

**ARTICLE 5**  
**Subdivision and Land Development Ordinance**  
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**ARTICLE 5**  
**Subdivision and Land Development Ordinance**

**A. General Provisions.**

**1. Title.**

This Article shall be known and cited as the Subdivision and Land Development Ordinance, Hagerstown, Maryland, as amended.

**2. Administration of Ordinance.**

This Subdivision and Land Development Ordinance shall be administered by the Hagerstown Planning Commission. All applications, fees, maps, and documents relative to subdivision approval shall be submitted to the City of Hagerstown Planning and Code Administration Department for review and formal action by the Hagerstown Planning Commission, hereinafter referred to as the Commission.

**3. Application and Interpretation.**

No land within the incorporated area of Hagerstown, Maryland, shall be subdivided, nor shall any lot be sold or building erected in a subdivision as herein defined, until a plat of the subdivision is approved by the Commission and the plat properly filed and recorded by the Clerk of the Circuit Court for Washington County, Maryland.

Pursuant to the Land Use Article of the *Annotated Code of Maryland*, a Clerk of the Circuit Court shall not record a plat of a subdivision unless the plat has been approved by the Commission as required by law. Any subdivision plat recorded without Commission approval has only the legal effect of an unrecorded plat.

In their interpretation and application, the provisions of these Regulations shall be held to be minimum requirements to meet the stated purpose and intent of these Regulations. Where the provisions of these Regulations impose greater restrictions than those of any statute, other regulations, or ordinance, the provisions of these Regulations shall prevail. Where the provisions of any federal, state, or City statute, ordinance, or regulation impose greater restrictions than these Regulations, the provisions of such federal, state, or City statute, regulation, or ordinance shall prevail.

The transfer, whether by gift, purchase, or otherwise, of a portion of a lot, tract, or parcel of land, to the City of Hagerstown, or to any agency thereof, for the purpose of acquisition of a road right-of-way, may not be subject to these Regulations. However, prior to the exchange of title, the proposed acquisition shall be approved by the Hagerstown Planning Commission.

**a. Mergers.**

The divisions or mergers of residentially zoned land that involve conveyance between adjoining and contiguous parcels, may not be subject to these Regulations, provided that:

- (1) Neither the parcel being divided nor the parcel being enlarged are in a previously recorded subdivision.
- (2) The land conveyed shall be merged into the adjoining parcel, and common property line eliminated so as to form one lot.
- (3) The division shall not create a violation of the zoning regulations, except that conveyances are permitted between parcels which do not comply with current zoning bulk regulations if neither parcel becomes less complying. Merger of a noncomplying parcel into a larger parcel is also permitted.

**b. Minor Subdivisions.**

- (1) Exempt from Sketch and Development Plan. A Minor Subdivision as defined herein is exempt from the Sketch Plan and Development Plan. Initial submissions of Minor Subdivisions may be at the Final Plat stage.
- (2) Such subdivisions shall affect the entire parcel or tract.
- (3) The Zoning Administrator may permit Minor Subdivisions which are not in accordance with the minimum lot size requirements of the zoning regulations if:
  - (a) The Minor Subdivision improves the compliance of existing lots that do not meet current zoning bulk regulations by bringing the noncomplying lots as close to zoning compliance as possible; and
  - (b) The remainder of the parcel after the Minor Subdivision is in accordance with the zoning regulations.
  - (c) The subdivision of an existing duplex into two separate lots with a common wall.

**c. Resubdivision or Boundary Line Adjustment.**

Resubdivision plan approval is required in order to modify a previously recorded plat by adding or deleting lots or modifying lot lines. Provided there are no public road or private access place improvements required and no addition to the area previously recorded, a resubdivision or boundary line adjustment is exempt from the Sketch Plan and Preliminary Plan procedures of this subtitle. Initial submissions may be at the Final Plat stage.

**d. Adjustments to Recorded Plats.**

The combination or recombination of a portion of previously subdivided and recorded lots may be approved by the Zoning Administrator if the total number of lots is not increased, and the resultant lots are equal to or exceed the standards of this Article.

**4. Subdivision of Record.**

Any plat or subdivision approved by the Zoning Administrator and/or the Planning Commission under the auspices of this Article and recorded among the Land Records of Washington County prior

to the effective date of this Article shall be accepted as valid and no further approval by the Commission shall be required for the conveyance of lots so shown.

**5. Definitions.**

Article 3 of the Land Management Code shall govern all definitions as they apply to this Article.

**6. Modification.**

Where the Commission finds that extraordinary hardships may result from strict compliance with these Regulations, or where the Commission finds that environmentally sensitive features worthy of preservation will be destroyed, it may vary the Regulations so that substantial justice may be done and the public interest secured, provided that such modification will not have the effect of nullifying the intent and purpose of these Regulations.

A modification may be granted where the hardship is created by the physical character of the property, including irregular dimensions and topography, or by other extraordinary situation or condition of such property, or by the use or development of property immediately adjacent thereto. Personal or self-inflicted hardship shall not be considered as grounds for the issuance of a modification.

A modification may also be granted where necessary for preservation of environmentally sensitive features.

Where a modification is granted, the Commission may attach such conditions and safeguards as are deemed necessary to protect general public interest or the character of the neighborhood, and may require a guarantee or bond to assure compliance.

**7. Assessment of Lots in a Subdivision.**

The filing of plans with the Commission shall not constitute a basis for a change of tax assessment. When the final subdivision plat is filed with the Clerk of the Circuit Court for recording, it becomes public information, and a print of the plat so recorded is forwarded to the County Assessor office.

**8. Appeals.**

Appeals from the provisions of this Article shall be in accordance with the procedures set forth in Article 8 of this Code.

**9. Amendments.**

The Commission may recommend and the Mayor and City Council may adopt amendments to the provisions of these Regulations if it is determined, after public hearing and advance public notice of said hearing, that any such amendment will better the public interest and the general purpose of these Regulations, as defined in the Land Use Article of the *Annotated Code of Maryland*.

**10. Violations and Penalties.**

The treatment of violations of this Article, and penalties for those violations shall be in accordance with Article 8 of this Code.

**10. Repeal.**

All other Ordinances, regulations, or statutes in conflict with the provisions of these Regulations or inconsistent with the provisions of these Regulations are hereby repealed to the extent necessary to give these Regulations full force and effect.

**11. Severability and Separability.**

Should any Article, Section, Subsection, or provision of these Regulations be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the Subdivision Regulations as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.

**12. Effective Date.**

This Ordinance was first adopted and became effective on March 1, 1976. It has been amended and revised on several occasions over time, including substantive amendments effective January 20, 2007, and inclusion within this larger Land Management Code effective September 26, 2008.

**B. Reserved.**

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**C. Subdivision of Land Procedure.****1. Introduction.**

The procedure for obtaining approval of a Major subdivision consists of the following four steps:

- a. Sketch Plan/Preliminary Consultation and Approvals;
- b. Final erosion and sediment control/stormwater management review and approvals; and
- c. Development Plan Review and Approvals; and
- d. Final Plat Review and Approval.

With respect to the Planned Unit Development Process as outlined in the Zoning Ordinance, the Concept Plan and Exhibit approved by the Mayor and Council shall serve as the Sketch Plan for the purposes of this Article.

**2. Sketch Plan Review and Preliminary Consultation.**

The Sketch Plan/Preliminary Consultation process is intended to provide the applicant with an opportunity to resolve problems with respect to a subdivision early in the proceedings and to make necessary modifications and revisions prior to incurring the expense of preparing formal development plans. By definition, a Minor Subdivision is exempted from this process. In addition, in certain cases where the size and complexity of the proposed development is minimal, the Planning and Code Administration Department may advise the applicant to proceed to the Development Plan stage at the applicant's discretion.

- a. **Pre-Application Meeting with Staff.** A pre-application meeting or preliminary consultation is designed to introduce the applicant to the City's zoning and subdivision regulations and procedures, to discuss the applicant's objectives, and if needed or desired, to schedule a site inspection.
- b. **Site Inspection.** After the pre-application meeting, a site inspection of the property may be arranged. Appropriate parties may include members of the Planning Staff, other appropriate City officials, and the Planning Commission.

The purpose of the visit is to familiarize local officials with the property's existing conditions and special features, to identify potential site design issues, and to provide an informal opportunity to discuss site design concepts; potential locations for proposed buildings and street alignments, also including the general layout of designated greenway lands and open space (if applicable).

Comments made by municipal officials and staff or consultants shall be interpreted as being only suggestive. It shall be understood by all parties that no formal recommendations can be offered and no official decisions can be made at the Site Inspection. However, it is anticipated that observations will be utilized to develop a mutual understanding on the general approach for subdividing and developing the property.

- c. **Sketch Plan Submission.** The Sketch Plan diagrammatically illustrates a conceptual layout for lots, greenway lands, open space, building sites, and street alignments. It does not include hard

engineering data necessary for construction. However, the sketch plan must include the site environmental features, preliminary estimates of storm water management requirements, and design narrative required by the City's Storm water Management Ordinance. Submission of a Sketch Plan does not constitute formal filing of a plan with the City, and shall not commence the statutory review period. The Planning Commission shall review the Sketch Plan for consistency with the Policies and Goals of the Comprehensive Plan, with the criteria contained in the Zoning Ordinance, Forest Conservation Ordinance, and with other applicable City ordinances. Their review should advise the applicant of the extent to which the proposed subdivision or land development conforms to the relevant standards of this Article, and may suggest possible plan modifications that would increase its degree of conformance.

- d. **Review Elements.** The Planning Commission's review may include, but is not limited to:
- (1) The location of all areas proposed for land disturbance (streets, foundations, yards, storm water management areas, etc.) with respect to notable features of natural or cultural significance;
  - (2) The potential for street connections with existing streets, other proposed streets, or potential developments on adjoining parcels;
  - (3) The location of proposed access points along the existing road or street network;
  - (4) The proposed building density and impervious coverage.
  - (5) The availability and capacity of water and sewer.
  - (6) Proposed public improvements; highways or other major improvements planned by public authorities for future construction on or near the tract to the extent known to developer.
  - (7) Consideration of Forest Conservation and other environmentally sensitive areas, including but not limited to slopes of 15% percent or greater.
  - (8) Open space.
  - (9) Parking considerations.
  - (10) The extent to which the environmental site design (ESD) techniques have been incorporated into the design.

**3. Sketch Plan Data Requirements and Planning Commission Review.**

a. **Data Requirements.**

The required sketch plan shall contain, at a minimum, the data listed in Article 5, Subsection F.1, of this Article.

**b. Planning Commission Review.**

The Planning Commission shall review the Sketch Plan and the findings and recommendations and any other reports pertaining to the Plan, and provide comments, recommendations, and requirements as appropriate. The Planning Commission shall approve, approve with conditions, or disapprove the Sketch Plan.

- (1) If the Planning Commission grants the conditional approval of a Sketch Plan, the conditions and reasons thereof shall be stated in writing.
- (2) If the Planning Commission disapproves the Sketch Plan, the reasons for disapproval shall be stated in writing and reference shall be made to the specific sections of this Article and/or the Comprehensive Plan.
- (3) If the Planning Commission approves the Sketch Plan, the applicant is authorized to proceed with the preparation of a Development Plan. Approval of a Sketch Plan shall not incur any vesting rights.

**4. Development Plan Review.**

The Development Plan is intended to provide detailed information sufficient for a formal review by the various municipal reviewing agencies and other authorities and is to be used as a basis for construction. Final approval of the Development Plan is determined by the Planning Commission. This Plan shall conform to the Sketch Plan. The City shall review the Plan to assess its accuracy, conformance with municipal ordinances, and likely impact upon the surrounding neighborhood, upon the natural and cultural resources on the property, and the City as a whole.

**5. Development Plan Data Requirements.**

The developer shall file with the submission of the Development Plan all of the construction drawings and documents to complete construction of streets, utilities, engineering data, storm drains, and storm water management facilities, together with all necessary appurtenances thereto in accordance with procedures and criteria contained in the City of Hagerstown's, *Public Ways Construction Standards & Engineering Guidelines*. The developer shall prepare and submit copies as required to the Planning and Code Administration Department.

The required development plan shall contain, at a minimum, the data listed in Article 5, Subsection F.1 of this Article. The development plan shall also include a preliminary version of the final subdivision plat, showing the proposed location of lot lines and easements.

**6. Development Plan Approval.**

The Planning Commission shall review the Development Plan and the findings and recommendations and any other reports pertaining to the Plan, and shall approve, approve with conditions, or disapprove the Development Plan.

**a. Formal Notice of Approval.**

If the Planning Commission grants the conditional approval of the Development Plan, the conditions and reasons thereof shall be stated in writing.

**b. Formal Notice of Rejection.**

If the Planning Commission disapproves of the Development Plan, the reasons for disapproval shall be stated in writing and reference shall be made to the specific sections of this Article and/or the Comprehensive Plan.

**c. Signature and Effective Period of Plan.**

If the Planning Commission approves the Development Plan, approval of the Development Plan shall be noted by the Zoning Administrator signing and retaining as many copies as he or she may determine to be necessary for public use and record after any outstanding issues or conditions of approval are resolved by the applicant. The Zoning Administrator shall distribute signed copies to relevant agencies as set forth by Office policy. The Zoning Administrator may sign as many copies as the applicant deems necessary for their purposes. Approval of a Development Plan shall in no way constitute approval of the Final Plat. Development Plan approval shall be effective for a period of two years, and such additional periods as may be specifically approved in writing by the Commission.

**d. All Applicable Permits Required.**

Approval of the Development Plan by the Commission does not constitute permission to construct Required Improvements. Final storm water management plan approval must be obtained from the City Engineer and the Washington County Conservation District, and all required permits must be obtained from all applicable City agencies and state and federal agencies before construction may commence.

**e. Digital Submittal Before Construction.**

The digital submittal of the Development Plan and/or final storm water management plan as required by Subsection F.1 must be received prior to the issuance of construction permits. This is necessary for final house number addresses and integration into the utility infrastructure in the City's Geographic Information System (GIS).

