

# City of Hagerstown Planning Commission



Annual Report for Calendar Year 2021



## **Planning Commission**

Douglas Wright, Jr., Chairperson

James Stone, Vice-Chairperson

Christine Davis

Colin Ploscaru (Jan-July 2021)

Tamara Martinez (Nov-Dec 2021)

Ronald Thomas

Judith Wheeler

Shelley McIntire, *ex-officio*

## **Planning & Code Administration Department Planning Staff**

Kathleen Maher, AICP, Director of Planning & Code Administration

Stephen Bockmiller, AICP, Development Planner/Zoning Administrator

Megan Flick, AICP, Planner I

Debbie Calhoun, Administrative Coordinator (Jan-June 2021)

Amy Haught, Administrative Coordinator (June-Dec 2021)

## Annual Report Worksheet Reporting (Calendar) Year 2021

### INSTRUCTIONS

Each Planning Commission/Board shall approve an Annual Report for the Reporting Year 2021 as required under [§1-207\(b\)](#) of the Land Use Article. In addition, this Annual Report shall be filed with the local legislative body and the Maryland Department of Planning (Planning), no later than July 1, 2022.

Local jurisdiction may use the attached template form or any of the previous Annual Report forms. The requirements have not changed for 2021. An optional survey is included in Section III. We encourage all jurisdictions to consider responding.

**Section I- New Residential Permits**, and **Section II- Amendments and Growth Related Changes**, are required by all local jurisdictions.

**Section III- Development Capacity Analysis**, is required every three years.

**Section IV- Locally Funded Agriculture Preservation**, is required by Counties only (*this section is removed from the City of Hagerstown Annual Report in 2021*)

**Section V – Measures and Indicators**, is required by jurisdiction reporting more than 50 new residential permits in Section I (*this section has been renumbered for the City of Hagerstown Annual Report 2021*)

**Section VI- Adequate Public Facility Ordinances**, is required every two years by jurisdictions with adopted Adequate Public Facility Ordinances (APFOs) (*this section has been removed from the City of Hagerstown Annual Report 2021*)

**Section VII – Planning Survey Questions** is optional (*this section has been renumbered for the City of Hagerstown Annual Report 2021*)

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## Annual Report Worksheet Reporting (Calendar) Year 2021

### Section I: New Residential Permits Issued (Inside and Outside the PFA) (§1-208(c)(1)(i) and (c)(3)(ii))

(A) In Table 1, *New Residential Permits Issued (Inside and Outside the PFA)* below, enter the number of new residential building permits issued in calendar year (2021).

**Table 1: New Residential Permits Issued  
Inside and Outside the Priority Funding Area (PFA)**

Residential – Calendar Year 2021	PFA	Non - PFA	Total
<b># New Residential Permits Issued</b>	210	0	210

### Section II: Amendments and Growth Related Changes In Development Patterns (§1-207(c)(1) and (c)(2))

*Note: Growth related changes in development patterns are changes in land use, zoning, transportation capacity improvements, new subdivisions, new schools or school additions, or changes to water and sewer service areas.*

(A) Were any new comprehensive plan or plan elements adopted? If yes, briefly summarize what was adopted. Y  N

The City of Hagerstown Planning Commission proposed to amend the Comprehensive Plan visionHagerstown 2035 in 2021. The proposed amendments to the plan include changes to the Transportation Element to reflect updates in transportation planning in the southeast area of the city. The Mayor and City Council held a public hearing on proposed Comprehensive Plan Amendments on January 25, 2022. The Mayor and Council approved a resolution to adopt the Comprehensive Plan Amendments on February 22, 2022. The amendments have now been made part of the City's Comprehensive Plan, visionHagerstown 2035. *(See attached approved resolution – R-2022-07)*

(B) Were there any amendments to the zoning regulations or zoning map? If yes, briefly summarize each amendment, include a map, or GIS shapefile, if available. Y  N

- **Land Management Code Update 2021** (ZT-2021-03) – The Planning Commission forwarded the 2021 package of amendments to the Mayor and City Council on December 20, 2021. This package included the addition of definitions and permitted uses for crisis care facility, homeless shelter, and emergency transient housing; capped the exemption on parking for additions when the addition is 20,000 sq.ft. or larger in area; permitted expired non-conforming townhouses to be re-established as permitted uses; made several amendments to the sign regulations; permitted self-storage mini-warehouses in the POM district in certain conditions; made revisions to the

