of the intersection does not exceed 135 degrees. *(Zoning)*

LOT FRONTAGE – The front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as required herein, except that not more than one rear yard shall be required. *(Subdivision and Land Development)*

LOT, INTERIOR – An interior lot is a lot other than a corner lot. *(Subdivision and Land Development)*

LOT LINE, REAR – A lot line which is opposite and most distant from the front lot line, and in the case of an irregular or triangular shaped lot, a line 10 feet in length within the lot parallel to and at the maximum distance from the front lot line. *(Subdivision and Land Development)*

LOT LINE, SIDE - Any lot line that is not a front or rear lot line. *(Subdivision and Land Development)*

LOT LINE, ZERO - The location of a building on a lot such that one of the building's sides rests directly on a lot line, but not attached to another building along that lot line. *(Zoning)*

LOT LINES - The lines bounding a lot. *(Subdivision and Land Development)*

LOT MEASUREMENTS - *(Subdivision and Land Development and Zoning)*

1. Depth is the average horizontal distance between the front lot line and the rear lot line.
2. Width shall mean the horizontal distance between side lot lines measured at the midpoint of the side lot lines.

LOT, NONCONFORMING - See nonconforming lot. *(Subdivision and Land Development)*

LOT OF RECORD - A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Land Records of Washington County, or a lot described by metes and bounds, the description of which has been so recorded. *(Subdivision and Land Development)*

LOT, REVERSE FRONTAGE - A lot where the rear yard fronts on a City street and where there is typically no access. *(Subdivision and Land Development - Landscaping)*

LOT, THROUGH - A lot having its front and rear lot lines abutting street right-of-way. *(Subdivision and Land Development)*

LOWEST FLOOR - The lowest floor of the lowest enclosed area (including basement) of a building or structure. The floor of an enclosure below the lowest floor is not the lowest floor provided the enclosure is constructed in accordance with the provisions of Article 6 of this Chapter. The lowest floor of a manufactured home is the bottom of the lowest horizontal supporting member (longitudinal chassis frame beam). *(Floodplain)*

MAIN STREET DESIGN SHOPPING CENTER - A shopping center designed so that stores are arranged facing a center drive aisle which may be lined with parking and streetscape features, with the

majority of parking found behind the buildings. Destination retail use stores may be found at the end of the driveway or located as part of the streetscape. (*Zoning*)

MAINTENANCE AGREEMENT – The short-term management agreement associated with afforestation or reforestation plans required under Article 7, Sections D and E of this Chapter. (*Forest Conservation*)

MAJOR ECONOMIC DEVELOPMENT OPPORTUNITY – A proposal for new construction in the Downtown Historic District that involves the demolition of a contributing resource to accommodate development that is a significant pedestrian traffic generator. This traffic could be generated via the creation of a significant number of employment positions, entertainment and tourism visitors, and/or residential units in a mixed-use building. Existing and proposed residential units shall meet or be improved to meet the City’s Partners in Economic Progress (PEP) program standards which are designed to implement Comprehensive Plan goals for the revitalization of the downtown area and diversification of the income levels of downtown residents. Standards required for residential units include:

1. Central HVAC system;
2. Washer, dryer and dishwasher;
3. Wood veneer or solid wood kitchen and bathroom cabinets;
4. Approved solid surface counter tops in kitchen and bathrooms;
5. Refinished or new hardwood floors or wall-to-wall carpeting in areas other than kitchens and bathrooms; and
6. Where possible, outdoor amenities (e.g., balconies, roof top decks, back porches, sunrooms, etc.). (*Zoning - Historic*).

MANUFACTURING, GENERAL – Manufacturing processes that create finished and semi-finished products from already manufactured components and materials or from raw materials which do not need refining, including assembly of finished components, refinement of semi-finished materials or components into finished products, production of parts to be assembled into finished products, production of items through biological processes, and production of items requiring the mixing of chemicals. General manufacturing activities have the potential of creating moderate noise, odors, smoke, dust, vibration or other environmental impacts. (*Zoning*)

MANUFACTURING, HEAVY – Manufacturing processes that process or refine raw materials, including milling of grains, milling and preserving wood, milling of thread and cloth, production of masonry products, production of chemicals, soaps, detergents and ink, conversion of solid waste into useful products and preparation of solid waste for disposal at another location by changing its physical form or chemical composition. For the purpose of this Chapter, heavy manufacturing shall not include paper mills, smelting plants, asphalt plants, animal slaughterhouses, tanneries and steel mills. Heavy manufacturing activities have potential for creating moderate to substantial noise, odors, smoke, dust, vibration or other environmental impacts. (*Zoning*)

MANUFACTURING, LIGHT – Manufacturing processes that create finished products from already manufactured components and materials or from raw materials which do not need refining, including assembly of finished components and refinement of semi-finished materials or components into finished

products. All activities related to this use are conducted entirely indoors, including storage of materials. Light manufacturing activities have little or no potential for creating noise, smoke, odors, dust, vibration or other environmental impacts. (*Zoning*)

MARKET VALUE – The price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. For the purposes of Article 6, the market value of a building is determined by a licensed real estate appraiser or the most recent, full phased-in assessment value of the building (improvement) determined by the Maryland Department of Assessments and Taxation. (*Floodplain*)

MARYLAND DEPARTMENT OF THE ENVIRONMENT (MDE) – A principal department of the state of Maryland that is charged with, among other responsibilities, the coordination of the National Flood Insurance Program in Maryland (NFIP State Coordinator) and the administration of regulatory programs for development and construction that occur within the waters of the state, including non-tidal wetlands, non-tidal waters and floodplains, and state and private tidal wetlands (Tidal Wetlands). Unless otherwise specified, “MDE” refers to the Department’s Wetlands and Waterways Program. (*Floodplain*)