**f. Field Modification of Approved Improvements.**

When changes or alterations of an approved Development Plan and/or final storm water management plan become necessary during construction, written approval of the changes shall be secured before execution of such changes. Implementing improvements that are not approved is a violation of the Ordinance, subject to enforcement and penalties. Requests for approval of changes must be submitted to the Planning and Code Administration Department, illustrating the proposed changes in red-line mark-ups of the approved plans. A digital submittal in accordance with Subsection F.1, is also required. Changes or alterations that are not shown as such, noted and illustrated, shall not be considered approved. Submittals shall be in accordance with policies

adopted by the Planning and Code Administration Department for required numbers of copies necessary for routing plans to affected agencies.

**g. Administrative Approval of Minor Changes.**

Changes that have little substantive impact on the overall Development Plan and/or final storm water management plan may be approved administratively by the Zoning Administrator. Substantial revisions must be reviewed by the Planning Commission. The Zoning Administrator reserves the right to require an applicant to obtain Planning Commission approval of any proposed amendment to the Development Plan and/or final storm water management plan.

**7. Withdrawal.**

A Development Plan, upon written request of the applicant, shall be withdrawn from consideration by the Commission.

**8. Final Storm Water Management Plan Review.**

The final storm water management plan is intended to provide detailed information on the engineering design of all proposed storm water management practices and erosion and sediment control techniques for the project. The final storm water management plan shall incorporate or address all comments received during the Sketch Plan and Development Review Plan processes.

**9. Final Storm Water Management Plan Data Requirements.**

The developer shall submit detailed construction drawings, reports, calculations, and other supporting documentation in accordance with the requirements of the City's Storm Water Management Ordinance.

**10. Final Storm Water Management Plan Approval.**

The City Engineer and the Washington County Conservation District shall review the Final Storm Water Management Plan and the findings and recommendations and any other reports pertaining to the Plan, and shall approve, approve with conditions, or disapprove the Final Storm Water Management Plan.

If the City Engineer approves the Final Storm Water Management Plan, approval by the City Engineer shall be noted by signing the said Plan.

**11. Final Plat Review.**

The purpose of the Final Plat is to require formal approval by the Commission before plats for subdivisions are recorded as required by these Regulations. The Final Plat shall conform to the approved Development Plan and shall reflect all changes required by the Commission pursuant to the Development Plan review procedure.

The Final Plat may constitute only that portion of a particular development phase of the approved Development Plan, which the developer proposes to construct and record at that time, provided that such portion conforms with all the requirements and standards of these Regulations.

a. **Wastewater Capacity Required.**

A Final Plat shall be approved only when the Planning Commission has determined that wastewater facilities will be adequate to support and service the proposed subdivision as regulated under the City's Sewer Capacity Allocation Program, as amended from time to time.

b. **Digital Submission and Standards.**

A digital submission of the Final Plat in a format utilizing commonly accepted engineering practices and one accepted and approved by the City Engineer shall be submitted, accompanying the final mylar. Existing, vacated, and proposed property line must be on unique layers for identification in the City's digital tax mapping system. All property line work shall be accessible on a separate layer.

c. **City Grid and Monument System.**

The work shall be tied to the City Grid and monument system (MD State Plane Coordinates NAD 83-epoch 1996). At a minimum, two field-identified property corners shall have City Grid coordinates identified, preferably along an exterior line or along a city right of way, at least 300 feet apart, if feasible.

**12. Final Plat Data Requirements.**

The required final plat shall contain, at a minimum, the data listed in Article 5, Subsection F.2, of this Article.

**13. Final Plat Certification.**

The following certifications and related information shall appear on the Final Plat:

- a. **Certification of Ownership and Dedication** signed and acknowledged by all parties having any record title interest in the land subdivided consenting to the preparation and recording of said Final Plat, establishing minimum building restriction lines and dedicating the following public uses: roads, streets, alleys, walks, utility and storm drainage rights-of-way, open space, and other areas approved for dedication to public use by the Commission.
- b. **Certification of Accuracy** signed by a registered land surveyor or property line surveyor responsible for the survey and Final Plat with seal.
- c. **Certification of the Maryland Department of Health and Mental Hygiene** signed by the Washington County Health Officer regarding the installation of water supply and wastewater systems.
- d. **Certification signed by the City Engineer** approving the installation of streets and other improvements as defined herein in accordance with City Standards where these improvements have been completed, dedicated and accepted by the City prior to Final Plat approval.
- e. **Certification signed by the City Clerk of the City of Hagerstown** acknowledging that a performance security in the amount determined by the appropriate City official(s) has been posted

with the City of Hagerstown guaranteeing completion of all improvements as defined herein in accordance with City Standards where these improvements have not been completed, dedicated and accepted by the City prior to Final Plat approval.

- f. **Certificate of Approval signed by the Chairman of the Commission** certifying that the subdivision shown on the Final Plat is in compliance with the Subdivision Regulations, Hagerstown, Maryland, and approving the Final Plat for recording with the Clerk of the Circuit Court of Washington County.
- g. **Additional Restrictions.** Any other restrictions or requirements relating to land use, height, area or bulk regulations or restrictions designed to promote the purposes of the Zoning Ordinance or Comprehensive Plan as determined by the Commission.
- h. **Covenants and Easements.** Protective covenants and easements, if any, in form for recording.

#### 14. Final Plat Approval.

The Commission shall approve or disapprove the Final Plat, if all requirements of these Subdivision Regulations have been complied with within 30 days after the submission thereof to the Commission; otherwise such Final Plat shall be deemed to have been approved and a certificate to that effect shall be issued by the Commission upon demand.

The applicant may waive the 30-day limitation and consent to an extension of such period.

- a. Approval of the Final Plat shall be noted by the signing of the Certificate of Approval by the Chairman of the Commission.
- b. If the Commission disapproves the Final Plat, it shall set forth the reasons for disapproval in its records and provide the applicant with written notification of such reasons.

Every Final Plat approved by the Commission shall, by virtue of such approval, be deemed to be an amendment of or an addition to or a detail of the Comprehensive Plan and a part thereof.

The Commission shall have the power to agree with applicant upon use, height, area or bulk requirements or restrictions which are designed to promote the purposes of the Zoning Ordinance of the City of Hagerstown. Such requirements or restrictions shall be stated upon the Final Plat prior to the approval and recording thereof and shall have the same force of law and be enforceable in the same manner and with the same sanctions and penalties and subject to the same power of amendment or repeal as though set out as part of the Zoning Ordinance and Zoning Map of the City of Hagerstown.

#### 15. Acceptance of Required Improvements.

Approval of the Final Plat shall not be deemed to constitute or effect an acceptance by the City of any Required Improvement shown upon the Final Plat. Acceptance of such Required Improvement shall be made only by the Mayor and City Council in accordance with these Regulations and other applicable ordinances, statutes and regulations.

**16. Recordation.**

The Final Record Plat shall be recorded with the Land Records Division, Clerk of the Circuit Court of Washington County, and shall be a clear and legible black line print on mylar. This print shall be an exact copy of the approved Final Plat as certified by the Chairman of the Commission. The Applicant/ Developer shall record the Final Plat.

**a. Six Months to Record.**

The Record Plat must be recorded with the Clerk of the Circuit Court of Washington County within six months of Planning Commission approval; if not, approval of the Final Plat by the Planning Commission shall be void.

**b. Recorded Copies.**

Within five working days of the date of recordation, the applicant shall submit to the Planning and Code Administration Department a reproducible and two black line prints of the Final Plat with proof of recordation affixed thereto. Failure to provide the Department with the appropriate documentation of recording within the time period specified shall constitute a violation of this Article and the applicant shall be subject to penalties as provided in Article 8, (Violations and Penalties).

**17. Withdrawal.**

A Final Plat, upon written request of the applicant, shall be withdrawn from consideration by the Commission.

**18. Simplified Plat Procedure.**

Where a Subdivision, as defined herein, is submitted, but the intent of the Subdivision is not for development purposes, a Simplified Plat may be submitted for approval by the Zoning Administrator, without the necessity of the applicant going before the Planning Commission.

Examples of Subdivisions not for development purposes are as follows: acquisition of additional acreage solely for property enlargement, a conveyance for acquisition purposes only, readjustment of property lines and/or correction of deed discrepancies, and conveyance of an existing structure for residential purposes only. Also, the creation of a plat for the purpose of implementing a condominium regime for existing structures and/or uses (including minor improvements thereto) that do not create additional dwelling units or habitable commercial or industrial space may be processed as a simplified plat.

The Planning Commission, Planning Director, Zoning Administrator or the applicant may require Commission approval as provided for in Subsection C.14.

**a. Data Requirements.**

The required simplified plat shall contain, at a minimum, the data listed in Subsection F.2 of this Article.

**b. Certifications and Documents.**

Each Simplified Plat submitted to the Commission for approval shall contain or be accompanied by such certificates, affidavits, endorsements or documents as may be required by the Commission in enforcement of these Regulations.

**c. Simplified Plat Approval.**

- (1) The Zoning Administrator shall approve or disapprove a Simplified Plat, if all Subdivision Regulations have been complied with, within 30 days after submission of the completed Plat. Otherwise such plat shall be deemed to have been approved and the certificate to that effect shall be issued by the Commission on demand. The grounds of disapproval of said Plat shall be stated upon the records of the Commission and the Applicant so notified in writing.
- (2) Approval of the Simplified Plat shall be noted by the signing of a certificate of approval by the Chairman of the Commission.

**19. Condominium Plats.**

No plat for the creation of condominium units within existing buildings or land condominium units shall be recorded in the Land Records of Washington County unless and until the plat is submitted to the Zoning Administrator for review and signature.

The review conducted by the Zoning Administrator shall be limited to verifying that there are no proposals, conditions or plans within the plat that would be a violation of the Zoning and Subdivision and Land Development Ordinances. Also, this review shall be for the purpose of verifying that the proposed use is permitted by the Zoning Ordinance, or if the existing use is illegal or nonconforming.

In the event that the condominium plat is for a use that is nonconforming to the Zoning Ordinance, confirmation of that use shall be secured by the applicant in accordance with the requirements of Article 4 prior to recording the condominium plat.

Condominium plats will be treated as a simplified plat for processing.

**20. Plat Fees.**

According to the fee schedule adopted by the Mayor and Council and amended from time to time.

**21. Properties in Violation at Time of Application or Processing.**

When a property with an open violation case or known violation of this Land Management Code is submitted into the subdivision process, the Zoning Administrator may suspend review and processing of the application pending resolution of the violation. Such suspension also suspends any review timing standards as set forth in this Chapter.

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D. Reserved.

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**E. Subdivision Design Principles and Standards.****1. Application.****a. Design Principles.**

The subdivision plat shall conform to the principles which are generally exhibited in the Comprehensive Plan and Zoning Ordinance, and any other applicable ordinances, statutes or regulations included but not limited to the transportation element of the Comprehensive Plan and the City's Stormwater Management Ordinance.

**b. Minimum Standards.**

The standards and requirements outlined herein shall be considered minimum standards and requirements for the promotion of the public health, safety, and general welfare.

**c. Remnants.**

All portions of a tract being subdivided shall be taken up in lots, streets, public lands, stormwater management area, open space or other proposed uses, so that remnants and landlocked area shall not be created.

No land shall be subdivided unless there exists adequate access to the land over approved streets or roads as defined herein, or unless such access will be provided by the developer, or if such land is considered by the Commission to be unsuitable for such use by reason of flooding or improper drainage, geological structure, topography or any other feature harmful to the health, safety and general welfare of present and future residents of the City of Hagerstown.

**2. Street Layout and Design.****a. Standards.**

Arrangement, character, extent, width, grade and location of all streets shall conform to the transportation element of the Comprehensive Plan and the *Public Ways Construction Standards and Engineering Guidelines*; and shall be considered in their relation to existing and planned streets, topographical conditions, public convenience and safety, and appropriate relation to the proposed uses of land to be served by such streets. Any proposed intersection with a state highway will be subject to the review and approval of the State Highway Administration.

**b. Consideration of Existing Natural Features.**

Street layout should consider natural and topographic features such as tree lines, hedgerows, stone walls, fence lines, and watercourses. Alteration of natural, cultural, or historic site features should be kept to the minimum necessary. Any prominent natural vistas should be emphasized.

**c. Pedestrian, Transit, and other Transportation.**

Many streets have purposes in addition to vehicular traffic and should be designed to incorporate bicycle, pedestrian, and public transit routes.

**d. Connection to Existing Neighborhoods.**

All development shall be reviewed for potential connections to new and existing neighborhoods. The overall street plan for any subdivision must provide access to the subdivision by a public street(s) connected to the existing road system. Multiple points of egress (two or more) are recommended. Developments of 51 to 100 units may be acceptable with one public street point of egress if an emergency access point is provided. Two or more public street access points are required where the number of dwelling units exceeds 100. Streets within new subdivisions, where possible, shall align with and connect to those of adjacent subdivisions. New streets shall interconnect within a development and with adjoining development. The overall layout shall provide for continuation or appropriate projection of existing roads or streets (constructed, recorded, or planned) in the surrounding area.

**e. When Connectivity Cannot be Accomplished.**

Where topography or other significant conditions make continuance or projection of existing streets impossible or substantially impracticable, they shall still accomplish the transportation element of the Comprehensive Plan or to any specific area transportation plan, as approved by the Commission.

**f. Access May Be Limited to Arterial Streets.**

Where subdivision abuts or contains an existing or proposed arterial street or other streets with expected arterial traffic volumes as defined by the *Public Ways Construction Standards and Engineering Guidelines*, the Commission may limit access from individual lots and may require local access streets, deep lots with rear service alleys, or such other treatment. All lots shall front on a public street right-of-way.

**g. Traditional Street Design Preferred.**

Preferred designs are rectilinear street layouts, with occasional diagonal elements to enhance visual interest, and appropriate traffic calming measures as necessary; and curvilinear street layouts, in response to topography. Terminal vistas of protected open space or prominent structures should be incorporated into the design layout.

**h. Future Connection to Undeveloped Land.**

Street stubs shall be constructed adjacent to undeveloped land to provide for future connections. Temporary easements for turnarounds shall be provided at the boundary lines and appropriate arrangements shall be made for those parts of temporary turnarounds outside of street right-of-way to revert to abutting owners at such time as the street shall be extended.