## Annual Report Worksheet Reporting (Calendar) Year 2021

subdivision development standards for residential projects to make clear that the priority is for traditional subdivision design with encouragement of alleys for rear yard parking and allowing units to front open space; and a variety of non-substantial amendments to the code. The Mayor and Council held a public hearing on January 22, 2022 and approved the ordinance on March 22, 2022. *(See attached enacted ordinance of text amendments)*

- **Land Management Code Amendments for Small Scale Breweries, Distilleries, and Wineries (ZT-2021-02)** – The Planning Commission forwarded proposed amendments to the small scale breweries, distilleries, and wineries provisions to the Mayor and City Council on July 14, 2021. The Mayor and City Council held a public hearing on August 24, 2021 and the ordinance was approved on October 26, 2021. *(See attached zoning text amendment ordinance)*
- **Land Management Code Amendments for Front Yard Fences (ZT-2021-01)** – The Planning Commission forwarded proposed amendments to the front yard fence provisions to the Mayor and City Council on April 14, 2021. The Mayor and City Council held a public hearing on April 27, 2021 and the ordinance was approved on May 25, 2021. *(See attached zoning text amendment ordinance)*
- **Local Conversion District Overlay Rezoning at 4 Cypress Street (ZM-2021-01)** – The overlay zone proposal was to allow certain mixed-use activities to occur at a non-conforming older mixed-use property in the RMOD zoning district. The Mayor and City Council held a public hearing on March 22, 2022 and approved the ordinance on May 24, 2022. *(See attached rezoning ordinance)*
- **Local Conversion District Overlay Rezoning at 245 N. Potomac Street (ZM-2021-02)** – The overlay proposal was to allow certain mixed-use activities to occur at a non-conforming older mixed-use property in the RO zoning district. The Mayor and City Council held a public hearing on May 24, 2022 and approved the ordinance on July 26, 2022. *(See attached rezoning ordinance)*

**(C)** Were there any growth related changes, including Land Use Changes, Annexations, New Schools, Changes in Water or Sewer Service Area, etc., pursuant to of the Land Use Article? If yes, please list or map and provide a description of consistency of internal, state or adjoining local jurisdiction plans Y  N

- **Annexations** – there were no annexations in 2021
- **New Schools** – there were no new schools affecting the City in 2021, however site plans were approved for a cafeteria addition to South Hagerstown High School and a diesel mechanics program addition to Washington County Technical High School.



## Annual Report Worksheet Reporting (Calendar) Year 2021

### Section III: Development Capacity Analysis (DCA)(§1-208(c)(iii))

*Note: MDP provides technical assistance to local governments in completing a development capacity analyses. Please contact your MDP regional planner for more information.*

(A) Has an updated DCA been submitted with your Annual Report or to MDP within the last three years? Y  N

1. If no, explain why an updated DCA has not been submitted, such as, no substantial growth changes, etc.

The City of Hagerstown has never submitted a Development Capacity Analysis (DCA); since these report rules were adopted we haven't have enough permits to warrant doing the long report.

2. If yes, when was the last DCA submitted? Identify Month and Year:

a. Was the DCA shared with the local School Board Facilities Planner? Y  N

(B) Using the most current DCA available, provide the following data on capacity inside and outside the PFA in *Table 2, Residential Development Capacity (Inside and Outside the PFA)*:

**Table 2: Residential Development Capacity (Inside and Outside the PFA)**

Parcels & Lots w/ Residential Capacity	PFA	Non – PFA	Total
Residentially Zoned Acres w/ Capacity	551*	0	551*
Residential Parcel & Lots w/Capacity	3,611*	0	3,611*
Residential Capacity (Units)	3,611*	0	3,611*

\*Data and estimates from CY 2021 Development Capacity Analysis of finishing plats, planned projects, potential from raw land, infill lots, planned downtown projects, potential downtown projects in vacant buildings.\*

## Annual Report Worksheet Reporting (Calendar) Year 2021

### Section IV: Measures and Indicators ([§1-208\(c\)\(1\)](#))

Note: The Measures and Indicators, Section VII, is only required for jurisdictions issuing more than 50 new residential building permits in the reporting year, as reported in Table 1.