MASTER PLANNED PROJECT – In the Neighborhood Mixed Use Districts, a master planned project shall include multiple buildings and/or properties. A concept plan must be submitted which is filed jointly by all owners of the property or properties included in the master planned project. (*Zoning*)

MINI WAREHOUSES – A structure containing separate cubicles which are rented to the public for storage purposes. (*Zoning*)

MINOR DEVELOPMENT PROJECT – A project on less than five acres of land containing not more than four lots per acre. (*Forest Conservation*)

MIXED USE BUILDING – A building that contains at least one floor devoted to permitted non-residential uses and at least one developed to allowed residential uses. (*Zoning*)

MIXED USE DEVELOPMENT – A single, relatively high-density development project, usually commercial in nature which includes two or more types of uses. (*Forest Conservation*)

MOBILE HOME PARK – Any area or tract of land designed for the parking or other type of installation of mobile homes on spaces or lots offered for lease or rent, including all improvements, buildings, structures, recreation areas, or other facilities for the use of the residents of such development, for non-transient use. (*Zoning*)

MULTI-USE BUILDING – A building consisting of two or more separate commercial uses. (*Zoning*)

MULTI-BUILDING COMPLEX – A grouping of two or more business establishments that either share common parking on the lot where they are located, or that occupy a single structure or separate structures that are physically or functionally related or attached. (*Zoning*)

NATIONAL FLOOD INSURANCE PROGRAM (NFIP) – The program authorized by the United States Congress in 42 U.S.C, Sections 4001-4129. The NFIP makes flood insurance coverage available in communities that agree to adopt and enforce minimum regulatory requirements for development in areas prone to flooding (see definition of “Special Flood Hazard Area”). (*Floodplain*)

NATURAL REGENERATION – The natural establishment of trees and other vegetation with at least 400 woody, free-to-grow seedlings per acre, which are capable of reaching a height of at least 20 feet at maturity. (*Forest Conservation*)

NET FLOOR AREA – That portion of any building, improvements, or use of land which is included in rental areas or normally used as a part of the quarters of any owner or tenant of such premises. Areas commonly excluded in the calculation of Net Floor Area may include entry halls or foyers; elevator shafts; stairways; janitor, electrical, or maintenance rooms; public restrooms, etc. Common areas open to the public shall be included in the calculation of parking space requirements. (*Zoning*)

NET TRACT AREA – (*Forest Conservation*)

1. Except in agriculture and resource areas or as modified by the Express Procedures in Article 7, Section E, the total area of a site, including both forested and non-forested areas, to the nearest one-tenth acre;
2. In agriculture and resource areas, the part of the total tract for which land use will be changed or will no longer be used for primarily agricultural activities; and
3. For a linear project, the area of a right-of-way width, new access roads and storage; or the limits of disturbance as shown on an application for sediment and erosion control approval or in a capital improvements program project description.

NEW CONSTRUCTION –

1. As pertains to Article 4, the erection, alteration, repair or renovation of any building or structure requiring a footing and/or foundation or change to the exterior dimensions and the excavation, filling and grading of lots in connection therewith. (*Zoning*)
2. As pertains to Article 6, additions and improvements, and the placement of manufactured homes, for which the start of construction commenced on or after (initial FIRM effective date), the initial effective date of the City of Hagerstown Flood Insurance Rate Map, including any subsequent improvements, alterations, modifications, and additions to such structures. (*Floodplain*)

NFIP STATE COORDINATOR – See Maryland Department of the Environment. (*Floodplain*)

NIGHTCLUB – An establishment operated as a place of entertainment, characterized by any or all of the following as a principal use: (1) live, recorded or televised entertainment, including but not limited to performance by magicians, musicians or comedians; (2) dancing. This use shall not be interpreted to include uses regulated in Article 4 as Adult Entertainment Uses. (*Zoning*)

NONCONFORMING STRUCTURE, LOT, PARCEL OR TRACT OF LAND – A structure or lot that does not conform to a dimensional, lot area or density regulation prescribed by Article 4 for the district in which it is located or off-street parking, off-street loading or accessory buildings, but which structure or lot was in existence at the effective date of the Zoning Ordinance. (*Zoning*)

NONCONFORMING USE – A use of a building or lot that does not conform to use regulations prescribed by Article 4 for the district in which it is located but which was lawfully in existence at the effective date of the Zoning Ordinance. (*Zoning*)

NONCOMPLIANT STRUCTURE – A building or structure that does not conform to bulk regulations found in Article 4 of this Chapter, including but not limited to setback and height requirements, but which was lawfully in existence at the effective date of this Chapter, or a subsequent amendment to this Chapter that rendered the structure noncompliant. (*Zoning*)

NON-TIDAL WATERS OF THE STATE – As used in Article 6, any stream or body of water within the State that is subject to State regulation, including the “100 year frequency floodplain of free-flowing waters”. Per COMAR 26.17.04, the landward boundaries of any tidal waters shall be deemed coterminous with the wetlands boundary maps adopted pursuant to Environment Article, Section 16-301, Annotated Code of Maryland. Therefore, the boundary between the tidal and non-tidal waters of the State is the tidal wetlands boundary. (*Floodplain*)

OFFICES FOR BONDING OF DEFENDANTS IN THE CRIMINAL JUSTICE SYSTEM – Establishments involved in all or a portion of the bond origination and enforcement process that: (1) gain release of criminal defendants from jail by pledging money or property as a guarantee that the defendant will appear in court; and/or (2) seek and recover bonded defendants who attempt to avoid court appearance. (*Zoning*)

OFFICES FOR PAROLING AND THE PROBATION OF DEFENDANTS IN THE CRIMINAL JUSTICE SYSTEM – Establishments involved in the supervision of criminal defendants and convicts who have been released from confinement or granted an alternative to confinement, but are still under court supervision for a period of time. Such establishments may also be involved in the apprehension of defendants and convicts who violate the terms of their release or probation. (*Zoning*)