**i. Cul-de-Sacs.**

Cul-de-sacs are discouraged and shall be allowed only where topographical considerations offer no practicable alternatives for connections or through traffic. Where a cul-de-sac is unavoidable, variations to standard cul-de-sac design shall be considered, including loop lanes, crescent design, or by incorporating a planting island at the terminus. Cul-de-sac streets shall not be longer than 600 feet from the nearest intersecting street.

**j. Railroad Crossings.**

A subdivision involving new or existing streets crossing railroad tracks shall provide adequate right-of-way and slope easements, for construction of an underpass or overpass.

**k. Limit on Number of Approaches to an Intersection.**

No street intersection shall include more than four street approaches.

**l. Sidewalks.**

Streets shall be bordered by sidewalks on both sides, excepting circumstances where a sidewalk on one side may be deemed sufficient, as recommended by the City Engineer and/or Planning and Code Administration Department, and approved by the Planning Commission.

**m. Street Focus.**

Streets shall be the focus of buildings. All buildings will front on public streets. Reverse frontage lots are discouraged unless unique conditions exist and the Planning Commission approves an adequate landscape plan to shield the rear yards of the lots.

**n. Street Trees.**

Street trees shall be provided in accordance with Subsection I.4.i of this Article.

**o. Development and Use of Alleys Encouraged.**

Alleys are a predominant Hagerstown feature and the use of alleys is encouraged in new subdivisions to allow for vehicle parking to the rear of properties, to provide additional connectivity, and to improve the pedestrian orientation of primary streets by reducing or eliminating curb cuts. Alleys may be either public or private, depending upon function. Private alleys shall be constructed to City standards.

**p. Gated Neighborhoods Prohibited.**

Gated neighborhoods isolate parts of the community from others, interfere with traffic flow, create maintenance conflicts with respect to snow removal, trash pickup and other service requirements, and are, therefore, prohibited.

**q. Private Streets.**

Private streets are prohibited.

**r. Panhandle or Pipestem Lots.**

Panhandle lots are discouraged and shall be allowed only where topographical considerations and/or existing conditions offer no practicable alternatives. The following requirements shall apply:

- (1) Shall contain only one single-family dwelling unit and its uninhabited accessory structures.
- (2) The maximum panhandle length shall be 150 feet.
- (3) The minimum panhandle width shall be 25 feet.

Administration of these requirements may be modified in cases where there is a second frontage on another public street right-of-way, that meets minimum lot width standards, and the house constructed orients its front yard to the second frontage.

s. **Open space.**

Every residential subdivision of a density of ten units per acre or greater shall dedicate a portion of such land for the purpose of open space and recreational equipment to serve the recreational needs of the residents of the subdivision. Such open space may also be made available to the general public through dedication to and acceptance by the City. Such open space shall not be comprised of accumulations of leftover remnants of land on the site, but shall constitute meaningful contiguous areas of land which provide for the preservation of significant natural features, and/or provide recreational amenities. A minimum of 20% of the gross acreage of the subdivision must be open space. This open space shall be in accordance with the standards specified in Section D, Subsection 6.c.(2), of Article 4 (Zoning Ordinance) - Cluster Development - Site Design Criteria. The following criteria shall be used to determine open space requirements within a subdivision:

**Maximum Percentage of Total Land Required  
Gross Residential Density for Open Space\***

20 units/acre and greater	25%
10 units/acre – 19 units/acre	20%

\*For cluster development and Planned Unit Developments, the minimum percentage of land required for open space shall be in accordance with the respective provisions of the Zoning Ordinance.

t. **Rear Yards of Townhomes.**

For all townhouse lots hereafter created, where the unit shall be attached on both sides to other buildings or dwellings, the rear yard shall abut an alley or an open space area. This requirement is for the purpose of providing access to the rear yard of interior lots that does not require passing through the dwelling.

**F. Subdivision and Site Plan Data Requirements.**

The following data is the minimum necessary to affect complete review and consideration of proposed development, and shall be shown on the relevant plan. If a particular data requirement may not be present or relevant, a notation shall be made on the plan that such element is not present or relevant, so that it is clear that the issue has been addressed. Additional or unique conditions or circumstances may necessitate the Planning and Code Administration Department to require additional data in order for the plan to be complete so thorough review of site conditions and proposed development can be made.

There are two charts; one in Subsection F.1 and one in Subsection F.2. Each of these two charts occupies several pages. Each chart is a single document although spread across several pages.

**1. Sketch Plans, Development Plans, Site Plans, and Minor Site Plans.**

Plan Requirement	Sketch Plan	Development Plan	Site Plan	Minor Site Plan
Scale (at least one page showing entire development on one sheet)	1" = 10 feet to 1" = 100 feet	1" = 10 feet to 1" = 100 feet, depending on size of development	<i>Under 3 acres:</i> 1" = 20 feet <i>Over 3 acres:</i> 1" = 50 feet or 1" = 100 feet	1" = 10 feet
Text size at least one-eighth (1/8) inch in height		X	X	
Each sheet shall be numbered and shall show its relationship to the total number of sheets.		X	X	X
Boundary of project shown as follows: ----- — — -----		X	X	X
Legend clearly indicating which features are existing and which are proposed.	X	X	X	X
Vicinity map, showing the approximate relationship of the development to its general surroundings, including existing or mapped streets and all municipal boundaries within 1,000 feet of the development.		1" = 1,000 feet or greater	1" = 1,000 feet or greater	
Dimensions shall be in feet and decimal parts thereof.		X	X	X
Approximate proposed layout, (location, alignment, width), and tentative names of streets, lots and other elements basic to the proposed use in relationship to site conditions.	X			
Streets on and adjacent to the tract (both existing and proposed).	X			
One hundred year floodplain limits and approximate location of wetlands, if any.	X	X	X	X
Significant topographic, physical, and cultural features including fields, pastures, meadows, wooded areas, significant trees, significant vegetation, steep slopes, ponds, streams, existing rights-of-way, easements, and any	X	X	X	

<b>Plan Requirement</b>	<b>Sketch Plan</b>	<b>Development Plan</b>	<b>Site Plan</b>	<b>Minor Site Plan</b>
significant historical resources, including known and suspected human burial sites.				
The limit of disturbance line in relation to the retention of existing trees proposed to be saved.	X			
The approximate location and general description of proposed methods for sewage collection, storm drainage, water supply, storm water management and other utilities.	X			
Show and label the City/County boundary line if appropriate.	X	X	X	X
Forest Stand Delineation and Preliminary Forest Conservation Plan.	X			
Open Space areas, as required by and of such design standards as are required by this Article.	X	X		
Calculations demonstrating that the proposed development complies with the parking requirements of the Zoning Ordinance.	X	X	X	X
Where any revision is made, or when the Plan is a resubdivision of a previously approved Plan, dotted lines shall be used to show features or locations to be abandoned and solid lines to show the presently proposed features.		X		
A notation stating the zoning district in which the proposed development is located, including overlays.	X	X	X	X
Location by City tax map, block and parcel numbers (City Unique ID number).		X	X	X
Name of subdivision or development. The name shall not duplicate, be the same spelling or alike in pronunciation to any recorded subdivision.		X	X	
Names and addresses of the developer and owner(s) if other than the developer.		X	X	X
Certificate signed and sealed by a registered land surveyor or registered professional engineer, responsible for the survey and/or engineering computations of the Plan.		X	X	X
Owner's certifications and statements.		X	X	X
Date of drawing, and revision schedule.		X	X	X
North arrow.		X	X	X
A boundary survey or survey of record of the property to be subdivided, and all remaining lands, including map book and page reference, locating and identifying adjacent or abutting streets (existing or platted), subdivisions, unsubdivided parcels, easements, water areas, and the like, and all visible monuments, showing all courses, distances, and area, and tie-ins to all adjacent street intersections. At a minimum, show the entire parent tract or original parcel on an index map.		X	X	X

Plan Requirement	Sketch Plan	Development Plan	Site Plan	Minor Site Plan
Existing contours with intervals not more than five feet where the slope is 10% or greater and not more than two feet where the slope is less than 10%. Elevations based on United States Geological Survey or equivalent adjusted datum. (Source of contour data referenced on site plan; include a benchmark with elevation and location on the plan.)	X	X	X	
Slopes of 15% or greater, including a written justification for need in cases where the developer proposes to develop or disturb such slopes.	X	X	X	
Location, width and names of all existing or prior platted streets or other public streets, railroad and utility rights-of-way, parks and other public open spaces, and municipal corporation lines within or adjoining the tract.		X	X	
Other conditions on the tract being subdivided including, but not necessarily limited to, watercourses, wetlands, floodplains, rock out crop areas, wooded areas and other environmentally sensitive areas and significant features.	X	X	X	
Utilities on and adjacent to the tract: location, size and invert elevation of existing sanitary sewerage facilities and storm drains; location and size of water mains; location of fire hydrants, utility lines and street lights.		X	X	X In work area
Proposed public improvements; highways or other major improvements planned by public authorities for future construction on or near the tract to the extent known to developer.		X	X	
Location and design of all required sidewalks and crosswalks.		X	X	
If water mains, sanitary sewers, and storm drains are not on or adjoining the tract, indicate the direction, distance to, and size of nearest water mains and sewers showing invert elevation of sewers to extent known to developer.		X	X	
Other conditions on adjoining land within 100 feet; approximate direction and gradient of ground slope, including any embankments or retaining walls, character, location and ownership of private sewerage systems within 100 feet of the development boundary, railroads, utility lines, towers and other nearby nonresidential land uses or adverse influences; owners of adjoining unplatted land; for adjoining platted land refer to subdivision Plat by name recorded.		X	X	
Street Plan containing the following: (a) Location of all proposed streets. (b) Widths of all proposed rights-of-way and proposed paving widths. (c) Proposed street names. (d) Plan and centerline profile of all proposed streets.		X		
Indicate location of any on-street parking. Also include calculation of parking requirements, both on and off site.		X	X	

<b>Plan Requirement</b>	<b>Sketch Plan</b>	<b>Development Plan</b>	<b>Site Plan</b>	<b>Minor Site Plan</b>
Layout and dimension of proposed lots, including lot lines, lot numbers, and block letters. Provide calculations of the density of residential development.	X Generally depicted	X	X Density for single lot development	
If applicable, include the number and types of units proposed, for multi-family dwellings, shopping centers, churches, industry or other non-public uses, including parking spaces, exclusive of single-family and two-family dwellings. Show the building footprints for all structures. Provide tabulated data for parking requirements.	X General location of structures only	X	X	
Building setback lines.		X	X	X
Notation explaining all associated planning and zoning files (BZA, FC, NCU, annexation, HDC, past subdivisions or site plans).		X	X	X
Location and dimension of all parcels proposed to be dedicated or reserved for school sites, parks, open space used by occupants of the development, and for other public uses.		X		
Identification including plan and profile of all utilities proposed within the development, including the location, grade, and size of storm drains, catch basins, drainage ways and channels, sanitary sewerage facilities, pumping stations, water mains, street lights, fire hydrants, and other required public facilities and improvements.				X Within work area
Copy of current deed of ownership, and copy of homeowner association documents (if applicable).		X	X	X
Rights-of-way proposed to be created for all access, storm drainage, and utilities purposes.		X	X	
A Forest Conservation Plan, including the locations and means for forest retention, reforestation or afforestation.		X	X	
A Landscape Plan, including locations and specifications for required street trees, drawn in accordance with all requirements of Subsection I.4.				X Within work area
A final storm drainage plan and final storm water management plan, with calculations.		X	X	
A final grading plan, showing grading for all subdivision improvements, and, where applicable, mass grading.		X	X	
Location of all existing and proposed buildings, lighting, fencing, structures, parking facilities and other improvements, and means of trash collection. Include a scale dimension from the property line to proposed buildings. All parking facilities shall be designed in accordance with Subsection I.4 of this Article.		X (Not for proposed single-family, duplex, or semi-detached dwellings)	X	X Within work area
If alterations are to be made to existing buildings structures or other improvements, dotted lines to show features or locations to be abandoned and solid lines to show proposed features.			X	X Within work area

Plan Requirement	Sketch Plan	Development Plan	Site Plan	Minor Site Plan
Zoning district, including overlays, City Unique ID number, and County tax map and parcel number, and election district.	X	X	X	X
A final sediment control plan, if required by Soil Conservation District regulations, for the entire project area to be recorded and for any adjacent area affected by the area to be recorded, including: (a) The location of forest protection measures, temporary and permanent sediment control measures and vegetative stabilization. (b) The construction sequence for providing forest protection measures and adequate sediment control measures to prevent off site drainage.		X	X	
A digital submittal of the Plan is required. It shall be in a format utilizing commonly accepted engineering practices and one accepted and approved by the City Engineer. It shall show all proposed improvements, including but not limited to, proposed grading, streets, utility lines, service locations, storm drains, building footprints, setbacks, curb locations, sidewalks, the exterior boundary of the subdivision, and all new interior lot lines. It shall be tied to the City Grid and monuments system (MD State Plane Coordinates NAD 83-epoch 1996).		X	X	
Photometric Plan.			X	

**2. Plats: Final, Simplified, Minor, Condominium, and Other.**

**a. Drafting Standards.**

Plan Requirement	Simplified	Minor	Final	Condo
Dimensions shall be in feet and decimal parts thereof, and bearings in degrees, minutes and seconds.	X	X	X	X
An appropriate scale no less than 1" = 10 feet nor greater than 1" = 100 feet, in multiples of ten feet.	X	X	X	X
When more than one sheet is required, an index sheet of the same size shall be submitted showing the entire subdivision drawn to scale.	X	X	X	X
Where the Plat is a resubdivision of a previously approved Plat, dotted lines shall be used to show features or locations to be abandoned or vacated and solid lines to show the presently proposed features.	X	X	X	
The Plat shall contain an adequate legend so as to clearly indicate which features are existing and which are proposed.	X	X	X	X
The boundary line of the subdivision shall be shown as a heavy line.	X	X	X	X
The plat shall be prepared by a registered land surveyor on a sheet 18 x 22 3/4 inches with a 1½-inch margin for binding along the left	X	X	X	X