**Table 4A: Amount of Residential Growth (Inside and Outside the PFA)**

Residential – Calendar Year 2021	PFA	Non - PFA	Total
Total # Minor Subdivisions Approved	7	0	7
Total # Minor Subdivision Lots Approved	15	0	15
Total # Minor Subdivision Units Approved	15	0	15
Total Approved Minor Subdivision Area (Gross Acres)	1.06	0	1.06
Total Approved Minor Subdivision Lot Area (Net Acres)	1.06	0	1.06
Total # Major Subdivisions Approved**	4	0	4
Total # Major Subdivision Lots Approved	241	0	241
Total # Major Subdivision Units Approved	241	0	241
Total Approved Major Subdivision Area (Gross Acres)	66.8	0	66.8
Total Approved Major Subdivision Lot Area (Net Acres)	30.48	0	30.48
Total # Units Constructed in Jurisdiction	210	0	210
Total # Units Demolished*	7	0	7
Total # Units Reconstructed/Replaced*	0	0	0

\*Not required

\*\*Does not include preliminary plats

**Table 4B: Net Density of Residential Growth (Inside and Outside the PFA)**

Residential – Calendar Year 2021	PFA	Non – PFA	Total
Total # Units Approved (Major + Minor Subdivisions)	258	0	258
Total # Approved Lot Area (Major + Minor Subdivisions)	67.86	0	67.86

**Table 4C: Share of Residential Growth (Inside and Outside the PFA)**

Residential – Calendar Year 2021	PFA	Non – PFA	Total
Total # Units Approved (Major + Minor Subdivisions)	258	0	258
% of Total Units (# Units/Total Units)	100%	0%	100%

## Annual Report Worksheet Reporting (Calendar) Year 2021

Table 4D: Amount of Commercial Growth (Inside and Outside the PFA)

Commercial – Calendar Year 2021	PFA	Non - PFA	Total
Total Site Plan Area Approved (Gross Acres)	450.82	0	450.82
Total Building Square Feet Approved (Gross)	662,109	0	662,109
Total # New Permits Issued**	14	0	14
Total Square Feet Constructed in Jurisdiction (Gross)	*	0	*

\*This data is not tracked in our permitting software.      \*\*permits for new construction or additions.

Table 4E: Net Density of Commercial Growth (Inside and Outside the PFA)

Commercial – Calendar Year 2021	PFA	Non – PFA	Total
Total Building Square Feet Approved (Gross)	662,109	0	662,109
Total Lot Size (Net Acres)	450.82	0	450.82

Table 4F: Share of Commercial Growth (Inside and Outside the PFA)

Commercial – Calendar Year 2021	PFA	Non – PFA	Total
Total Building Square Feet Approved (Gross)	662,109	0	662,109
% of Total Building Square Feet (Building Square Feet/Total Approved Square Feet)	100%	0%	100%

## Annual Report Worksheet Reporting (Calendar) Year 2021

### Section V: Planning Survey Questions (Optional)

*The information provided can assist MDP and MDOT staff with identifying potential pedestrian/bicycle projects and project funding.*

- (A) Does your jurisdiction have a bicycle and pedestrian plan? Y  N
1. City of Hagerstown- Bicycle Master Plan Update
  2. Adopted by Mayor and City Council- May 24, 2016
  3. Has the plan been adopted? Y  N
  4. Is the plan available online? Y  N
  5. How often do you intend to update it? (Every 5 years)
  6. Are existing and planned bicycle and pedestrian facilities mapped? Y  N
- (B) Does your jurisdiction have a transportation functional plan in addition to your comprehensive plan? Y  N
1. Plan name
  2. Date completed (MM/DD/YY)
  3. Has plan been adopted? Y  N
  4. Is the plan available online? Y  N
  5. How often do you intend to update it? (Every \_\_\_\_ years)

### APPENDIX

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- I. 2021 Development Capacity Analysis
  - II. 2021 Building Permits for New Housing Units
  - III. 2021 Dec - Windshield Survey of Hagerstown Residential Development Projects
  - IV. 2021 Log of Development Review, Plan and Code Amendments, Etc.
  - V. 2021 Comprehensive Plan Amendment (R-2022-07)
  - VI. 2021 Land Manangement Code Amendments (ZT-2021-03)
  - VII. 2021 Small Scale Breweries Amendment to LMC (ZT-2021-02)
  - VIII. 2021 Front Yard Fence Amendment to LMC (ZT-2021-01)
  - IX. Local Conversion District Overlay Zone for 4 Cypress Street (ZM-2021-01)
  - X. Local Conversion District Overlya Zone for 245 N. Potomac Street (ZM-2021-02)
  - XI. Joint Sewer Service Area Agreement (R-2022-03)
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## Annual Report Worksheet Reporting (Calendar) Year 2021

### Submitting Annual Reports and Technical Assistance

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- (A) Annual Reports may be submitted via email (preffered) to [david.dahlstrom@maryland.gov](mailto:david.dahlstrom@maryland.gov) or one copy may be mailed to:

Office of the Secretary  
Maryland Department of Planning  
301 W. Preston Street, Suite 1101  
Baltimore, Maryland 21201-2305  
Attn: David Dahlstrom, AICP

- (B) Annual Reports should include a cover letter indicating that the Planning Commission has approved the Annual Report and acknowledging that a copy of the Annual Report has been filed with the local legislative body. The cover letter should indicate a point of contact(s) if there are technical questions about your Annual Report.
- (C) You may wish to send additional copies of your Annual Report directly to your MDP Regional Planner or School Board Facilities Planner.
- (D) If you need any technical assistance in preparing or submitting your reports, our Regional Planners are available to assist you. Regional Planner contact information can be found at: [Planning.Maryland.gov/OurWork/local-planning-staff.shtml](http://Planning.Maryland.gov/OurWork/local-planning-staff.shtml)
- (E) Copies of this Annual Report worksheet and links to legislation creating these Annual Report requirements can be found on the Maryland Department of Planning website: [Planning.Maryland.gov/YourPart/SGGAnnualReport.shtml](http://Planning.Maryland.gov/YourPart/SGGAnnualReport.shtml)
- (F) If you have any suggestions to improve this worksheet or any of the annual report materials, please list or contact David Dahlstrom at [david.dahlstrom@maryland.gov](mailto:david.dahlstrom@maryland.gov).



## Development Capacity Analysis - Residential (End of 2021)

### City of Hagerstown

#### Underway/Finishing Projects - Units Remaining at End of 2021

Name	Location	# of Lots or Units	Acres	Zoning
Hager's Crossing	Fallen Timbers, Gemstone, Etc	96	30	RMED/PUD
Hillside Manor	Klick, Star, Plateau, Brill	29	6.6	RMOD
Fairchild Heights	Mercer	10	0.53	RMED
Cortland Villas	Hawkins	4	0.21	RMED
Greenwich Park	Meridian	28	3.22	RMOD
McCleary Hill, Phase 2	W. Washington, Calcite, Etc	97	11	RMED
Burhans Village	Off N. Burhans	54	6.3	RMED
<b>TOTAL</b>		<b>318</b>	<b>57.86</b>	

#### Planned Projects

Name	Location	# of Lots or Units	Acres	Zoning
Scarlet Hills	S. Potomac	36	7.77	RH
Collegiate Acres, parcel 4 & 5	Nittany Lion, Hoosier	124	8.07	RH
Cortpark Expansion	Little Elliott	72	52.93	RH
Kilpatrick Woods	Off Salem and Marshall	241	68.6	RMOD
New Haven/Fountainhead West	Haven Road, Etc	231	50.28	RH
Brookmeadow	Off Security Road	119	19.4	RMED
Virginia Commons, Phase 1	Marion, Moller, Armstrong	39	12.7	RMOD
Martin Heights (redevelopment of Noland Village)	Noland Drive	36	26.6	RH
Reese Farm	Off Emmert	197	31.1	RH
<b>TOTAL</b>		<b>1095</b>	<b>277.45</b>	

#### Potential Yield from Raw Land with No Plans

Name	Location	Potential # of Lots or Units	Acres	Zoning	Yield Formula
Washington Knolls	Off W. Washington	51	12.8	RMOD	3-5/acre
Shool Land on Eastern Blvd	Off Eastern	23	5.93	RMOD	3-5/acre
Bilrite Homes	Off Yorkshire	40	10.21	RMOD	3-5/acre
Former Hospital Site	E. Antietam	50	6.73	RO	5-10/acre
Harrison Tract	Day Road	1016	92.4	N-MU	6-16/acre
Kenley	Behind Ravenwood	336	25.85	RH	10-16/acre
<b>TOTAL</b>		<b>1516</b>	<b>153.92</b>		

#### Infill Lots

Lots in old subdivisions	Location	# of Lots	Acres	Residential Zones
Multiple	Multiple	232	29	Multiple

Acres figure assumes 0.125 acres/lot on average

#### Downtown Rehabilitations - Planned

Name	Location	# of Units	Acres	Zoning
Student Housing	170 W. Washington	9	0.24	CC-MU
Student Housing - The Roslyn	17-25 E. Franklin	8	0.22	CC-MU

Thomas Building	51 N. Jonathan	8	0.1	CC-MU
Fleisher Building	6-16 W. Washington	7	0.28	CC-MU
Updegraff Building	49-53 W. Washington	21	0.22	CC-MU
Holly Building	72 W. Washington	46	0.22	CC-MU
<b>TOTAL</b>		<b>99</b>	<b>1.28</b>	