OFFSITE – Outside of the limits of the area encompassed by the tract. (*Forest Conservation*)

ONSITE - Within the limits of the area encompassed by the tract, including an area classified as a 100-year floodplain. (*Forest Conservation*)

OPEN SPACE – That portion of a tract that is set aside during development for the protection of sensitive natural areas, farmland, scenic views, unique features; or the creation of active, improved recreational areas; or passive, unimproved natural areas. The land is not individually owned. It is understood that this term is broad and can include land that is accessible to the residents of the development and/or the community, or it may contain areas of conservancy lots that are not accessible to the public. Paved areas other than recreational courts and paths, and stormwater management facilities that are not designed as natural features shall not constitute open space. (*Subdivision and Land Development*)

ORDINARY MAINTENANCE – Work that does not alter the exterior features of a site or structure and has no material effect on the historical, archaeological, or architectural significance of the site or structure. This includes repair or replacement in-kind of roofs, gutters, siding, trim, external doors and windows, awnings, porch floors and ceilings, lights, fences, and other appurtenance fixtures with like materials of like design; landscaping; paving repair using like materials of like design; and repainting of surfaces. (*Zoning - Historic*)

PAD SITE – An outparcel in a subdivision of land in a commercial district, intended for use of a freestanding building on a fee simple lot, however, developed as part of a larger, multi-structure commercial development. (*Zoning*)

PANHANDLE LOT – An irregularly shaped lot where the buildable portion of the lot is connected to its street frontage by an arm of the lot, designed to be utilized as a means of ingress and egress that does not meet the minimum lot width and street frontage standards specified for the zoning district in which the lot is located. This portion of the lot designed as an area of access shall not be calculated into the lot area requirements. Also referred to as a Flag Lot or a Pipestem Lot. (*Subdivision and Land Development*)

PARCEL – For the purposes of Article 7, a parcel is an area of land that legally existed as a distinct entity in a deed or on an approved subdivision plat on or before the date of adoption of Article 7 and will not be the subject of further subdivision without an approved forest stand delineation and forest conservation plan. The term, parcel, may be used interchangeably with lot or tract. (*Forest Conservation*)

PARKING LOT – An area, not within a building, outside any street right-of-way, where motor vehicles may be stored for the purposes of temporary, daily, or overnight off-street parking. (*Subdivision and Land Development - Landscaping*)

PARKING LOT AISLES – That portion of the parking lot consisting of lanes providing access from a street to or through off-street spaces and/or loading areas. (*Subdivision and Land Development - Landscaping*)

PARKING, PRIVATE – A designated off-street parking area for the exclusive use of the owners or their customers, tenants, lessees, employees, or occupants of the lot on which the parking area is located. (*Zoning*)

PARKING, PUBLIC – A designated off-street parking area which is available to the general public, whether for free or payment of a fee. Ownership may be a public or private entity. (*Zoning*)

PARKING ROW – One line of vehicle spaces, or two parallel lines of adjoining vehicle spaces, adjacent to and served by at least one parking lot aisle. (*Subdivision and Land Development - Landscaping*)

PARKING VEHICLE SPACE – That portion of the parking lot designated for the parking of one vehicle. (*Subdivision and Land Development - Landscaping*)

PERFORMANCE SECURITY – Any security which may be accepted by the City of Hagerstown in lieu of a requirement that improvements be made before the Planning Commission approves a plat, including, but not limited to performance bonds, surety agreement, escrow agreements, irrevocable letter of credit, or any other similar collateral or surety agreements, with surety to be approved by the City Engineer and/or the Utilities Director. (*Subdivision and Land Development*)

PERSON – As pertains to Article 6, an individual or group of individuals, corporation, partnership, association, or any other entity, including State and local governments and agencies. (*Floodplain*)

PLANNED UNIT DEVELOPMENT – A development comprised of a combination of land uses or varying intensities of the same land use in accordance with an integrated plan that provides flexibility in land use design approved by the City of Hagerstown with at least 20% of the land permanently dedicated to open space. (*Forest Conservation*)

PLAT, FINAL – The final map or plan which legally describes the subdivision of land (including the creation of a condominium regime in accordance with the requirements of the Annotated Code of Maryland), containing a detailed plan of the property, giving all dimensions, angles and bearings, together with such information, statements and certificates as required by these Regulations, and presented to the Commission for approval, and which if approved will be submitted to the Clerk of Circuit Court for recording among the Land Records of Washington County. (*Subdivision and Land Development*)

PLAT, SIMPLIFIED – The creation of a subdivision as defined herein not for development purposes. (*Subdivision and Land Development*)

PRELIMINARY CONSULTATION – A procedure for the presentation of a proposed subdivision to the Planning Commission for informal review prior to formal application and preparation of a Development Plan. (*Subdivision and Land Development*)

PRESERVATION – The maintenance of a site or structure in its present condition or as originally constructed. Preservation aims at halting further deterioration and providing structural safety, but does not contemplate significant rebuilding. Preservation includes techniques of arresting or slowing deterioration; improvement of structural conditions to make a structure safe, habitable, or otherwise useful; normal maintenance and minor repairs that do not change or adversely affect the fabric or appearance of a structure. (*Zoning - Historic*)

PRESERVATION RESERVE – A site or structure that is retained or set aside until a future time when proper research or financial feasibility allows for its rehabilitation, restoration and preservation. This mothballing or protective storage condition shall include: a plan; the stabilization of the structure; adequate protection from poachers and vandals; and all consideration to the health, safety and welfare of the neighboring community. The time limit for this Preservation Reserve status shall be 90 days, unless a mutually agreed upon time limit is set between the owner and the Historic District Commission. (*Zoning - Historic*)