<b>Plan Requirement</b>	<b>Simplified</b>	<b>Minor</b>	<b>Final</b>	<b>Condo</b>
edge and a ½-inch margin along the remaining edges, or the current requirements of the Office of Land Records at the Washington County Courthouse.				
All linear and angular dimensions for locating the boundaries of the subdivision, lots, streets, alleys, public and private easements, shall be expressed in feet and hundredths of a foot. Angular measurements shall be expressed by bearings. All curve data shall be expressed by a curve table on the face of the Plat, each curve being tabulated and numbered to correspond with the respective numbered curves shown throughout the Plat. Dimensions, both linear and angular, shall be determined by an accurate control survey in the field which shall be checked for closure and must balance and close within an accuracy of one to 10,000. Horizontal control shall be based on the Maryland Coordinate Grid System (NAD 83 - epoch 1996) in a coordinate table located on the face of the Plat.	X	X	X	X

**b. Existing Information.**

<b>Plan Requirement</b>	<b>Simplified</b>	<b>Minor</b>	<b>Final</b>	<b>Condo</b>
Name of the subdivision.	X	X	X	X
Date of drawing, north point and scale.	X	X	X	X
Name and address of the owner of the land being subdivided and name and address of the developer if different from that of the owner.	X	X	X	X
Name, address, and professional seal of the engineer or surveyor, licensed in the state of Maryland.	X	X	X	X
Location of subdivision by tax map number, election district, city and state.	X Add street address	X	X	X
Vicinity map showing the relation of the tract to adjoining property and to all streets and municipal boundaries existing within 1,000 feet of any part of the property.	X Not less than 1" = 2,000 feet	X	X Not less than 1" = 1,000 feet	
Complete outline survey of the property to be subdivided, showing all courses, distances, and area, and tie-ins to all adjacent street intersections. The entire parent tract must be shown and/or described on the plan or the index sheet.	X	X	X	
Owners of adjoining land.	X	X	X	
The location, name, and right-of-way of each street and the locations and width of all other rights-of-way and pavement widths.	X	X	X	
The location and angles of departure of adjoining property and street right-of-way lines, the names of abutting subdivisions, and the names of adjoining property owners, including deed reference. The abutting subdivisions shall be identified by lot and block			X	

Plan Requirement	Simplified	Minor	Final	Condo
numbers, subdivision name, place of record or other proper designation.				
The location, size and ownership of all existing easements as defined herein, both within the subdivision and within 100 feet of the subdivision's boundaries.			X	
The location of any existing forest conservation easements.	X	X	X	
The location of any designated 100-year floodplain and floodway.	X (Approximate)	X	X	
Show and label all existing property monumentation found.	X	X	X	
Required building setback lines.		X	X	
The zoning designations of the site, including overlays.	X	X	X	
Notation explaining all associated planning and zoning files (BZA, FC, NCU, annexation, HDC, past subdivisions and site plans)	X	X	X	X
Tract boundary lines, right-of-way lines of streets, easements and other rights-of-way.	X	X	X	
Condominium Review Signature Block				X
All existing buildings and improvements as defined herein located within the boundaries of the subdivision. The distance between any existing structure to the new property line shall be determined and labeled.	X			

**c. Proposed Layout.**

Plan Requirement	Simplified	Minor	Final	Condo
Lot layout with lots numbered in numerical order. In tracts containing more than one block, the blocks shall be lettered in alphabetical order.	X	X	X	
Area of each lot, parcel, site or other unit shown on the Plat.	X	X	X	X
The names, right-of-way widths and cartway or pavement widths of all proposed streets.			X	
Sufficient data to determine readily the location, bearing, and length of every street, lot, and boundary line, with new lines of division shown and labeled as such.	X	X	X	
Building setback line for each street and property line.		X	X	
Location and dimensions of all parcels proposed to be dedicated or reserved for open space use as defined herein or for other public uses with the purposes indicated thereon.			X	

<b>Plan Requirement</b>	<b>Simplified</b>	<b>Minor</b>	<b>Final</b>	<b>Condo</b>
The location, width, and purpose of all existing or proposed easements or rights-of-way and boundaries by bearings and dimensions.	X	X	X	
The location and description of all markers, monuments, or other evidence found or established to determine the boundaries of the subdivision.	X	X	X	X
Private restrictions, if any, proposed to be included in deeds.	X	X	X	X
Location and description of all proposed afforestation and reforestation areas.		X	X	
Clearly note or graphically show building setback lines.		X	X	
Show any limited access vehicular restrictions required by the appropriate governing jurisdiction.			X	
Maintenance responsibilities.		X	X	X
Parking restrictions.		X	X	X

**G. Required Improvements in Subdivisions.**

**1. Purpose and Applicability.**

- a. The purpose of this Article is to delineate the Required Improvements as defined herein which shall be required of the applicant as condition for final approval.
- b. All construction shall be completed in accordance with Specifications as defined in the City Engineer’s *Public Ways Construction Standards and Engineering Guidelines* or successor documents, the City of Hagerstown Zoning Ordinance, and constructed in a manner acceptable to the Commission and other applicable City departments and agencies.
- c. All Required Improvements delineated in these Regulations shall be installed and constructed by the developer who shall pay all costs involved in installation, construction, inspection, and testing.
- d. Approval of the Final Plat by the Commission does not constitute permission to construct Required Improvements. Appropriate permits must be obtained from the City Engineer and other applicable departments and agencies before construction may commence.

**2. Streets and Alleys and Attached Dwellings Located at Intersections.**

Streets and alleys shall be graded and surfaced in accordance with the design standards in the City Engineer’s *Public Ways: Construction Standards and Engineering Guidelines*, and with Chapter 216 of the Code of the City of Hagerstown, or successor documents.

In the case of a subdivision containing lots fronting on an existing State, County, or City maintained road, the developer shall provide required right-of-way as necessary to serve the needs of such subdivision for access and traffic.

When the end unit of a townhouse building is located at the intersection of two public streets, or a public street and a non- public driveway in a development, the end unit shall be architecturally designed to present a front facade to the side street. (See illustration).



**3. Street Signs and Traffic Control Devices.**

Street signs and all other traffic control signs and devices shall be installed at the developer’s expense in accordance with the City Engineer’s *Public Ways Construction Standards and Engineering Guidelines* and with Chapter 216 of the Code of the City of Hagerstown. All street intersections on County and state roads and signage shall comply with County and state policies and ordinances, as applicable.

**4. Street Lights.**

Street lights shall be installed in all subdivisions. The Hagerstown Department of Utilities, Electric Division, or its designee, will design and/or approve the street light system.

The developer is responsible for the purchase and installation, to approved Hagerstown Department of Utilities, Electric Division specifications, of the street light system. The Hagerstown Electric Division shall furnish or contract to furnish electrical power during this time, at no charge to the developer, and shall assume all operation and maintenance costs of the entire installed system, one year after the City of Hagerstown assumes ownership of all streets and rights-of-way within the development. Until that ownership transpires, the developer will be responsible for all aspects of the street light system.

**5. Storm Drainage Facilities.**

**a. When Required.**

The developer shall provide in every subdivision, storm drains, culverts, drainage ways, or other works adequate to collect and dispose of all water originating on or flowing across the property without inundating or damaging neighboring streets, roads, lots, or other properties. All systems shall be designed in accordance with specifications and comply with adopted City and state policies and ordinances, where applicable.

**b. Standards and Cost.**

Storm drainage facilities shall be installed at the developer's expense in accordance with the City Engineer's *Public Ways Construction Standards and Engineering Guidelines* and with Chapter 216 of the Code of the City of Hagerstown.

**c. Location and Design Conditions.**

See Section I (Site Plan Standards) for locational and design limitation regarding stormwater management facilities.

**6. Curbs and Gutters.**

Curbs and gutters shall be built in accordance with the City Engineer's *Public Ways Construction Standards and Engineering Guidelines* or successor documents.

**7. Driveway Entrances and Sidewalks.**

Sidewalks and driveway entrances shall be constructed in accordance with the City Engineer's *Public Ways Construction Standards and Engineering Guidelines* and with Chapter 216 of the Code of the City of Hagerstown. Sidewalks shall be provided on all streets. Pedestrian sidewalks and crosswalks shall be required to provide interior circulation and access to nearby schools, parks, and other community facilities in accordance with the design standards enumerated in Section E of these Regulations.

Where the Planning Commission finds that sidewalks, in addition to those required parallel to streets, would provide safe, logical and convenient routing of pedestrian traffic, such sidewalks constructed in a manner appropriate to their purpose, may be required. Sidewalk handicapped ramps shall be provided at all intersections in accordance with adopted City State, and Federal ADA standards, as applicable.

**8. Wastewater System.**

Each subdivided lot, parcel, or site being created shall be connected and served by a separate wastewater line to the City's wastewater system (unless alternative arrangements are made by the City for the subdivision to be served by County Wastewater System). This connection shall be located at or near the right-of-way line. However, townhouses, cluster-style development, condominium units, apartments, or commercial/industrial sites with greater than two units may be served by a single line with approval of the Department of Utilities. Homeowner association or commercial customer documents, showing method of cost sharing, shall accompany all requests. All wastewater systems shall be designed, constructed, inspected, and tested in accordance with City standards and any other appropriate governmental regulations. Allocation of capacity at the City Wastewater Treatment Plant to the subdivision shall be made in accordance with the currently adopted Sewer Capacity Allocation Program or such successor documents or practices in accordance with City Policy.

**9. Water Supply System.**

Every subdivision shall be provided with a public water supply system adequate for the type of development proposed and so related to existing or potential surrounding development as to form a logical part of a coordinated system minimizing potential water supply problems for the general area.

Each subdivided lot, parcel, or site being created shall be connected and served by a separate metered connection to the municipal water system. This connection shall be located at or near the right-of-way line. However, townhouses, cluster-style development, condominium units, apartments, or commercial/industrial sites with greater than two units may be served by a single line with approval of the Department of Utilities. Homeowner association or commercial customer documents, showing method of cost sharing, shall accompany all requests. All water supply systems shall be designed and constructed in accordance with City Standards and any other appropriate governmental regulations. Fire hydrants shall be installed in accordance with appropriate governmental regulations.

**10. Open Space.**

Ownership, maintenance, and control of open space shall be the responsibility of a Homeowners Association, a private conservation organization, or the City of Hagerstown, upon its acceptance of the same. The Planning and Code Administration Department shall review and approve any documents deemed necessary to ensure that ownership and maintenance of such open space land by a responsible homeowners association is guaranteed prior to recording of the final plat. The date of acceptance and approval of the articles of incorporation of such property owners by the state Department of Assessments and Taxation shall be noted on the final plat prior to recording.

**11. Permanent Monuments.**

All monuments shall be installed in accordance with Maryland State Law (Real Property, Title 3, Section 108 of the Annotated Code) and shall be of concrete or stone and not less than six inches in

diameter or four inches square and 36 inches long. The center shall be marked on the top by either a copper dowel, set flush with the top, 3/8 inch in diameter and 2½ inches long or by crossed scores at least ½-inch deep. Monuments shall be set so that the top is level with the adjoining established grade.

The corners of all lots shall be marked by galvanized or wrought iron pipe, or steel bars at least two feet in length and not less than 5/8 inch in diameter, the top of the pipe or bar to be set level with the established grade adjoining it.

**12. Assurances and Guarantees.**

Before the Commission shall approve the Final Plat for any subdivision, they shall ascertain that one of the two following requirements have been adequately met by the developer:

- a. All Required Improvements have been completed, inspected, and accepted by the Mayor and City Council in accordance with these Regulations and other applicable ordinances, statutes and regulations; or
- b. Where Required Improvements have not been completed, that acceptable assurances have been made to the City of Hagerstown guaranteeing completion of all required improvements in accordance with all appropriate regulations.

**13. Performance Security.**

A performance surety, as referred to in these Regulations shall be a performance bond, irrevocable letter of credit, certified check, or any other similar collateral as approved by the City Attorney and/or City Engineer or their representative. Such surety agreement shall be required by the Planning Commission as acceptable guarantee for the installation and construction of required improvements where they have not been completed prior to Final Plat approval. The amount shall be sufficient as determined by the appropriate City official(s).

The developer shall post such agreement with the City Clerk in the amount specified by the City Engineer or his or her representative, as may be necessary, providing acceptable guarantee to the City of Hagerstown that all Required Improvements shall be constructed in accordance with all appropriate regulations, necessary permits, and approved plans.

Specifically, the developer shall be required in posting the Performance Security to cover the following items:

- a. To construct and install or cause to be constructed and installed at his or her own expense, all streets, curbs, sidewalks, fire hydrants, drainage facilities, street signs, monuments, water and wastewater facilities, street lights and other Required Improvements in strict accordance with the Development Plan, as approved, and in strict accordance with design standards and applicable regulations.
- b. To maintain at his or her own cost said streets, curbs, sidewalks, fire hydrants, drainage facilities, street signs, monuments, water and sewerage facilities, and other Required Improvements, until the same are accepted by the Mayor and City Council.

- c. To post an acceptable Performance Surety to remain in effect until acceptance of Required Improvements by the Mayor and City Council for the purpose of assuring satisfactory construction.
- d. Upon installation of the required improvements, as provided in the developer agreement, the developer may request the City to inspect the improvements prior to the release of surety. The developer's agreement regarding the installation of improvements may provide that the developer may be partially released from the requirements of the developer's agreement upon partial completion of the work upon satisfactory inspection.

#### **14. Public Acceptance of Required Improvements and Dedications.**

The installation of Required Improvements, in accordance with the terms of these Subdivision Regulations, shall in no way be construed as acceptance by the City or an acceptance of an offer of dedication. Same shall be considered only as an offer of dedication until formally accepted by the Mayor and City Council.

All offers of dedication of rights-of-way, streets, alleys, open spaces, public area, or any other matter of whatsoever nature or kind shall be considered only an offer to dedicate and shall in no way be considered accepted by the City until action is taken in the manner prescribed by law.