#### Downtown Rehabilitations - Potential from Vacant or Partially Vacant Buildings

Name	Location	# of Units	Sq.Ft. of Bldg*	Zoning	Yield Formula**
Moller Organ Works - Live/Work Units (Peteranecz)	403 N. Prospect	56	79,157	IR	1,000 sf/1 BR
Shockey's Project (Azadi)	26 Summit	27	24,535	CC-MU	500 sf/1 BR
Owl's Club Bldg (Merrbaugh)	25 W. Antietam	4	6,623	CC-MU	500 sf/1 BR
Antietam Paper (Bowman)	37 W. Antietam	20	20,535	CC-MU	500 sf/1 BR
Old YMCA (Groh holds mortgage)	149 N. Potomac	52	55,239	CC-MU	500 sf/1 BR
Barnwood Building (Bowman)	101 S. Potomac, 9 W. Antietam	17	17,394	CC-MU	500 sf/1 BR
Old Telephone Bldg	33 Summit	21	14,038	CC-MU	500 sf/1 BR
Old Meda's Building	20-22 E. Franklin	12	8,400	CC-MU	500 sf/1 BR
Art Gastropub Bldg - Vacant 2nd Floor	51 S. Potomac	1	800	CC-MU	500 sf/1 BR
Stucco Bldg - Vacant Upper Two Floors (Groh)	15 W. Washington	4	2,772	CC-MU	500 sf/1 BR
Old Carroll & Co Bldg - Vacant Upper Two Floors (Groh)	21-27 W. Washington	29	19,614	CC-MU	500 sf/1 BR
Old Susquehanna - Vacant Upper Three Floors (Hager 5)	55 W. Washington	14	9,487	CC-MU	500 sf/1 BR
Old Hagerstown Trust - Vacant Upper Floors (Hager 5)	83 W. Washington	14	9,583	CC-MU	500 sf/1 BR
Old Cecil's Bldg - Vacant 2nd Floor	17-19 W. Franklin	3	2,000	CC-MU	500 sf/1 BR
Old Drycleaners - Vacant Upper Two Floors (Jacobsen)	55-57 W. Franklin	8	5,400	CC-MU	500 sf/1 BR
Old Gibney's Bldg - Vacant Upper Two Floors (Carmel)	65-67 W. Franklin	15	10,000	CC-MU	500 sf/1 BR
<i>*sq.ft. estimates for partial vacant bldgs</i>	<b>Total</b>	<b>297</b>	<b>285,577</b>		<b>**assumes 1/4 deduct for common areas</b>

#### Downtown Redevelopment - Potential from Vacant Land (Excludes City Parking Lots)

Name	Location	# of Units	Acres	Zoning	Land Yield
W. Antietam Raw Land	27-31 W. Antietam	16	0.33	CC-MU	50/acre
W. Antietam Raw Land	13-23 W. Antietam	9	0.18	CC-MU	50/acre
Delta Project	66 W. Washington	11	0.226	CC-MU	50/acre
Old Mezzanine Project Site	149 W. Washington	12	0.253	CC-MU	50/acre
Pro Arts Parking Lot	22 S. Potomac Street	11	0.229	CC-MU	50/acre
	<b>TOTAL</b>	<b>59</b>	<b>1.218</b>		

| Land Yield formulas from the Hagerstown Comprehensive Plan and Land Management Code.

| PCAD, 5/18/2022

**Building Permits for New Dwelling Units in the City of Hagerstown**

**Calendar Year 2021**

	R	R4	R5	A	Reno	Total Units Per Month
January	5	8		13		83 5 sfd at Hager's Crossing, 78 units at McCleary Hill II
February	18					18 16 sfd at Hager's Crossing, 2 sfd at Potomac Manor
March	25					25 9 at Hager's Crossing, 1 Potomac Manor, 14 Hillside Manor, 1 infil lot on Security Rd - all sfd
April	10					10 9 sfd at Hillside Manor, 1 sfd at Hager's Crossing
May	4					4 4 sfd at Hager's Crossing
June	21					21 14 sfd at Hillside Manor, 7 at Hagers Crossing
July	10					10 10 sfd at Hager's Crossing
August	1					1 1 sfd on Security Road
September	7		10			17 10 new townhomes on Mercer, 4 sfa on Meridian, 3 sfd Hagers Crossing
October	12					12 12 sfd at Hagers Crossing
November	5					5 4 sfd at Hager's Crossing, 1 sfd on Mulberry Street
December	4					4 4 sfd at Hager's Crossing
<b>Totals:</b>	<b>122</b>	<b>8</b>	<b>10</b>	<b>13</b>		<b>210</b>
<b>Total Number of Units Permitted</b>						<b>210</b>