PRIORITY FUNDING AREA – An area designated as a Priority Funding Area under Article 5-7B-02 of the state Finance and Procurement Article. (*Forest Conservation*)

PRIVATE STREET – A street not accepted or maintained by the City of Hagerstown. (*Subdivision and Land Development*)

PROFESSIONAL AND WORKMAN LIKE MANNER – The quality of work performed by a person who has the knowledge, training, or experience necessary for the successful practice of a trade or occupation and performed in a manner generally considered proficient by those capable of judging such work. (*Zoning*)

PROJECT PLAN – A construction, grading, or sediment control activity on an area of 40,000 square feet or greater. (*Forest Conservation*)

PUBLIC UTILITY – For the purposes of Article 7, any: (*Forest Conservation*)

1. transmission line or electric generating station; or
2. Water, sewer, electric, gas, telephone, and television cable service line.

PUBLIC WAYS CONSTRUCTION STANDARDS & ENGINEERING GUIDELINES – The formally adopted document of construction standard details, templates, and guidelines that governs development of public rights-of-way and construction within the City of Hagerstown. (*Subdivision and Land Development*)

RECONSTRUCTION – The process of reproducing by new construction the exact form and detail of a vanished structure, or part thereof, as it appeared at a specific period of time. “Reconstruction” should be undertaken only when the structure to be reconstructed is essential for understanding and interpreting the value of an entire site or district and sufficient documentation exists to ensure an exact reproduction of the original. (*Zoning - Historic*)

RECREATION AREA – An area requiring some constructed facilities and/or organized activities. Active recreational areas may include facilities such as swimming pools, play equipment, ball fields, court games, and picnic tables. (*Subdivision and Land Development*)

RECREATIONAL VEHICLE – A vehicle that is built on a single chassis which is 400 square feet or less at the longest horizontal projection, designed to be self-propelled or permanently towable by a light-duty truck, and designed primarily not for use as a permanent dwelling but as for temporary living quarters for recreational, camping, travel, or seasonal use. (*Floodplain*)

RECYCLING – An operation conducted entirely indoors which accepts recyclable materials and processes or sorts these materials for distribution back into an off-site re-manufacturing operation. This does not include operations which undertake curbside collection of recyclable materials nor the storage of a fleet of vehicles for such operations. (*Zoning*)

REDEVELOPMENT – Any construction, alteration, or improvement exceeding 2,500 square feet of land disturbance performed on sites where existing land use is commercial, industrial, institutional or multifamily residential, including the demolition and reconstruction of a building or a portion of a building. (*Subdivision and Land Development - Landscaping*)

REFORESTATION – (*Forest Conservation*)

1. "Reforestation" or "reforested" means the:
 - a. creation of a forest within seven years; or
 - b. establishment of a forest according to procedures set forth in the Forest Conservation Technical Manual.
2. “Reforestation” or “reforested” includes landscaping of areas under an approved landscaping plan establishing a forest at least 35 feet wide and covering 2,500 square feet or more of area.
3. “Reforestation” or “reforested” for a linear project which involves overhead transmission lines may consist of a biological community dominated by trees and woody shrubs with no minimum height or diameter criteria.

REGULATED ACTIVITY – Any of the following activities, when that activity occurs on a unit of land which is 40,000 square feet or greater: (*Forest Conservation*)

1. Subdivision;
2. Grading;
3. An activity that requires a sediment control permit;
4. An activity that requires a site plan;
5. Project plan of a local agency; or
6. Development project.

REQUIRED IMPROVEMENTS – Improvements shall mean storm drainage facilities, sanitary sewerage facilities, water supply facilities, streets, curbs, street lights, street signs, gutters, gas lines, electricity lines, walks and/or other accessory works and appurtenances. (*Subdivision and Land Development*)

RESIDENTIAL FACILITIES WITH IN-HOUSE PROFESSIONAL CARE FOR UP TO THREE RESIDENTS WITH MENTAL AND/OR PHYSICAL DISABILITIES – A dwelling unit occupied as a single-housekeeping unit in a family-like environment by up to three persons with mental and/or physical disabilities, plus support staff. (*Zoning*)

RESTORATION – The process of accurately recovering the form and details of a site or structure as it appeared at a particular period of time by means of removal of later work and the replacement of missing original work. (*Zoning - Historic*)

RETENTION – The deliberate holding and protecting of existing trees, shrubs or plants on the site according to established standards as provided in the City of Hagerstown Forest Conservation Technical Manual. (*Forest Conservation*)

RIGHT-OF-WAY – An area of land dedicated for use as a public way, typically for pedestrian and vehicular movement. In addition to the roadway, it normally incorporates the curbs, lawn strips, sidewalks, lighting, and drainage features. It may include special features required by topography or treatment such as grade separation, landscaped areas, viaducts, and bridges. (*Subdivision and Land Development*)

SAFETY SERVICES – Safety services shall include such services as police, fire, and rescue operations. (*Zoning*)

SATELLITE SIMULCAST BETTING FACILITY - A facility owned or leased by a person with a permit granted by the State Racing Commission to conduct satellite simulcast betting, as that term is defined in Maryland Business Regulation Code Ann §11-815, as amended from time to time, and which conforms to all requirements of Maryland Business Regulation Code Ann §11-815, *et seq.*, as amended from time to time. (*Zoning*)

SECURITY – Valuable consideration pledged or deposited for the purpose of assuring performance of the obligations imposed under this and other City policies in a form acceptable to the City Attorney, including an irrevocable letter of credit, performance bond, or certified check. Sureties must be of AM Best Rating, listed as US Treasury approved, licensed and certified to conduct business in the State of Maryland. The City may also require the surety to produce A Summary Balance Sheet prior to acceptance of a bond. Letters of Credit shall be drawn on a Maryland bank branch and subject to automatic renewal. Performance bonds shall also be subject to automatic renewal. *(Subdivision and Land Development)*