##### **a. Manner of Acceptance of Dedication.**

All offers of dedication to the City of any Required Improvements, as set forth herein, shall only be considered accepted after all the following procedures have been completed:

- (1) Upon completion of all construction within the existing and proposed rights-of-way and on the Developer's request, the City Engineer's Office shall make a final inspection.
- (2) The developer shall prepare and submit as-built plans based on the direction and policies of the City Engineer's Office. As-built plans shall consist of the original construction plans modified to show all differences between designed and constructed grades, dimensions and other features. The as-built plans shall also be accompanied with an AutoCAD file in the version specified by the City Engineer.
- (3) Upon notification that the project has passed final inspection, the Developer shall cause the following documents to be delivered to the City Engineer: deeds to the streets, including the rights-of-way in fee simple, maintenance security, payment of signs, and proof of recordation of the associated subdivision plats.
- (4) An offer of dedication has been made on the appropriate plat;
- (5) Acceptance of same by a formal resolution of the Mayor and City Council;
- (6) Conveyance to the City of the interest in question by applicable deed, or other instrument in writing with proper designation and description of same, and of specific reference to the formal acceptance;
- (7) The signature of the Mayor affixed thereon showing formal acceptance; and

- (8) The resale and deed of dedication or other applicable instructions be received and recorded among the Land Records of the Clerk of Circuit Court for Washington County, Maryland.

After the date of adoption, under no circumstances shall implied acceptance of an offer of dedication be recognized by the City except as set forth herein.

- b. The City will endeavor to act upon dedication within 60 days of said formal offer, provided the applicant furnishes the necessary dedication, in the proper form, subject to approval by the City Attorney.
- c. A rejection of an offer of dedication shall not preclude re-application or re-offer to dedication either immediately or at any later date.
- d. The maintenance guarantee, amounting to 20% of the Performance Security previously established, shall be, but not limited to performance bonds, surety agreement, escrow agreements, irrevocable letter of credit, or any other similar collateral or surety agreements. The maintenance security shall remain in effect for a maintenance period of one year following acceptance of Required Improvements by the Mayor and City Council for the purpose of assuring satisfactory construction.

**15. Release of Performance Security.**

The Performance Security or other sureties established in accordance with the provisions of these Regulations shall be released by the City of Hagerstown when the City Engineer certifies that the requirements set forth therein have been met and when the Required Improvements and offers to dedicate have been accepted by the City in accordance with Subsection 14.a. above.

**H. Required Dedication of Expanded and Planned Street Rights-of-Way.****1. Required Dedication of Right-of-Way Along Existing Streets and Roads.**

When a proposed subdivision or site plan for the development of land fronts a public street right-of-way (improved or unimproved), the developer shall offer for dedication those additional lands necessary to widen existing rights-of-way to the current standards required by the City Engineer via the *Public Ways Construction Standards and Engineering Guidelines* maintained by his office. In the event of this requirement being made of a site plan, a separate plat of dedication may be necessary to complete the dedication.

**2. Required Dedication of Right-of-Way For Comprehensive Plan Street Rights-of-Way.**

When a proposed subdivision or site plan for the development of land involves land that is adjacent to, abuts, is bisected by, or otherwise is impacted by planned road alignments as delineated in the Comprehensive Plan of the City of Hagerstown, as may be amended and updated, the subdivision or land development will incorporate the right-of-way of that planned road into their design and that right-of-way shall be offered for dedication to the City of Hagerstown. In the event of this requirement being made of a site plan, a separate plat specifically for the purpose of right-of-way dedication may be necessary. The City may require such road to be constructed to City standards at the developer's expense.

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**I. Site Plan Standards.****1. Thresholds of Site Plan Requirements and Exceptions.****a. Construction – Less than 500 Square Feet in Area.**

All new construction involving 500 square feet or less of disturbed area shall be subject to approval by the Zoning Administrator during the Building Permit review process.

The building permit plan shall be drawn to scale and accurately and correctly represent the existing conditions and proposed improvements to the degree that the Zoning Administrator deems necessary for sufficient review of the proposal for zoning compliance. The Zoning Administrator may require a minor site plan in accordance with Subsection (b) below, when in his or her judgment the proposal is of such extent or complexity to warrant more detailed review and plans, or when the submission of successive plans under this subsection serves to circumvent the intent and need for site plans for significant construction.

**b. Construction – 501 Square Feet in Area to 5,000 Square Feet in Area.**

A minor site plan shall be submitted to the Zoning Administrator for his or her approval for all new construction greater than 500 and less than 5,000 square feet, including disturbed area, involving all construction and land development, except for new single-family, two-family and semi-detached dwellings, additions thereto, and additions to townhouses.

The minor site plan shall meet all those requirements made of site plans submitted under Subsections I.1.c and I.3 below for Planning Commission review, unless specific plan requirements are waived by the Zoning Administrator, given the simplicity of the proposal or plan. The Zoning Administrator or the applicant may require Planning Commission site plan review and approval as provided for in this Chapter.

**c. Construction – Greater than 5,000 Square Feet in Area.**

A site plan shall be submitted to the Zoning Administrator for approval by the Planning Commission for all new construction greater than 5,000 square feet, including disturbed area, involving all construction and land development, except for new single-family, two-family and semi-detached dwellings and additions thereto, and additions to townhouses.

**d. Design Principles and Standards.**

Where the submission of a site plan is required under this section, approval of the site plan shall be based upon design principles and standards and required improvements set forth in the City of Hagerstown Subdivision and Land Development Ordinance (Article 5, Sections E and I of this Chapter), and other ordinances, regulations and policies established by the City.

**e. Exception for Certain Types of Dwellings.**

The provisions of this section shall not apply to the construction of single-family detached dwellings, two-family dwellings and single-family semi-detached dwellings and associated accessory structures thereof.

**2. Site Plan Submission Procedure.**

**a. Preparation.**

Site Plans shall be prepared by a registered professional engineer, registered architect, registered landscape architect, registered land surveyor or professional planner (A.I.C.P.).

Minor Site Plans may be prepared by a competent layperson, provided that all required information and materials are provided and the drawing is completed in a competent and understandable manner. The Zoning Administrator may waive information standards he or she deems unnecessary for a complete and competent review of the proposal.

Building permit drawings for projects of less than 500 square feet may be completed by a competent layperson, however the Zoning Administrator shall require all such information as is necessary for a complete and competent review of the proposal.

**b. Preliminary Consultation.**

A preliminary consultation may be held with the Planning Commission to discuss the general concept, use and design of the proposal. If consultation is desired, a generalized sketch or plat of the proposed site plan shall be submitted with five copies at least one week prior to the scheduled consultation and shall consist of location map, boundary, topography, and general proposed land uses drawn to scale.

**c. Administrative Review Procedures.**

The site plan administrative review procedures shall be the same as those required for development plan review and approval pursuant to the Subdivision and Land Development Ordinance (Article 5), including a sketch plan submittal and Planning Commission approval when necessary.

**d. Form and Number of Copies Required.**

The number and format of copies required shall be set by a policy adopted by the Planning and Code Administration Department, however additional copies shall be submitted as determined by the Planning and Code Administration Department in unusual situations. The Planning Commission shall notify the Zoning Administrator of its approval or disapproval of the site plan within 30 days from the date of formal submission to the Commission. However, failure to approve or disapprove a site plan within thirty (30) days shall not constitute approval.

**e. Exception.**

Site plan submission is not required for single-family or two-family dwelling units unless planned as part of a Planned Unit Development, or specifically required elsewhere in this chapter.

**f. Duration.**

The purpose of a site plan is to set the final approved development of the site until such later time that new or revised plans are submitted for additions or redevelopment of a site. All

improvements, including but not limited to conditions of approval, site configuration, parking space, and landscaping required in accordance with this Article shall be maintained on an ongoing basis. Failure to maintain features and improvements shown on an approved site plan constitutes a violation of this Chapter.

**g. Expiration.**

A site plan shall expire if the required permits are not secured and substantial construction accomplished within two years of the date the site plan is approved.

**h. Properties in Violation at Time of Application or Processing.**

When a property with an open violation case or known violation of this Land Management Code is submitted into the site plan process, the Zoning Administrator may suspend review and processing of the application pending resolution of the violation. Such suspension also suspends any review timing standards as set forth in this Chapter.

**3. Site Plan Information Requirements.**

The required site plan shall contain, at a minimum, the data listed in Article 5, Subsection F.1 of this Land Management Code. The developer or engineer shall furnish the City Engineer with “As Built” Mylar reproducible drawings at the completion of the project, if required. The City Engineer may also require electronic copies of the approved plans in a format set forth by the City Engineer by policy.

**4. Landscaping Plan and Parking Area Design Requirements.**

**a. Intent.**

The applicant shall submit as part of the site plan, a comprehensive landscape master plan, identifying the location and size of both existing vegetation to be retained and proposed new vegetation, typical planting materials, the phasing of landscape installation, and planting methods.

These regulations are established to protect and enhance the landscape of the City of Hagerstown and to ensure the appropriate use of plant material in new construction. It is the intent of these regulations to preserve natural tree cover where practicable and to include new landscape plantings with development in order to:

- (1) Reinforce community identity
- (2) Enhance scenic views
- (3) Increase building and property values
- (4) Reduce stormwater runoff and prevent soil erosion
- (5) Create shade and reduce radiant heat
- (6) Provide a visual buffer and separation of space, and

- (7) Reduce noise and shield glare, and
- (8) Enhance the beautification of the City.

**b. Applicability.**

These standards shall apply to any development or redevelopment proposals requiring approval by the Planning Commission (or by staff in the case of administrative approvals). Improvements associated with single-family residences, simplified plats, and minor site plans are exempt.

**c. Preservation of Existing Vegetation.**

Trees and other public landscaping shall be protected by means of suitable temporary barriers during construction. The Planning Commission, upon reviewing a site plan, shall have the authority to require existing landscaping and screening which meet the minimum standards of this Article to be preserved. In locations where healthy and mature shade trees currently exist, the requirements for new trees may be waived or modified, after review by the appropriate agencies, and approval by the Planning Commission. Where practicable and feasible, developers are encouraged to leave existing trees.

**d. Reforestation and Afforestation.**

Landscaping requirements, may at the review of the Planning Commission, be counted towards reforestation or afforestation requirements of the forest conservation program. The amount of the landscaped area to be credited for forest obligations shall be in accordance with Article 7.

Landscaping used to fulfill forest conservation requirements shall be included in the required construction and post construction protection and management agreements. Areas shall be protected by binding, long-term protective agreements under the same terms that apply to other reforestation or afforestation areas.

**e. Modification of Landscape Standards.**

Alternative plans may be approved when unusual topographic constraints, sight restrictions, siting requirements, preservation of existing stands of trees, preservation of specimen trees, or when similar conditions prevent strict compliance with the landscape standards. Modifications to the tree cover, site landscaping, and parking lot landscaping standards contained in this section may be approved when the following conditions are met to the satisfaction of the Planning Commission:

- (1) The landscape plan meets the stated intent of this section.
- (2) The landscape plan provides plantings of similar character, density and screening impact to those required by the standards contained in this section.
- (3) Topography, soil, vegetation or other unique site conditions make full compliance impossible or impractical and warrant some relief from the strict adherence to the standards contained in this section.

- (4) Space limitations, unusually shaped lots, and existing conditions on adjacent properties may justify alternative compliance for infill sites, and for improvements or redevelopment of sites, particularly in the older, established sections of the city.

**f. Performance Criteria.**

- (1) The Planning and Code Administration Department shall require, as a condition of site plan approval, a guarantee of installation of landscaping and screening as required by this Article.
- (2) In order for any landscaping to fulfill the purpose for which it was established, it must be properly maintained. The owner of the property where the landscaping is required will be responsible for the maintenance of all required landscaping materials. Maintenance includes actions necessary to keep screening materials healthy, neat and orderly in appearance and free of litter and debris. All landscaped areas must be protected from damage by motor vehicles or pedestrians, which could reduce the effectiveness of the landscaping. The Planning and Code Administration Department shall require the replacement of trees or the repair of buffers within six months if such trees or buffers die or are destroyed.
- (3) It is also recognized that land development occurs continuously and that vegetation used in landscaping or screening should be planted at certain times of the year to ensure the best chance of survival. In order to ensure compliance with this Article and reduce the potential expense of replacing landscaping or screening materials that were installed in an untimely or improper fashion, the developer may provide, an adequately secured performance bond, cash bond, surety bond, or letter of credit or other security equal to 100% of the cost of materials and installation. Sample forms are found in Section 17 of the City of Hagerstown's *Public Ways, Construction Standards & Engineering Guidelines*. However, all required landscaping and screening shall be installed within six months after the issuance of an occupancy certificate. Release of surety or bond will not be granted until all landscaping shown on the approved site plan has been completed. A qualified professional, as defined in Article 4, Subsection S.2.b. (1) must submit written certification to the Planning and Code Administration Department that healthy plant materials were properly installed in accordance with the approved landscape plan.

**g. Redevelopment.**

Landscape plans for redevelopment shall be consistent with the requirements of this section. The existing site shall be considered to be either the disturbed area of the new construction as shown on the proposed site plan, the area contained within a newly created subdivision related to the redevelopment, or the original parcel.

**h. Parking Design and Landscape Standards.**

- (1) The following minimum parking space and drive aisle design standards shall be observed in off-street parking facilities:

Design Standards Table				
A	B	C	D	E
Parking Angle	Stall Width (feet)	Aisle Width (feet)	Stall Length (feet)	Bay Width for Double Aisle (feet)
0°	9	12	22	29
30°	9	11	18	45
45°	9	13	18	52
60°	9	18	18	59.5
75°	9	22	18	62
90°	9	24	18	60

  

The diagram illustrates a double-aisle parking configuration. It shows two rows of parking stalls separated by a central aisle. Dimension A is the angle between the stalls and the aisle. Dimension B is the width of a single stall. Dimension C is the width of the aisle. Dimension D is the length of a stall. Dimension E is the total width of the bay, which includes the width of two stalls and the width of the aisle between them.