R = single-family detached  
 R4 = duplex units  
 R5 = townhome units  
 A = new apartment units  
 Reno = newly created units by way of conversion (e.g., space might have previously been used as an office)

## Hagerstown Residential Development Projects - Windshield Survey

Development (w/ date of first final plat)	Total No. Of Preliminary Plat/Site Plan Units	Built Units	Units Under Construction	Final Platted Units Which Have Not Started	Units Without Final Plat
Burhans Village (2020)	52 T 2 D	0	0 (grading)	54	0
Collegiate Acres, Sec 4&5 (2013)	124 MF	0	0	124 MF (Alter)	0
Cortland Villas (2001)	62 D	58 D	0	4 D (C. Smith)	
Cortpark (2017 – revision)	504 A	432 A	0	72 A (B. Shaool)	0
Fairchild Heights (2003)	36 T	26	10 T	0	0
Greenwich Park (2000)	192 D 1 SF	164 D 1 SF	4 D	24 D	0
Hager's Crossing (2002)  Section 2B	2B1 – 25 SF SB2&3 – 50 2B4 – 4 <u>2B5-8 – 166</u> TOTAL - 245	2B1 - 25 SF 2B2&3 - 50 SF 2B4 – 4 SF 2B5 – 33 SF <u>2B6 – 37 SF</u> TOTAL - 149	2B6- 17 <u>2B7 – 16</u> TOTAL - 33	2B7 – 21 <u>2B8 - 42</u> TOTAL - 63	0
Hillside Manor (2004)	72 SF	43	29	0	0
Kilpatrick Woods (2021)	241 SF	0	0	0	241
McCleary Hill (2019)	117 TWN 28 DUP <u>20 SFR</u> TOTAL - 165	55 TWN 12 DUP <u>1 SFR</u> TOTAL - 68	45 TWN 10 DUP <u>2 SFR</u> TOTAL - 57	17 SFR 6 DUP <u>17 TWN</u> TOTAL - 40	0
Scarlet Hills (2006)	36 A	0	0	36 A (Crampton)	0
New Haven (old concept plan)	376	0	0	0	376 (Jordan)
<b>TOTALS</b>	<b>2,108</b>	<b>941</b>	<b>133</b>	<b>417</b>	<b>617</b>

Hagerstown Planning and Code Administration, December 21, 2021

Red – dormant

Concept Plans approved – Brookmeadow Towns (119 T)  
Virginia Commons Ph.1 (36 SFR)  
Martin Heights (48 A)

Concept Plans in development – New Haven (231 SFR, D, T)  
Reese Farm (197 T)

2021 Development Review, Rezoning, LMC Amendments, Comp Plan Amendments, Policy Amendments  
City of Hagerstown

## Minor Site Plans

Case No.	Name	Address	Date Received	Zone	Use	No. of DWUs	Parcel Acres	Sq.Ft. of Building	Approval Date
SA-2021-01	Hub Bubbles parking lot	151 S. Potomac	2/4/2021	CC-MU	Laundry	0	0.22	0	3/16/2021
SA-2021-02	Salem Ave Elem School - 1 Portable Classroom	1323 Salem Avenue	4/6/2021	INST	School	0	12.5	856	5/24/2021
SA-2021-03	GSW CCA Addition	1201 Maryland Avenue	8/4/2021	IG	Industrial	0	21.4	576	9/20/2021
SA-2021-04	North Hagerstown High School - 2 Portable Classroom Buildings	1200 Pennsylvania Avenue	7/19/2021	INST	School	0	56.24	1,798	9/30/2021
SA-2021-05	Hagerstown Police Station Accessory Building	50 N. Burhans Blvd	11/5/2021	CG	Govt Office	0	1.36	3,600	3/29/2022
SA-2021-06	South Hagerstown High School - cafeteria addition	1101 S. Potomac Street	11/1/2021	INST	School	0	64.62	3,071	2/8/2022
SA-2021-07	S&M 786, Inc.	890 Pennsylvania Avenue	11/18/2021	CG	car sales	0	0.58	2,010	3/15/2021
SA-2021-08	UGO Management parking lot	115 W. Washington Street	11/17/2021	CC-MU	office	0	0.14	0	12/13/2021
TOTAL						0	157.06	11911	