SEDIMENT CONTROL – The activity regulated under an approved sediment control plan pursuant to Chapter 209 (Sediment Control) of the City Code. *(Forest Conservation)*

SEEDLINGS – An unbranched woody plant, less than 24 inches in height and having a diameter of less than one-half inch measured at two inches above the root collar. *(Forest Conservation)*

SELECTIVE CLEARING – The careful and planned removal of trees, shrubs, and plants using specific standards and protection measures under an approved forest conservation plan. *(Forest Conservation)*

SETBACK – The required minimum horizontal distance between the building line, as defined herein, and the related front, side or rear property line. *(Zoning)*

SEWER CAPACITY ALLOCATION PROGRAM – A Capacity Allocation Plan to provide for the management of existing and future wastewater commitments of the Hagerstown Wastewater Treatment Plant, as adopted by the City, and as may be amended from time to time. *(Subdivision and Land Development)*

SHRUB – A woody, branching plant of relatively low height, which are of a species which can be expected to reach a maximum height of 36 inches and a minimum spread of 30 inches within three years of planting. *(Subdivision and Land Development - Landscaping)*

SIGN – See “graphic.”

SITE – The location of an event of historical significance or a structure, whether standing or ruined, which possesses historical, archaeological, or cultural significance. *(Zoning - Historic)*

SITE PLAN – A plan of development required pursuant to Article 4, Subsection S.2, of this Chapter. *(Zoning, Subdivision and Land Development, and Forest Conservation)*

SITE(S), HISTORIC – One or more parcels, structures, or buildings that are either: designated as an Historic Landmark, included within a Historic District, included on the County Register of Historic Properties, or designated on the National Register of Historic Places. *(Subdivision and Land Development)*

SKETCH PLAN – A preliminary sketch plan of the proposed subdivision showing the developer’s desires in regard to the future development of land for informal consideration by the Commission at the Preliminary Consultation. *(Subdivision and Land Development)*

SMART GROWTH ARTS AND ENTERTAINMENT DISTRICT – An area designated by the state of Maryland within a jurisdiction intended to promote economic development through the promotion and attraction of businesses and organizations focused on the arts and entertainment industries. *(Zoning)*

SOLAR COLLECTION SYSTEM – A panel or other solar energy device, the primary purpose of which is to provide for the collection, inversion, storage, and distribution of solar energy for electricity generation, space heating, space cooling or water heating. (*Zoning*)

SPECIAL EXCEPTION – A grant of a specific use that would not be appropriate generally or without restriction and shall be based upon a finding that certain conditions governing special exceptions as detailed in Article 4 exist, that the use conforms to the plan and is compatible with the existing neighborhood. (*Zoning*)

SPECIAL FLOOD HAZARD AREA (SFHA) – The land in the floodplain subject to a 1% percent or greater chance of flooding in any given year. Special flood hazard areas are designated by FEMA in Flood Insurance Studies and on Flood Insurance Rate Maps as Zones A, AE, AH, AO, A1-30 and A99. The term includes areas shown on other flood maps that are identified in Article 6. (*Floodplain*)

SPECIFIED ANATOMICAL AREAS – (*Zoning*)

1. Less than completely and opaquely covered:
 - a. Human genitals, pubic region;
 - b. Buttock; and
 - c. Female breast below a point immediately above the top of the areola.
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES – (*Zoning*)

1. Human genitals in a state of sexual stimulation or arousal;
2. Acts of human masturbation, sexual intercourse or sodomy;
3. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

SPECIMEN TREE – A particularly impressive or unusual example of a species due to its size, shape, age, or any other trait that epitomizes the character of the species (*Subdivision and Land Development - Landscaping*)

START OF CONSTRUCTION – As pertains to Article 6, the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets, and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory structures, such as garages or sheds not occupied as dwelling units or not part of the main structure. For substantial

improvements, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. (*Floodplain*)

STOREFRONT SPACE – Space for occupation in a commercial or mixed-use building which has display windows on the street. (*Zoning*)

STORMWATER DETENTION STRUCTURE – A permanent structure for the temporary storage of runoff, which is designed so as not to create a permanent pool of water. (*Zoning*)

STORMWATER RETENTION STRUCTURE – A permanent structure that provides for the storage of runoff by means of a permanent pool of water. (*Zoning*)

STREAM BUFFER – All lands lying within 50 feet, measured from the top of each normal bank of a perennial or intermittent stream. (*Forest Conservation*)

STREAM, INTERMITTENT – A stream in which surface water is absent during a part of the year as shown on the most recent 7.5 minute topographic quadrangle published by the United States Geologic Survey as confirmed by field verification. (*Forest Conservation*)

STREAM, PERENNIAL – A stream containing surface water throughout an average rainfall year, as shown on the most recent 7.5 minute topographic quadrangle published by the United States Geologic Survey, as confirmed by field verification. (*Forest Conservation*)

STREAM RESTORATION PROJECT – An activity that:

1. Is designed to stabilize stream banks or enhance stream function or habitat located within an existing stream, waterway, or floodplain;
2. Avoids and minimizes impacts to forests and provides for replanting on-site an equivalent number of trees to the number removed by the project;
3. May be performed under a municipal separate storm sewer system permit, a watershed implementation plan growth offset, or another plan administered by the state or local government to achieve or maintain water quality standards; and
4. Is not performed to satisfy stormwater management, wetlands mitigation, or any other regulatory requirement associated with proposed development activity. (*Forest Conservation*)

STREET AND/OR ROAD – A public right-of-way or thoroughfare, intended for vehicular traffic, accepted and approved by official action of the appropriate authority. (*Subdivision and Land Development*)