- (2) If the parking stall provides an overhang not encroaching on a walkway, property line, or buffer area, as required in Article 5, the length of the stall may be reduced two feet.
- (3) No off-street parking area shall be designed to permit direct parking space ingress and egress to a public road, except by way of a driveway.
- (4) All off-street parking areas must be physically separated from property lines and public street rights of way by a landscaped buffer as specified in Article 5, Subsections I.4 and I.5.
- (5) The use of employee, occupant, or similar numbers to determine parking space requirements shall be used only where the use of square footage or other measurement factors are not feasible. Employees shall mean the regular working staff (paid, volunteer, or otherwise) at maximum strength and in full-time equivalent numbers necessary to operate, maintain or service any given facility or use under normal levels of service.

- (6) All off-street parking spaces in the CC-MU District must be located in the rear of the principal building or otherwise screened with landscaping to minimize the visual impact on adjacent public streets or residential zoning districts.
- (7) All surface parking facilities, greater than seven spaces shall be landscaped to the minimum requirements as outlined as follows. Requirements shall be rounded up to the nearest whole planting. Trees shall be planted by the developer as part of the Conditions of Approval, for aesthetic reasons and for summer cooling.

Minimum width of planting islands	8 feet
Minimum number of trees per 8 parking spaces	One canopy or 2 understory
Maximum number of contiguous spaces in a row	15
Maximum number of contiguous spaces in a row for employee parking in the IR, IG, and I-MU	25
Maximum number of rows without medians	3
Minimum width of medians	8 feet
Number of trees required per 45 feet of median	One canopy or 2 understory

Each row shall begin and end with a landscaped island.

- (8) A perimeter roadside buffer yard abutting a parking lot (between the street and parking lot) shall be required as follows:

Minimum width of buffer (public right-of-way)	10 feet
Minimum width of buffer (adjoining properties)	10 feet
Minimum number of trees per 40 feet of road frontage	One canopy or 2 understory
Shrubs required in buffer, planted on center (per 10 feet)	One

All portions of the roadside buffer yard not planted with trees or shrubs or covered by a wall or other barrier shall be planted with grass and/or flower beds. Landscaping and screening materials shall not obstruct the view of motorists using any road, driveway, or parking aisle.

- (9) Parking facilities abutting a structure, unless located on or within a structure, shall be separated from the exterior wall of a structure, exclusive of paved pedestrian walks or vehicular loading areas, by a planting strip at least six (6) feet in width. The width may be adjusted by the Planning Commission based on unique site constraints and the nature of the business in relationship to the parking. Composition of the planting strip shall be either:
  - (a) A combination of flower beds and shrubs where the shrubs cover a minimum of 40% of the planting areas; or
  - (b) A combination of trees and flower beds so that there is a minimum of one tree per 25 linear feet of building wall abutting the planting area. A combination of shrubs, trees, and flower beds is also permissible.

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- (10) Every off-street parking area shall be developed and maintained in accordance with the following requirements:
- (a) All off-street parking areas shall be paved with a stable, dust-free surface conforming to City standards or other method approved by the City Engineer.
  - (b) Lighting shall be provided for all parking areas which will receive night use. Such lighting shall be directed to the parking area and be shielded to prevent adverse glare on adjacent public streets and properties. Where proposed lighted parking areas are located adjacent to a residential district or residential use, lighting shall be of minimum intensity to assure safety and security and shall be well shielded from the adjacent property. However, security lighting within the aforementioned pedestrian areas used at night shall be illuminated at a level not less than 0.5 candle power. Upon review of the area to be illuminated, if it is classified as a Special Security area by the City, an increased level of illumination may be considered and studied.
  - (c) All off-street parking areas shall be so arranged and marked as to provide for orderly, safe loading, unloading and parking of vehicles with individual parking spaces clearly defined, and directional arrows and traffic signs provided as necessary for traffic control.
  - (d) Pedestrian walkways and sidewalks shall be provided to and from all paved parking areas and shall be designed to serve on-site principally permitted uses and accessory uses for which there is pedestrian demand. Such walkways and sidewalks shall be protected from vehicular overhang and movement by curbs or other method approved by the City Engineer. Security lighting within the aforementioned pedestrian areas used at night shall be illuminated at a level not less than 0.5 candle power. Upon review of the area to be illuminated, if it is classified as a Special Security area by the City, an increased level of illumination may be considered and studied.
  - (e) In order to allow for the passing of handicapped pedestrians and wheelchairs, pedestrian walkways shall be five feet in width.

i. **Street Trees.**

- (1) All commercial, industrial, institutional, and residential development shall be required to have street trees along all public rights-of-way. This requirement does not apply to rear access lanes or alleys. Street trees shall conform to the requirements of the City of Hagerstown. See Plates M-010 through M-016 for construction standards and a street tree list, and also see Section 216-10, Trees, Code of the City of Hagerstown, for the conditions applying to the installation of street trees, located and detailed in the City Engineer's *Public Ways Construction Standards & Engineering Guidelines*.
- (2) Street trees shall be planted by the developer as part of the Conditions of Approval. They shall be placed along each side of all streets and shall be spaced at intervals no greater than 40 feet along both sides of each street.

- (3) Street trees are required to be within a minimum five-foot planting strip located between the curb of the street and the sidewalk. Should there be an instance where no sidewalk is required, street trees shall still be required, within a defined street yard of at least five feet in width.
- (4) Street trees shall be credited against buffering requirements as appropriate and may be credited toward compliance with the requirements of Article 7 (Forest Conservation) when within public street rights-of-way or protected by easement.
- (5) Understory trees may be substituted for canopy trees if, upon review with the appropriate agencies, a conflict or potential exists with overhead utility lines.

**j. Buffer Landscape Standards.**

Landscaped buffer yards shall be provided and perpetually maintained along all property lines (not street rights-of-way) in accordance with the following table, when applicable:

Proposed Use/Zoning	Adjacent Zoning:				
	All "R"	CL & CG	CC-MU	CR	IR & IG
Multi-family, two-family, semi-detached, mansion house or townhouse development*	10 feet	10 feet	10 feet	10 feet	25 feet
CL, CG, POM, CC-MU and N-MU	10 feet				
CR	35 feet				
IR, IG, and I-MU	60 feet	25 feet	25 feet	25 feet	
*Optional at the discretion of the Planning Commission					

**(1) Residential Buffers.**

Whenever multi-family, mansion house, two-family, semi-detached or townhouse residential dwelling units are proposed, the Planning Commission may require screening in accordance with the following standards:

Trees per 100 feet of buffer yard	2 canopy and 3 evergreen and/or understory
Shrubs per 100 feet of buffer yard	10 shrubs

If more than 20 trees are required, no more than 60% shall be of any one type.

**(2) Commercial and Mixed-Use Buffers.**

Within the City’s commercial zoning districts, the CC-MU and N-MU Districts, and within residential districts when a proposed development is a commercial or institutional use, the following shall be required:

Trees per 100 linear feet of buffer yard (except in the CR District)	3 canopy and 5 evergreen and/or understory
Trees per 100 linear feet of buffer yard in the CR District	6 canopy and 10 evergreen and/or understory
Shrubs per 100 linear feet of buffer yard	25 shrubs

If more than four trees are required, no more than 60% shall be of any one type.

**(3) Industrial Buffers.**

Within the City’s industrial zoning districts, the use or development shall provide screening in accordance with the following standards, whenever bordering a commercial or residential zone:

Trees per 100 linear feet of buffer yard	6 canopy and 10 evergreen and/or understory
Shrubs per 100 linear feet of buffer yard	15 shrubs

If more than 20 trees are required, no more than 60% shall be of any one type.

**(4) Ground Cover to be Planted in Landscaping Buffers.**

All portions of the buffer yards required in Subsections j(1) through j(3) above not planted with trees or shrubs or covered by a wall or other barrier shall be planted with grass, ground cover, and/or flower beds.

**(5) Adjacent Vacant Lots.**

Where vacant zoning lots are adjacent, the first zoning lot to be developed shall provide the buffer and screening required next to vacant land. At the time it is developed, if applicable, the second zoning lot shall also provide the buffer and screening required between the developed land uses. As long as the required buffer and screening is provided and maintained, a buffer may contain sidewalks, pedestrian and bicycle paths, and similar passive uses compatible with the general separation of land uses.

**(6) Buffers to be Located within Setbacks.**

Where possible the landscaped buffer area should be planted within the required building setback area. In such districts where zoning setbacks permit principal structures in closer proximity to property lines, the Planning Commission may approve a narrower landscaped buffer or a relocation of landscaping elsewhere on site.

(7) **Buffers To Be Kept Out of Rights-of-Way and Easements.**

Required buffers shall be located along the front, side, or rear lot lines nearest the adjacent streets, land uses, or zoning designations except where such lot lines are intersected by streets, access ways, or utility easements. Buffers shall not be located on any portion of an existing or proposed street right-of-way. Buffers shall be permitted to intersect utility easements or run parallel with them, but utility easements shall not be permitted to run laterally within the buffer.

(8) **Exceptions.**

Where connectivity between subdivisions is appropriate for high-quality neighborhood design, the Planning Commission may reduce or waive the required buffer yard. Buffers are not required for internal property boundaries of a planned community with mixed uses but will be required to be placed at the perimeter of the project.

(9) **Reverse Frontage Lots.**

Reverse frontage lots, where the rear of the structure faces the public street, are discouraged. However, in the instance where the developer chooses to face the rear of the structure towards the street, the appropriate residential buffer requirements shall apply along the right-of-way, in addition to the requirements for street trees.

(10) **Substitution of Fences for Landscaping.**

In addition to the buffer screening required herein, and the landscaping required for off-street parking, all businesses' service, repair, processing, storage, or merchandise display conducted outside of an enclosed building shall be screened from adjacent streets and properties by means of an effective screening device of a height not more than six feet, unless a variance is granted by the Board of Zoning Appeals. Appropriate screening devices may include solid decorative brick walls, wood fences, berms, tight evergreen hedges which shall reach the necessary height within two years of planting, or a combination of the above. Dumpster enclosure requirements are outlined in *Public Ways Construction Standards and Engineering Guidelines*, Plate M-023.

k. **Materials Type.** Species shall be selected according to the following general criteria:

- (1) Cast moderate to dense shade in the summer.
- (2) Survive more than 60 years.
- (3) Tolerant of pollution and redirect or reflect heat.
- (4) Require little maintenance by being mechanically strong (not brittle) and insect and disease resistant.
- (5) Be able to survive two years with no irrigation after establishment.
- (6) Preference given to species of native origin.

(7) Not drop fruit, etc., on sidewalks.

(8) Recommended canopy trees include:

American Linden	Eastern Red Oak	Shingle Oak
Black Oak	European Beech	Silver Linden
Bur Oak	Little Leaf Linden	Sugar Maple
Chestnut Oak	Pin Oak	Sycamore
Chinese Scholar Tree	Red Maple	White Ash
Common Hackberry	Sawtooth Oak	White Oak
Crimean Linden	Scarlet Oak	Willow Oak

(9) Recommended understory and evergreen trees include:

American Hornbeam	Eastern Red Cedar	Norway Spruce
American Holly	Eastern White Pine	Paperbark Maple
Bark Dogwood	Flowering Dogwood	Washington Hawthorn
Crepe Myrtle	Leyland Cypress	Yoshino Cherry
Canada Hemlock		

Species specifically prohibited are Bradford Callery Pear and Female Ginkos.

(10) Recommended shrubs include:

Arborvitae	Japanese Greenleaf Barberry	Slender Deutzia
Burkwood Viburnum	Junipers	Southern Bush-Honeysuckle
California Privet	Leatherleaf Viburnum	Spirea
Edward Goucher Abelia	Northern Bayberry	Spring Glory Forsythia
Emerald Gaiety Euonymus	Old Fashioned Weigela	Winter Honeysuckle
Fosters American Holly	Olympic Fire Laurel	Wintergreen Barberry
Gnome Pyracantha	Rutgers Pyracantha	Yews

**l. Storm Water Management Control Facilities.**

Landscaping is a critical element to improve both the function and appearance of storm water management. Landscaping of storm water management facilities (ponds, retention, or detention basins), is required in all zoning districts, excepting projects in IR or IG districts where storm water management areas are not adjacent to residential zoning or a public road. *The Storm Water Design Manual, Volumes I & II* (Maryland Department of the Environment) shall be utilized during the design process.

The following trees, at a minimum, measured from the contour at the top of the berm, based on the perimeter length of the pond or detention area:

Canopy tree	One per every 50 linear feet
Evergreen tree	One per every 40 linear feet
Small understory tree	Two per every 50 linear feet

When adjoining a public right-of-way, such facilities shall be sited to allow for street trees and screening plantings, shall be aesthetically pleasing, and shall be designed to incorporate storm water best-management practices.

If a chain link fence is utilized for security purposes, it shall be sufficiently screened by plantings. Chain link shall not be permitted within the required building front yard setback for the district or development within which it is located.

It is recommended that planting around storm water management areas be native vegetation. Plants that are associated with stream, pond, or wetland habitat provide an attractive character for such facilities if suited to site conditions. The plant material selected should be appropriate to the specific environmental conditions created.

It is also recommend that Low Impact Development hydrologic design, utilizing integrated management practices (IMPs), be considered as an alternative to more conventional storm water management controls. This approach utilizes a more naturalized design the more typical “end of pipe” control, leaving as many undisturbed areas as practical to reduce runoff volume and runoff rates by maximizing infiltration capacity. The design goal is to create a hydrologically functional landscape, maintaining pre-development conditions with respect to storm water runoff while enhancing the aesthetic qualities of a site.

Also see locational and design standards for storm water management facilities in Subsection 5, below.

**m. Sidewalks on Public Streets.**

In all site plan applications for development of 5,000 square feet or larger, sidewalks, designed and installed per standards set by the City Engineer, shall be installed along all improved public streets where sidewalks do not currently exist. Existing sidewalks shall be assessed for condition and repaired and/or replaced as necessary. This provision shall not be applied when in conflict with Section B.3 of the Policy of the Mayor and City Council of Hagerstown, dated

September 23, 2003 (as may be amended and revised) regarding locations where sidewalks are not recommended.

**5. Stormwater Management Facilities Location and Design Standards.**

No stormwater detention or retention structure shall be constructed to front on any public street right-of-way or in any required buffer areas. Exceptions may be allowed with approval of the Planning Commission if site constraints dictate location of the stormwater structure in one of these areas.