## Full Site Plans

Case No.	Name	Address	Date Received	Zone	Use	No. of DWUs	Acres	Sq.Ft. of Building	Approval Date
ZS-2021-01	NorthPoint Development	790 Wesel Blvd	1/22/2021	IG	warehouse	0	27.98	217,193	5/21/2021
ZS-2021-02	City Park Restrooms	City Park	1/22/2021	INST	park facility	0	50.42	844	3/8/2021
ZS-2021-03	NorthPoint Development	811 Wesel Blvd	2/9/2021	IG	warehouse	0	68.6	278,206	4/26/2021
ZS-2021-04	Urban Improvement Project - Cultural Trail Ph. 2	19 Rochester Place	3/23/2021	CC-MU	Trail	0	1.78	0	5/24/2021
ZS-2021-05	ModWash	1394 S. Potomac Street	3/19/2021	CG	car wash	0	1.2	44,464	8/2/2021
ZS-2021-06	South Hagerstown High School - 2 Modular Classrooms	1101 S. Potomac Street	4/6/2021	INST	School	0	0.49	15,335	5/19/2021
ZS-2021-07	Washington County Public Schools - bus fuel depot	820 Commonwealth Avenue	4/28/2021	INST	School System	0	11.6	0	8/2/2021
ZS-2021-08	Fulton warehouse	967 Sweeney Drive	5/13/2021	IG	warehouse	0	5.9	40,000	5/25/2022
ZS-2021-09	Daniel Michaels - parking lot	1150 Professional Court	6/15/2021	POM	offices	0	0.57	0	9/10/2021
ZS-2021-10	Tommy's Express	1620 Wesel Blvd	6/21/2021	CR	car wash	0	1.56	44,429	10/25/2021
ZS-2021-11	Hagerstown Skate Park	Fairgrounds Park	8/16/2021	INST	park facility	0	68.8	0	12/10/2021
ZS-2021-12	Higgins	480 Third Street	9/3/2021	I-MU and RMOD	office and warehouse	0	1.12	4,000	2022
ZS-2021-13	Washington County Technical High School - Reno and Addition	50 W. Oak Ridge Drive	11/18/2021	INST	School	0	53.74	7,000	3/9/2022
TOTAL						0	293.76	651,471	

## Subdivision Development Plans

Case No.	Name	Address	Date Received	Zone	Use	No. of DWUs	Acres	Sq.Ft. of Building	Approval Date
P-2021-01	Brookmeadow TWN	Off Security Road	6/16/2021	RMED	TWNs	119	19.4	0	5/25/2022
P-2021-02	Virginia Commons Phase 1	Off Virginia Avenue	11/15/2021	RMOD	SFRs	39	12.7	0	4/27/2022
TOTAL						158	32.1		

## Subdivision Plats

Case No.	Name	Address	Date Received	Zone	Use	No. of DWUs	Acres	Sq.Ft. of Building	Approval Date
S-2021-01	Burhans Village Final Plat	Off N. Burhans and Mitchell	1/26/2021	RMED	TWNs	54	6.21	0	8/2/2021
S-2021-02	Hager's Crossing, Phase 2B-7 Final Plat	Off Hager's Crossing Drive	1/26/2021	RMED PUD	SFRs	38	12.17	0	8/2/2021
S-2021-03	Mason Dixon Enterprises Minor Plat	912-914 Dewey Avenue	2/18/2021	RMOD	Existing DUP	2	0.15	0	5/21/2021
S-2021-04	Keltner Minor Plat	733 and 737 Park Road	2/24/2021	RMOD	Existing DUP	2	0.34	0	6/10/2021
S-2021-05	Oak Ridge Mills Final Plat	Lots 1 & 2, 1300 S. Potomac Street	4/7/2021	CG	Comercial	0	2	0	6/11/2021



N/A									
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**Board of Zoning Appeals** - 8 variances; 1 change of non-conforming use; 2 administrative appeals.

**Historic District Commission** - 2 new buildings, 1 demolition, 16 alterations, 8 signs, 7 fences, 2 patios, 2 pools, 1 trail, 1 utility tower, 2 parking lots.