STREET CLASSIFICATIONS – Functional classifications are defined in *Public Ways Construction Standards and Engineering Guidelines*, published by the City of Hagerstown Engineering Division. This document is to be utilized for the purpose of providing for the development of the streets, highways, roads

and rights-of-way in the City, and for the future improvement, reconstruction, realignment, and necessary widening, including provision for curbs and sidewalks. (*Subdivision and Land Development*)

STREET TREE – A tree located between the curb and sidewalk in the public right-of-way or a tree located in a tree well within the sidewalk in the public right-of-way or a tree located within the street yard. (*Subdivision and Land Development - Landscaping*)

STREET YARD – The area of land along the front property line parallel to a right-of-way reserved for tree planting and landscaping. Also referred to as a tree planting easement. (*Subdivision and Land Development - Landscaping*)

STRUCTURE –

1. As pertains to all but Article 6, a combination of material to form a construction that is stable, including among other things, buildings, tanks and towers, trestles, piers, bridges, bulkheads, loading docks, smokestacks, cranes, booms, sheds, coal bins, shelters, fences, walls and display graphics visible or intended to be visible from a public way; the term “structure” shall be construed as if followed by the words, “or part thereof.” Structures shall comply with building setbacks as required by the various provisions of Article 4. (*Zoning*)
2. As pertains to Article 6, that which is built or constructed; specifically, a walled or roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home. (*Floodplain*)

STRUCTURE, HISTORIC – As pertains to Article 6, any structure that is:

1. Individually listed in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listings on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on the Maryland Inventory of Historic Properties maintained by the Maryland Historical Trust; or
4. Individually listed on the inventory of historic places maintained by the City of Hagerstown whose historic preservation program has been certified by the Maryland Historical Trust or the Secretary of the Interior. (*Floodplain*)

STRUCTURE, TEMPORARY – For the purposes of Article 6, a structure installed, used, or erected for a period of less than 180 days. (*Floodplain*)

SUBDIVISION –

1. The division of a lot, tract, or parcel of land into lots, plats, sites, condominium units or spaces, or other divisions of land for the purpose, whether immediate or future, of sale or of building development. It includes re-subdivision and, when appropriate to the context, relates to the process of re-subdividing or to the land or territory subdivided. (*Subdivision and Land Development*)
2. For the purposes of Article 7, any division of a unit of land into two or more lots or parcels for the purpose, whether immediate or future, of transfer of ownership, sale, lease, or development pursuant to the City of Hagerstown Subdivision Regulations. (*Forest Conservation*)

SUBDIVISION, MINOR – The division of a residential parcel that has not been part of a previously recorded subdivision, into seven or fewer residential lots, fronting on an existing, approved public road and not requiring any new public or private access, nor the extension of a public wastewater or water line, nor requiring a waiver or variance from any requirement of this Chapter. (*Subdivision and Land Development*)

SUBDIVISION PROCESS – The process whereby a proposed subdivision is officially approved and thereby recorded. (*Subdivision and Land Development*)

SUBSTANTIAL DAMAGE – As pertains to Article 6, damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its before-damaged condition would equal or exceed 50% of the market value of the building or structure before the damage occurred. Also used as “substantially damaged” structures. (*Floodplain*)

SUBSTANTIAL IMPROVEMENT – As pertains to Article 6, any reconstruction, rehabilitation, addition or other improvement of a building or structure, the cost of which exceeds 50% percent of the market value of the building or structure before the start of construction of the improvement. The term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include any project for improvement of a building or structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official prior to the submission of an application for a permit and which are the minimum necessary to assure safe living conditions. (*Floodplain*)

SUBSTANTIALLY REHABILITATED – For the purposes of Article 4, the alteration or repair of an existing structure, the cost of which exceeds two times the full cash value of the structure as determined by the State of Maryland Tax Assessor. The entire structure so rehabilitated must satisfy the requirements of all applicable local codes, including but not limited to the Plumbing, Electrical, Housing, Fire and Property Maintenance Codes. (*Zoning*)

TEMPORARY WIRELESS COMMUNICATION FACILITY (WCF) – A WCF which is to be placed in use for a limited period of time, is not deployed in a permanent manner, and does not have a permanent foundation. (*Zoning-Wireless*)

TERMINAL VISTA – The building or landscape element that is visible at the end of a street, or along the outside edge of a curve. (*Subdivision and Land Development*)

THEATER MARQUEE – A canopy structure projecting over the entrance to a theater that contains graphics to identify the name of the theater and may include a changeable message area to promote upcoming on-site events. (*Zoning*)

TIMBER HARVESTING – (*Forest Conservation*)

1. “Timber harvesting” means a tree cutting operation affecting one or more acres of forest or developed woodland within a one-year interval that disturbs 5,000 square feet or more of forest floor.
2. “Timber harvesting” does not include grubbing and clearing of root mass.

TRACT – Property or unit of land subject to an application for a grading or sediment control permit, subdivision approval, project plan approval, or areas subject to a regulated activity. (*Forest Conservation*)

TRACT FOR A PLANNED UNIT DEVELOPMENT – The entire property subject to a planned unit development. (*Forest Conservation*)

TRANSITIONAL RESIDENTIAL FACILITIES WITH IN-HOUSE PROFESSIONAL CARE FOR UP TO THREE TRANSITIONAL RESIDENTS BEING TREATED FOR SUBSTANCE ABUSE ISSUES – A transitional living arrangement which performs more like multi-family housing than a single-family housekeeping unit for up to three persons being treated for substance abuse, plus support staff, in transition between institutional detoxification and independent living. (*Zoning*)

TRANSPORTATION PLAN – The plan for streets and highways included in the transportation plan element of the City’s officially adopted Comprehensive Plan. (*Subdivision and Land Development*)