If a stormwater detention or retention structure is approved for location beside a public street right-of-way or within a required buffer area, the stormwater structure, including any required embankment protection zones, shall be set back from any public street right-of-way or property line by a ten-foot landscaped buffer, as prescribed in Article 5, Subsection I.4, and the stormwater structure shall be designed for an aesthetic outcome beyond a merely utilitarian function.

**6. Commercial Development and Multi-Family Design Standards.**

**a. Intent.**

The following standards shall apply to any project or development hereinafter constructed or modified within the zoning districts described in this section. The intent of these design standards is to:

- (1) Establish design standards that create highly attractive developments with plentiful greenery and orderly outdoor spaces;
- (2) Design developments and buildings which are sustainable through tenant turnover;
- (3) Minimize the visual impact of large commercial and multi-family buildings and parking facilities, especially when adjacent to existing residential neighborhoods;
- (4) Improve the pedestrian experience moving within and through such developments; and
- (5) Minimize sprawl and concentrate development through the use of multi-story structures where possible, and interconnected street networks within the development and to adjacent developments. This subsection shall apply to all developments (including but not limited to stores, shopping centers, office buildings and complexes, restaurants, and multi-family or multi-family/mixed-use complexes).

**b. Development, Design and Performance Standards.**

Construction of new buildings, including reuse or modification or renovation of an existing building or buildings and site improvements shall comply with the following performance standards: **(X = Required in this District)**

- (1) **Location of Buildings on Site.** Principal use building(s) shall be oriented toward and located near the primary public street for the purpose of reducing the visual impact of an expansive parking area between the building and public streets.

RH, RO, N-MU	CC-MU & PUD	CL	CG	CR	POM
X	X	X	X	X	X

- (2) **Parking.** It is preferred that off-street parking spaces be located towards the sides and rear of the lot, behind any buildings and structures. In cases where parking is provided beneath an elevated structure, either underground or in parking decks, the street side portion of the building shall be available for usable office/commercial space excluding driveway and lobby areas.

RH, RO, N-MU	CC-MU & PUD	CL	CG	CR	POM
X	X	X	X	X	X

- (3) **Public Amenities in Shopping Centers, Office Parks, and Multi-Family Developments.** Projects containing groups of buildings shall incorporate amenity areas into the site design. Amenity areas include, but are not limited to, public plazas, courtyards, squares or small parks on the site. Design elements to be included in the amenity areas are seating walls, benches, outdoor dining/gathering areas, decorative fountains or water features, clock towers and/or garden areas. Since the purpose of these amenity areas is to serve as pocket recreational areas and to help foster a sense of community, additional elements shall be considered, if the applicant shows the design meets the intent of this section.

RH, RO, N-MU	CC-MU & PUD	CL	CG	CR	POM
X	X (CC-MU only)	X	X	X	X

- (4) **Architectural Design.**

- (a) The facade of a building shall present a public view to the street or pedestrian corridor. For large buildings, modulation shall be incorporated in building designs to reduce overall bulk and mass, with planes of exterior walls not running in one continuous direction more than one-hundred (100) feet without an offset or setback. All rooftop equipment shall be shielded so that it is full screened from public view.

RH, RO, N-MU	CC-MU & PUD	CL	CG	CR	POM
X	X	X	X	X	X

- (b) The commercial building or shopping center (including buildings located on out lots) shall be constructed of high-quality natural materials finished in low reflectance, earth tone colors and finishes. Materials may include brick, wood, stone, tinted textured

concrete masonry units, architectural concrete block or other material approved by the Planning Commission.

RH, RO, N-MU	CC-MU & PUD	CL	CG	CR	POM
			X	X	X

- (c) It is preferred that new multi-family buildings be architecturally compatible with the existing structures and that the exterior wall surfaces of each individual building be similar in architectural treatment and materials. For large new buildings, modulation should be incorporated in building designs to reduce overall bulk and mass. All rooftop equipment shall be located, screened or shielded so that its visibility is minimized from public view.

RH, RO, N-MU	CC-MU & PUD	CL	CG	CR	POM
X	X				

- (d) Newly constructed multi-occupant commercial, institutional, and mixed-use buildings shall contain storefronts when located in the CC-MU zoning district.

RH, RO, N-MU	CC-MU & PUD	CL	CG	CR	POM
	X				

- (e) Trash receptacle enclosures shall be architecturally compatible with the building(s) on site and constructed of the same building material. Non-enclosed areas for storage of pallets, recycling, temporary seasonal merchandise shall be permanently defined and screened with walls and/or fences and/or heavy evergreen landscaping consistent with materials and landscaping used throughout the project.

RH, RO, N-MU	CC-MU & PUD	CL	CG	CR	POM
X	X		X	X	X

- (5) **Outdoor Service and Storage.** Loading docks, truck parking, outdoor storage, utility meters, HVAC equipment, and other service functions shall be incorporated into the overall design of the building and landscaping so that the visual and acoustic impacts of these functions are fully contained and out of view from adjacent properties and public streets, using materials and landscaping consistent with the rest of the project.

RH, RO, N-MU	CC-MU & PUD	CL	CG	CR	POM
X	X	X	X	X	X

- (6) **Lighting.** Lights illuminating off-street parking or loading areas shall be arranged and installed so that no material glare or direct light shall spill over into adjacent parcels. Light standards shall not exceed 20 feet in height and shall be of a directional type capable of

shielding the light source from direct view. Spotlighting of buildings shall be from fixtures along the top of the building, directed downward.

RH, RO, N-MU	CC-MU & PUD	CL	CG	CR	POM
X	X	X	X	X	X

- (7) **Vehicle Storage.** For businesses that involve the temporary storage of unregistered or damaged vehicles, an area shall be designated for such storage and screened from surrounding properties in a manner acceptable to the Planning Commission. This provision shall not apply to the storage and display of for-sale or rent motor vehicles.

RH, RO, N-MU	CC-MU & PUD	CL	CG	CR	POM
		X	X	X	

- (8) **Additional Development Design Standards for Destination Retail Uses.** The following standards shall be applied to Destination Retail Use developments in the CR District in addition to the general standards found elsewhere in this chart.

- (a) **Height.** The preferred design of a destination retail use shall be no less than two complete stories. The Planning Commission may waive this requirement if the stock-in-trade of the retailer proposed to occupy the site is not conducive to a multi-story layout.

RH, RO, N-MU	CC-MU & PUD	CL	CG	CR	POM
				X	

- (b) **Location on Site.** For the purpose of reducing the visual impact of an expansive parking area between the building and public streets, the destination retail use building(s) shall:

- (i) Be located as to place destination retail uses near the primary public street; or
- (ii) To the rear of a “main street” shopping center design.

RH, RO, N-MU	CC-MU & PUD	CL	CG	CR	POM
				X	

- (c) **Architectural Design.** Public-oriented facades and the roof line of the destination retail use shopping center or building and any facade that is located within 300 feet of a residential zoning district shall be articulated and constructed with architectural elements so as to appear as a series of smaller buildings. *(Editor’s Note: See illustration on next page.)*

RH, RO, N-MU	CC-MU & PUD	CL	CG	CR	POM
				X	



**Sample of architectural articulation required of Destination Retail Use Buildings.** The larger store on the left has architectural articulation as described. Compare this storefront with the smaller store on the right which is not articulated and appears proportionately larger.

- (d) **Main Street Design.** “Main Street” shopping center layouts are preferred. When the “main street” concept is not applied, shopping centers shall be designed so that the mass of a destination retail use is masked by the presence of smaller retail and service uses along the front of the building.

RH, RO, N-MU	CC-MU & PUD	CL	CG	CR	POM
				X	

- (e) **Landscaping and Pedestrian Circulation.** For Destination Retail Uses, a landscaped plaza equal to 2.5% of the gross square foot area of the destination retail use shall be provided in front of that unit to serve as a visual focal point for the project. In no case shall the plaza be less than 2,000 square feet in area, and it may not be required to exceed 4,000 square feet in area. The plaza shall contain ornamental landscaping and paving, trees, benches and other amenities. The parking and circulation layout shall be designed to maximize pedestrian circulation throughout the site and to adjacent uses.

RH, RO, N-MU	CC-MU & PUD	CL	CG	CR	POM
				X	

- (f) **Redevelopment and Sketch Plan Requirements.** For requirements for redevelopment and sketch plan requirements, see Subsection 8, below.

RH, RO, N-MU	CC-MU & PUD	CL	CG	CR	POM
X	X			X	

- (9) **Open Space.** Every multi-family development on a tract larger than 40,000 square feet in area and of a density of ten units per acre or greater shall dedicate a portion of such land for the purpose of open space and recreational equipment to serve the recreational needs of the residents of the development. Such open space may also be made available to the general public through dedication to and acceptance by the City. Such open space shall not be

comprised of accumulations of leftover remnants of land on the site, but shall constitute meaningful contiguous areas of land which provide for the preservation of significant natural features, and/or provide recreational amenities. A minimum of 20% of the gross acreage of the development must be open space. No more than 25% of the required forest conservation area may be attributed towards this open space requirement. Stormwater management facilities which are not designed as natural features shall not be attributed towards this open space requirement. The following criteria shall be used to determine open space requirements within a subdivision:

Maximum Percentage of Total Land Required for Open Space*	
Residential Density	% of Gross Land Area
10-20 Units per Gross Acre	20%
20 Units per Gross Acre or Greater	25%
*For cluster development and Planned Unit Developments, the minimum percentage of land required for open space shall be in accordance with the respective provisions in Article 4.	

RH, RO, N-MU	CC-MU & PUD	CL	CG	CR	POM
X					

**7. Waiver of Design Provisions.**

The Planning Commission may waive design provisions of this subsection, if requested in writing by the developer, when the Planning Commission is satisfied that an alternative proposed by the applicant meets the intent of this subsection. Documentation of and justification for any requested deviation from these standards shall be provided. The site plan for the proposed development and the buildings as constructed shall substantially conform with the sketch plan approved by the Planning Commission in cases where a sketch plan is required.

**8. Additional Requirements for Destination Retail Uses in the CR District and Multi-Family Developments in the RH, RO, N-MU, CC-MU and PUD Districts.**

**a. Preliminary Consultation and Sketch Plan.**

A preliminary consultation shall be held between the Planning Commission and the applicant or developer of a proposed multi-family or destination retail use development (see references to amenities in Subsection I.6.b). The application shall be accompanied by a sketch plan prepared by a registered professional engineer, registered architect or landscape architect, or registered land surveyor. The sketch plan shall be to scale and contain sufficient information to establish the identity of proposed uses, grades and general dimensions and locations of proposed structures, streets, parking areas, walkways, easements and property lines. The sketch plan shall include a layout of the proposed development of the entire site (including out parcels) and preliminary sketches of the exterior treatment of the shopping center or destination retail use building, or multi-family dwelling buildings.

**b. Remodeling and Renovation of Existing Retail Centers and Multi-Family Developments.**

All provisions of this subsection shall apply to renovation plans for existing retail centers and/or multi-family developments that are improved to 1) introduce a destination retail use to the site and/or 2) result in an increase in the number of dwelling units. This includes circumstances when there is little to no ground disturbance. A site plan will be required. Depending upon the nature and arrangement of existing site improvements, the Planning Commission may treat such proposed renovation plans with leniency when reviewing plans submitted in accordance with this subsection.

**9. Individual Site Design Within Nonconforming Subdivisions in POM Zoning Districts.**

When a property that is located in the POM district is the subject of a development plan for subdivision that was approved prior to January 1, 2009, the design standards found in the chart in Subsection 6.b. shall be applied on a lot-by-lot basis. Site plans submitted for developments with multiple buildings on one lot shall be subject to these standards. All other general design guidelines relating to materials, outdoor uses, location of parking and other standards shall continue to apply.

**10. Design Standards in the I-MU Zoning District.**

**a. Orientation.**

Structures should be located at the front of the site, oriented along the public street frontage.

**b. Parking.**

It is preferred that off-street parking spaces be located towards the rear of the lot, behind any buildings and structures. In cases where parking is provided beneath an elevated structure, either underground or in parking decks, the street side portion of the building shall be available for usable office/commercial space excluding driveway and lobby areas.

**c. Amenities.**

Projects containing groups of buildings to be devoted primarily to office and/or retail activities shall incorporate amenity areas into the site design. Amenity areas include, but are not limited to, public plazas, courtyards, squares or small parks on the site. Design elements to be included in the amenity areas are seating walls, benches, outdoor dining/gathering areas, decorative fountains or water features, clock towers and/or garden areas. Since the purpose of these amenity areas is to serve as pocket recreational areas and to help foster a sense of community, additional elements shall be considered if the applicant shows the design meets the intent of this section.

**d. Facade Orientation.**

The facade of a building shall present a public view to the street or pedestrian corridor. It should be architecturally compatible with the existing structures. The exterior wall surfaces of each individual building shall be similar in architectural treatment and materials. For large buildings, modulation shall be incorporated in building designs to reduce overall bulk and mass, with planes of exterior walls not running in one continuous direction more than 100 feet without an offset or setback. All rooftop equipment shall be shielded so that it is fully screened from public view.

e. **Lighting.**

Lights illuminating buildings, off-street parking or loading areas shall be arranged and installed so that no material glare or direct light shall spill over into adjacent parcels. Light standards shall not exceed 20 feet in height (including base) and shall be of a directional type capable of shielding the light source from direct view. Lighting of building facades shall be via units mounted at the cornice line, directed downward.

f. **Outdoor Storage.**

There shall be no outside storage of any equipment, materials or supplies. Trash receptacle enclosures shall be architecturally compatible with the building(s) on site and constructed of the same building material.

**11. Outdoor Storage of Inventory, Merchandise and Supplies.**

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

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

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**J. Reserved.**

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**K. Land Development Protection of Human Burial Sites.****1. Purpose.**

This section is for the purpose of fostering the preservation of human burial sites in the City of Hagerstown. Cemeteries are intrinsic landscape features that should be considered for retention when practical during the design of new developments. This section also serves as a means of protecting human burial sites from destruction or removal in preparation for the development review process. Nothing in this section shall be interpreted to regulate, govern or interfere with the ongoing maintenance, use and enlargement of any existing public, private or commercial cemetery.

**2. Establishment of Inventory and Map.**

The Planning and Code Administration Department, in cooperation with the Human Burial Grounds Preservation Advisory Board, shall maintain an inventory of:

- a. all known human burial grounds in the city;
- b. all sites containing suspected human remains based on the preponderance of information and evidence available, and
- c. all sites of former human burial sites previously removed or relocated.

The inventory shall include a description of the site, references to documentary evidence, geographical location of each, and a record of the owners of each location. The Planning and Code Administration Department shall maintain a current map which depicts the location of all known existing, suspected, and former human burial sites in the city based on the above inventory.

**3. Plan Requirements.**

All development plans shall state whether, to the best knowledge of the owner or developer, any human burial site is known to or believed to exist on the property. If a human burial site is known or believed to be present, its location shall be identified on the plan and copies of any available documentation shall be submitted as an addendum to the plan.

**4. Development of Properties Containing a Human Burial Site.**

When a property owner proposes to develop a property, through submission of a subdivision plan or site plan, on which is located a human burial site which is shown on the inventory map, the property owner shall:

- a. Accommodate the human burial site with the development, by placing the human burial site in a non-buildable lot with a cemetery designation, by dedicating the lot to a homeowner's association or a preservation, conservation or religious organization, by providing that the human burial site be used as a cemetery in perpetuity, and by providing public access to the lot. Any land placed on a non-buildable human burial site lot designation pursuant to this section may be counted toward open space requirements. Alternatively, a property owner may leave the deed to the human burial site in the private ownership and care of descendants of those interred in the human burial site.

- 
- b. Conduct a title search of the parcel extending back to the original patent to ascertain whether covenants, deed restrictions, or other instruments relating to the human burial site had been executed; and
  - c. Establish the boundaries of the human burial site as approved by the Planning and Code Administration Department whenever the human burial site boundaries are either not well defined or in dispute, using any or all of the following methods:
    - (1) Historical documentation;
    - (2) Professional archaeology;
    - (3) Ground-penetrating radar;
    - (4) Oral history, claims of descendants, vital records;
    - (5) Proton magnetometry; and/or
    - (6) Other approved nondestructive techniques.

**5. Human Burial Site Relocation.**

Should a human burial site, by its location, diminutive size in relationship to its location, or other factors, significantly impact the logical planning and development layout of a site or otherwise create practical difficulties or unnecessary hardships in complying with this section, a developer may propose to the Planning Commission to relocate the human burial site, provided:

- a. The relocation process shall be accomplished in accordance with all laws of the state of Maryland pertaining to the disinterment, removal and relocation of human remains;
- b. The cemetery burial site to which the remains shall be relocated shall be identified on the subdivision or site plan; and
- c. The developer shall permit, upon request, collegiate level or professional archeological study of the human burial site and the disinterment during the removal process.

All cost for relocation shall be borne by the developer, except the developer is not required to pay for professional archeological study of the site.

**6. Discovery, Determination and Protection of Previously Unknown Cemeteries.**

**a. Discovery.**

If any person discovers the existence of previously unknown human remains, tombstones, funerary objects, or other evidence of a human burial site which reasonably indicates the presence of a cemetery or human burial site in the course of grading, construction, or work of any kind, that person shall stop work immediately in the discovery area and shall give notice of its discovery within twenty-four (24) hours to the State's Attorney for Washington County, the County Health Officer, the Hagerstown Planning and Code Administration Department and the

Hagerstown City Engineer. All grading, site, zoning and building permits issued by the City shall be suspended and the property owner shall stop all work in the discovered area until a determination is made pursuant to Subsection b, below.

**b. Determination.**

The Planning and Code Administration Department, in consultation with the Human Burial Sites Preservation Advisory Board shall determine if the discovered area provided in Subsection a, above is a human burial site. In making this determination, the Planning and Code Administration Department, in consultation with the Human Burial Sites Preservation Advisory Board may require the property owner to comply with Subsection 4.b and c above. If it is determined that the area is not a human burial site, the stop work order shall be lifted and the suspended permits released by the City Engineer.

**c. Protection.**

If it is determined that the discovered area is a human burial site, the property owner shall comply with the requirements of Subsection 4. However, this shall not preclude the developer from petitioning the Planning Commission for permission to relocate the cemetery in accordance with Subsection 5. Development plans, site plans and plats, as necessary shall be revised to reflect the newly discovered human burial site and any plan revisions necessary to accommodate or relocate the human burial site.

**7. Removal Prior to Development and Failure to Report Previously Unknown Cemeteries.**

- a. If a property owner or developer removes human remains from a human burial site prior to entering the development or subdivision process, including the legal removal of a cemetery in accordance with the laws of the state of Maryland, any subsequent development of the area formerly occupied by the human burial site shall be placed in open space.
- b. If a property owner or developer removes human remains from a previously unknown human burial site prior to or during the development process and does not report the discovery of the human burial site in accordance with Subsection 6.a, above, in addition to any criminal and civil violations and penalties that otherwise exist in state and County law, any subsequent development of the area formerly occupied by the human burial site shall be placed in open space.

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# Certifications

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### Final Plat Certifications

The following certifications and related information shall appear on the Final Plat:

**1. Certification of Individuals of Ownership and Dedication.**

I (We) do hereby certify, for ourselves and our personal representatives, heirs and assigns, that I (We) are the legal and true owner(s) of the property shown and described on this plat, and that I (We) hereby adopt the plan of subdivision shown hereon, hereby establish the minimum building restriction lines shown hereon, hereby dedicates to public use all utility and drainage easement areas and alley rights-of-way, hereby agree to keep open all spaces and recreation areas shown hereon, and hereby agree that said dedications shall not impose any responsibility on the City of Hagerstown regarding the subjects of such dedications until legal acceptance thereof by said City.

I (We) hereby reserve the fee simple title to the land underlying said easements, rights-of-way, open spaces and recreation areas. I (We) hereby agree to convey the fee simple title for all public street rights-of-way to the City, without consideration, upon request.

There are no suits, actions at law, leases, liens, mortgages, trusts, easements or rights-of-way affecting the property included in this plan of subdivision except the following:

\_\_\_\_\_

And all parties having an interest therein have hereunto affixed their signatures, including their assent to the plan of subdivision.

This Certification of Ownership and Dedication of dedication shall be binding upon my (our) grantees, assigns, successors, heirs, and personal representatives and all parties and interests thereto have hereunto affixed their signatures indicating their assent to this Plan of Subdivision.

WITNESS our hands and seals this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

WITNESS:

\_\_\_\_\_ (SEAL)

\_\_\_\_\_  
Owners (SEAL)

2. Certification of Entities of Ownership and Dedication.

\_\_\_\_\_ hereinafter called "entity"  
by \_\_\_\_\_ its duly authorized \_\_\_\_\_  
does hereby certify, that the entity is the legal and true owner of the property shown and described on this plat and that it hereby adopts the plan of subdivision shown hereon, hereby establishes the minimum building restriction lines shown hereon, hereby dedicates to public use all utility and drainage easement areas and alley rights-of-way, hereby agrees to keep open all spaces and recreation areas shown hereon, and hereby agrees that said dedications shall not impose any responsibility on the City of Hagerstown regarding the subjects of such dedications until legal acceptance thereof by said City.

This entity hereby reserves the fee simple title to the land underlying said easements, rights-of-way, open spaces and recreation areas. This entity hereby agrees to convey the fee simple title for all public street rights-of-way to the City, without consideration, upon request.

There are no suits, actions at law, leases, liens, mortgages, trusts, easements or rights-of-way affecting the property included in this plan of subdivision except the following:

\_\_\_\_\_

This Certification of Ownership and Dedication shall be binding upon the entity's grantees, assigns, successors, heirs, and personal representatives and all parties and interests thereto have hereunto affixed their signatures indicating their assent to this Plan of Subdivision.

WITNESS our hands and seals this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

WITNESS:

\_\_\_\_\_ (SEAL)

\_\_\_\_\_  
Owners (SEAL)

**3. Certificate of Accuracy.**

I hereby certify that the plan shown and described hereon is a true and correct survey to the accuracy required by the Hagerstown Planning Commission and that the monuments have been placed as shown hereon to the specifications of the Hagerstown Subdivision and Land Development Ordinance.

\_\_\_\_\_, 20\_\_\_\_  
Date Qualified Surveyor  
Maryland Registration No. \_\_\_\_\_

**4. Certification of Approval of Water and Wastewater System.**

I hereby certify that the water supply and wastewater disposal utility systems installed, or proposed for installation, in the subdivision plat entitled \_\_\_\_\_ fully meet the requirements of the Maryland Health Department, and are hereby approved as shown.

\_\_\_\_\_, 20\_\_\_\_  
Date County Health Officer or  
Authorized Representative

**5. Certification of Approval of Required Improvements.**

I hereby certify that streets and other Required Improvements have been installed in an acceptable manner and according to the specifications of the Hagerstown Subdivision and Land Development Ordinance in the subdivision entitled \_\_\_\_\_.

\_\_\_\_\_, 20\_\_\_\_  
Date City Engineer

**NOTE:** If the improvements have not been completed or installed, a performance bond to the Mayor and City Council is required. (Use Certification No. 6, below)

**6. Certification of Performance Bond.**

I, \_\_\_\_\_, City Clerk, do hereby certify that a performance bond in the amount of \_\_\_\_\_ (\$) \_\_\_\_\_ Dollars has been posted and is on file with the City of Hagerstown that guarantees completion of site development work, i.e., streets, water, wastewater, storm drainage, etc., in accordance with City of Hagerstown standards, and that said bond is written by an approved institution and that the amount of the bond is in accordance with City Engineer's estimate of the cost of said proposed improvements.

\_\_\_\_\_, 20\_\_\_\_\_  
Date City Clerk

**7. Certification of Joint Responsibility for Utilities. (for Simplified Plats only)**

The respective owners of \_\_\_\_\_ and \_\_\_\_\_ (street or address) shall be jointly and severally responsible for any and all expenses incurred in the operation and maintenance of common building sewers and/or any other utilities in common use. It is further agreed that this shall be considered and construed as a covenant running with the land.

\_\_\_\_\_, 20\_\_\_\_\_  
Date Owner  
  
\_\_\_\_\_  
Owner

**8. Declaration of Intent of Subdivision. (for Simplified Plats only)**

I hereby certify that the intent of the Simplified Plat for Subdivision shown hereon is for acquisition of additional acreage for property enlargement, readjustment of property lines, and/or correction of deed discrepancies, or conveyance of an existing structure for residential purposes only and not for the development of same. Any plan for development of this land will be submitted to the Planning Commission in accordance with the rules and regulations of the City of Hagerstown.

\_\_\_\_\_, 20\_\_\_\_\_  
Date Owner  
  
\_\_\_\_\_  
Owner

**9. Certificate of Approval.**

I do hereby certify that the Plan for Subdivision shown hereon complies with the Subdivision and Land Development Ordinance for the City of Hagerstown, Maryland, with the exception of such variances, if any, as noted on this Plat and in the minutes of the Hagerstown Planning Commission and is approved for recording in the Offices of the Register of Deeds.

HAGERSTOWN PLANNING COMMISSION

\_\_\_\_\_, 20\_\_\_\_  
Date Chair

Void if not recorded in the Land Records Office of Washington County within 180 days of the above signature. The Clerk of the Court shall not record this document more than 180 days after the above date.

**10. Condominium Plat Signature Block. (for Staff)**

This condominium plat conforms with current applicable zoning requirements and/or is confirmed as nonconforming to those requirements due to the creation of existing uses or conditions prior to the adoption of the Hagerstown City Zoning Ordinance, or subsequent applicable amendment thereto.

\_\_\_\_\_, 20\_\_\_\_  
Date Zoning Administrator

**11. Fee Simple Dedication of Open Space and Other Facilities to be Owned and Maintained by Property Owners Association.** If dedication of open space, storm water management facilities or other lands to a property owners' association is proposed, the developer shall provide documentation of the creation of the Property Owners' Association and submit an original deed to the City prior to recordation of the final plat, granting good and sufficient fee simple title to all open space required to be dedicated to the Property Owners' Association.

Property Owners Association Note:

A property owners' association named the \_\_\_\_\_(proper name of the POA)\_\_\_\_\_ has been created and property owners association covenants have been approved by the City of Hagerstown and recorded in the Land Records of Washington County, Maryland at Liber \_\_\_\_\_ Folio \_\_\_\_\_ on \_\_\_\_\_(insert date)\_\_\_\_\_. Such property owners association shall be responsible for the maintenance of all common areas and storm water management facilities depicted in the area included in this plat, or otherwise identified on the plat and/or other improvement referred to in the covenants.

\_\_\_\_\_ signature \_\_\_\_\_  
Insert Name, President/Name of POA

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## Site Plan and Development Plan Signature Blocks

### 1. Commitment to Build in Accordance with Approved Plans.

This site plan (or development plan) is approved for the improvements and proposed use or uses shown on the plan presented to and approved by the Hagerstown Planning Commission on

\_\_\_\_\_.

These plans are approved plans of development. Deviation from this plan is a violation of the Land Management Code, which may result in a stop work order being placed on the development, issuance of notices of violation and civil citations, a request for injunctive relief in the courts, or any combination thereof.

Any desired deviation from this approved plan must be discussed with the City Planning Staff before implementing the change(s). Minor deviations may be administratively approved by the Planning Staff, but significant changes may require Planning Commission review and approval.

This commitment is binding upon grantees, assigns, successors and heirs.

\_\_\_\_\_, 20\_\_\_\_  
Date

\_\_\_\_\_  
Owner/Developer

### 2. Maintenance of Landscaping.

As the developer/owner of this development, the undersigned agrees to install all landscaping in accordance with this approved plan (or any subsequent approved revision thereto) and binds himself and future owners, developers, successors and heirs to maintain said landscaping in substantial conformance with this approved landscaping plan. Failure to maintain landscaping in accordance with this approved plan (or subsequent approved amendment thereto) constitutes a violation of the approved site plan, subject to enforcement action, as allowed by law, to compel compliance with this plan.

\_\_\_\_\_, 20\_\_\_\_  
Date

\_\_\_\_\_  
Owner/Developer