TREE – A large, branched woody plant having one or several self-supporting stems or trunks that reach a height of at least 20 feet at maturity. (*Forest Conservation*)

TREE, CANOPY (SHADE) – A species of tree which normally grows to a mature height of 40 feet or more with a minimum of mature crown width of 30 feet. Such trees shall be at least 1.75 inches to 2.5 inches in diameter, measured at five feet, when planted. (*Subdivision and Land Development - Landscaping*)

TREE, CHAMPION – The largest tree of its species within the United States, the state, county, or municipality. (*Forest Conservation*)

TREE, CHAMPION OF THE STATE – A tree designated by the Department of Natural Resources to be a state champion tree. (*Forest Conservation*)

UNDERSTORY TREE – A species of tree which normally grows to a mature height of 15 to 35 feet in height. Understory trees shall be a minimum of four feet high and one inch in caliper (measured six inches above grade) when planted. (*Zoning - Landscaping*)

UNDUE FINANCIAL HARDSHIP – A condition, demonstrated to the satisfaction of the Historic District Commission, showing that the retention of a building, structure or feature in a historic district denies the property owner all reasonable use of a property, or the cost of necessary or required improvements outweigh the anticipated fair market value of a property after completion of repairs or

rehabilitation. Undue financial hardship is not an analysis of the individual financial capacity of the owner or applicant to implement rehabilitation or improvements. (*Zoning - Historic*).

USE – Any activity, occupation, business or operation conducted or intended to be conducted in a building or other structure or on a tract of land. (*Zoning*)

UTILITIES – For the purposes of Articles 4 and 5, Municipal utilities of the City of Hagerstown and other private utilities. (*Zoning and Subdivision and Land Development*)

VAPOR LOUNGE – Any facility, establishment, or location, whether fixed or mobile, whose business operation, whether as its primary use or as an ancillary use, includes the utilization of a heating element that vaporizes a substance that releases nicotine, tobacco, flavored vapor or other substances through one or more electronic or battery operated delivery devices, including any device known as an electronic cigarette (also commonly referred to as E-Cig, E-cigarette, E-pipe, Electronic cigarillo, hookah pen, E-hookah, vape pen, vape pipe or any other electronic cigarette product), including but not limited to establishments known variously as vape bars, vape lounges, e-cigarette bars, or vape cafes. (*Zoning*)

VARIANCE, FLOODPLAIN – The grant of relief from the strict application of one or more requirements of Article 6 of this Chapter. (*Floodplain*)

VARIANCE, FOREST CONSERVATION – Relief from Article 7 of this Chapter and does not mean a zoning variance. (*Forest Conservation*)

VARIANCE, ZONING – A modification only of density, bulk or area requirements in Article 4 where such modification will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the results of any action taken by the applicant, a literal enforcement of the Zoning Ordinance would result in unnecessary hardship or practical difficulties. (*Zoning*)

VIOLATION – As pertains to Article 6, any construction or development in a special flood hazard area that is being performed without an issued permit. The failure of a building, structure, or other development for which a permit is issued to be fully compliant with these regulations and the conditions of the issued permit. A building, structure or other development without the required design certifications, the elevation certificate, or other evidence of compliance required is presumed to be a violation until such time as the required documentation is provided. (*Floodplain*)

WALL – A constructed solid barrier of concrete, stone, brick, tile, wood, or similar type of material that restricts the flow of air and light for the purposes of providing a boundary, separating lots or enclosing space. (*Zoning*)

WAREHOUSE – A building and/or open area that is used for the temporary storage of materials or merchandise in an organized manner before their export or distribution for sale, or for the long-term storage of personal property with no definite plans for the future disposition of that property. A warehouse shall not include the processing or sorting of recyclables, scrap, or rubbish for distribution back into the chain of re-manufacture, or the bulk storage of fuels or junked automobiles and their parts. (*Zoning*)

WATERCOURSE – The channel, including channel banks and bed, of non-tidal waters of the State. (*Floodplain*)

WATERS OF THE STATE – Waters of the state include:

1. Both surface and underground waters within the boundaries of the state subject to its jurisdiction;
2. That portion of the Atlantic Ocean within the boundaries of the state;
3. The Chesapeake Bay and its tributaries;
4. All ponds, lakes, rivers, streams, public ditches, tax ditches, and public drainage systems within the state, other than those designed and used to collect, convey, or dispose of sanitary sewage; and
5. The floodplain of free-flowing waters determined by MDE on the basis of the 100-year flood frequency. (*Floodplain*)

WATERSHED – All land lying within an area described as a sub-basin in water quality regulations adopted by the Department of the Environment under COMAR 26.08.02.08. (*Forest Conservation*)

WETLANDS – As pertains to Article 5, those areas that are inundated and saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. (*Subdivision and Land Development*)

WETLANDS, NON-TIDAL – As pertains to Article 7 of this Chapter,

1. An area that is:
 - a. Inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation; and
 - b. Considered a non-tidal wetland in accordance with the publication known as the “Federal Manual for Identifying and Delineating Jurisdictional Wetlands,” published in 1989 and as may be amended and interpreted by the U.S. Environmental Protection Agency.
2. “Non-tidal wetlands” does not include tidal wetlands regulated under Natural Resources Article, Title 9, Annotated Code of Maryland. (*Forest Conservation*)

WHIP – An unbranched woody plant greater than 24 inches in height and having a diameter of less than one inch measured at two inches above the transition zone between stem and root at the ground line of a tree or seedling. (*Forest Conservation*)

WIND ENERGY SYSTEM, BUILDING-MOUNTED – An exterior, building-mounted, accessory device or devices and essential supporting structure to a permitted principal use specifically designed to convert kinetic wind energy to electric power and having a rated maximum output of no more than 15 kilowatts of electricity for direct consumption on the subject property or for connection to the electric power grid to offset the cost of electric service consumed on the subject property. (*Zoning*)

WIND ENERGY SYSTEM, LARGE – An exterior accessory device and essential supporting structure specifically designed to convert kinetic wind energy to electric power and having a rated maximum

output of more than 15 kilowatts of electricity for direct consumption on the subject property or for connection to the electric power grid to offset the cost of electric service consumed on the subject property. (*Zoning*)

WIND ENERGY SYSTEM, SMALL – An exterior, ground-mounted, accessory device or devices and essential supporting structure to a permitted principal use specifically designed to convert kinetic wind energy to electric power and having a rated maximum output of not more than 15 kilowatts of electricity for direct consumption on the subject property or for connection to the electric power grid to offset the cost of electric service consumed on the subject property. Any wind energy system that exceeds these parameters shall be classified as a Large Wind Energy System. (*Zoning*)

WIRELESS COMMUNICATIONS – Any personal wireless services as defined by the Federal Telecommunications Act of 1996 which includes FCC-licensed commercial wireless telecommunications services including cellular, personal communications services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging, and similar services that currently exist or that may in the future be developed. This does not include: (1) radio antennas operated by federally licensed amateur radio operators which are exempt from local zoning restrictions; (2) antennas and towers operated by safety services, such as police, fire, and rescue operations; or (3) essential utility equipment. (*Zoning - Wireless*)

(MICRO) WIRELESS COMMUNICATION ANTENNA ARRAY – An antenna array for the reception of wireless communications services, less than two meters in height and diameter, which is either ground-mounted or attached to an existing building or structure. (*Zoning - Wireless*)

WIRELESS COMMUNICATION ANTENNA ARRAY (ANTENNA ARRAY) – One or more whips, panels, discs or similar devices used for the transmission or reception of radio frequency (RF) signals, which may include omni-directional antenna (whip), directional antenna (panel) and parabolic antenna (disc or dish). (*Zoning - Wireless*)

WIRELESS COMMUNICATION FACILITY (WCF) – Any unstaffed facility for the transmission and/or reception of wireless communications services, usually consisting of an *antenna array*, transmission cables, and *equipment facility*, and a *support structure* used to achieve the necessary elevation. (*Zoning - Wireless*)

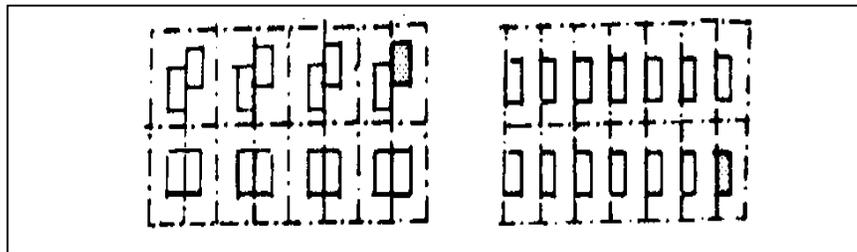
WIRELESS COMMUNICATION SUPPORT STRUCTURE (SUPPORT STRUCTURE) – A structure designed and constructed specifically to support an *antenna array*, and may include a monopole, self-supporting (lattice) tower, guy-wire support tower and other similar structures. Any device which is used to attach an *attached WCF* to an existing building or structure shall be excluded from the definition of and regulations applicable to support structures. (*Zoning - Wireless*)

YARD SALE – All general sales open to the public, conducted by a resident from or on residential premises in any zoning district, as regulated in Article 4, Subsection K.7., for the purpose of disposing of personal property, including but not limited to all sales entitled “garage,” “lawn,” “yard,” “attic,” “porch,” “room,” “backyard,” “patio,” or “rummage” sale. A yard sale shall not include the sale of inventory purchased or acquired by the resident for the purpose of resale. (*Zoning*)

YARD TYPES: (Note: For methods of calculation, please refer to Article 4, Subsection K.6 of this Chapter). (*Zoning*)

1. **FRONT YARD** – A yard extending between side lot lines across the front of a lot.
2. **REAR YARD** – A yard extending across the rear of the lot between inner side yard lines. In the case of through lot and reversed frontage corner lots with normal frontage, the rear yard shall extend from the inner side yard line of the side yard adjacent to the interior lot to the rear line of the half-depth front yard.
3. **SIDE YARD** – A yard extending from the rear line of the required front yard to the rear lot line.

ZERO LOT LINE DEVELOPMENT – A method of developing land where single-family detached dwellings are built on a side lot line. This form of development is not currently permitted by this Chapter, however, any such existing development in existence as of September 26, 2008, is a legal non-conforming use. (*Zoning*)



**Figure 8 – Left: Semi-Detached Dwelling Units
Right: Zero Lot Line Dwelling Units**

ZONING ADMINISTRATOR – The administrative officer appointed by the City Council of Hagerstown to administer and enforce the provisions of this Chapter. For the purposes of the administration of this Chapter, this definition shall include the Zoning Administrator’s staff or authorized representative acting on the Zoning Administrator’s behalf. (*Zoning*)

ZONING MAP – The Zoning District Map of the City of Hagerstown, Maryland, and adjacent areas, adopted as part of the Zoning Ordinance, together with all amendments and revisions thereto subsequently adopted. (*Zoning*)

ZONING ORDINANCE – The officially adopted Zoning Ordinance and Zoning Map for the City of Hagerstown, Maryland, and all amendments thereto. [*Editor’s Note: Article 4 of this Chapter*] (*Subdivision and Land Development*)

ZONING PERMIT – A written statement issued by the Zoning Administrator authorizing buildings, structures or uses consistent with the terms of the Zoning Ordinance and for the purpose of carrying out and enforcing its provisions. (*Zoning*)