PCAD, 7/18/2022



**RESOLUTION**  
**VISION HAGERSTOWN 2035 COMPREHENSIVE PLAN**  
**AMENDMENTS TO THE TRANSPORTATION ELEMENT**

**WHEREAS**, the Hagerstown Planning Commission has submitted the attached recommended amendment to the Transportation Element of the City's Comprehensive Plan, *visionHagerstown 2035*, for the Mayor and City Council's consideration and adoption; and,

**WHEREAS**, the Mayor and City Council of the City of Hagerstown have reviewed this proposed amendment to the City of Hagerstown's Comprehensive Plan *visionHagerstown 2035* to amend the Transportation Element; and,

**WHEREAS**, in keeping with the requirements of Title 3, Comprehensive Plan, of the Land Use Article of the Annotated Code of Maryland, citizen input and public discussions of this recommended amendment occurred throughout a series of public meetings, including Public Hearings and Work Sessions, through the State Clearinghouse Review Process, and through discussions with affected property owners, Washington County staff, and the Mayor of Funkstown; and,

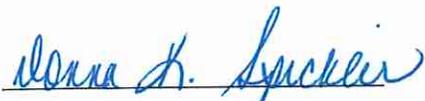
**WHEREAS**, the Mayor and City Council considers this amendment to *visionHagerstown 2035* to be for the best interest and welfare of the citizenry and public in general of the City of Hagerstown,

**NOW, THEREFORE, BE IT RESOLVED**, by the Mayor and City Council of the City of Hagerstown, Maryland, as its duly constituted legislative body, that this amendment to the Transportation Element of the City of Hagerstown's Comprehensive Plan *visionHagerstown 2035* is hereby adopted.

**BE IT FURTHER RERSOLVED**, by the Mayor and City Council of Hagerstown, Maryland that this Resolution shall become effective immediately upon its passage.

WITNESS:

MAYOR AND CITY COUNCIL OF THE  
CITY OF HAGERSTOWN, MARYLAND



BY:   
Emily Keller, Mayor

DATE OF PASSAGE: February 22, 2022  
EFFECTIVE DATE: February 22, 2022



## Transportation

### Introduction

An adequate vehicular circulation system is vital for Hagerstown to remain a desirable place to live, work, and visit. Road projects that add highway capacity and new road links will be necessary to meet the Comprehensive Plan's goals for growth management, economic development, and the downtown. This chapter addresses the City of Hagerstown's existing transportation system and establishes priorities for improvements to roads, transit, and pedestrian and bicycle facilities over the next 20 years.

### Goals

1. The city's transportation network, including roads, transit, and bicycle and pedestrian facilities, will meet the mobility needs of its residents, businesses, and visitors of all ages, abilities, and socioeconomic backgrounds.
2. Transportation projects will support the City's growth management goals.
3. Long-distance traffic will use major highways to travel around Hagerstown rather than through the city.

### Issues Addressed by this Element

1. Hagerstown's transportation network needs to be enhanced to maintain safe and efficient flow of people and goods in and around the city.
2. Hagerstown's network of major roads is generally complete, with many missing or partially complete segments in the Medium-Range Growth Area.
3. Without upgrades, the existing road network will not be sufficient to accommodate future traffic in and around Hagerstown.
4. Hagerstown's transportation network needs more alternatives to the automobile, including transit and bicycle facilities and pedestrian opportunities.

### Existing Transportation Network

Known as "Hub City," Hagerstown has long served as a transportation center, first as a waypoint on the National Road—America's first federally funded highway—and later as a railway node. Today, U.S. Routes 40 (the descendant of the National Road) and 11 intersect at the edge of downtown Hagerstown, and Interstates 70 and 81 skirt the southern and western edges of the city. The interstates provide a bypass around the city for long-distance travelers, including truck traffic, while the U.S. routes provide direct access to downtown Hagerstown. Other major roads,



Dual Highway (US Route 40)

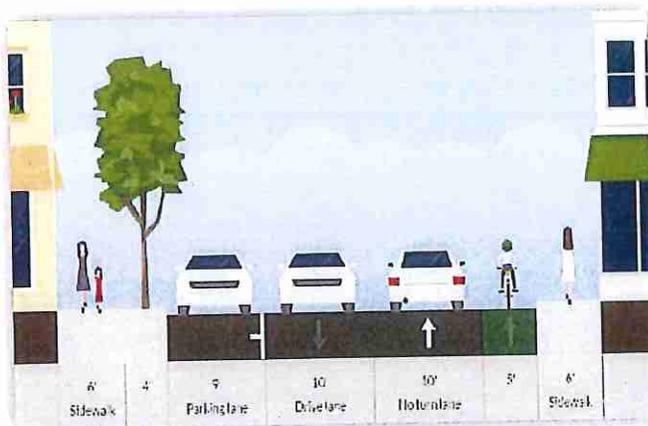
such as Wilson Boulevard, Memorial Boulevard, Eastern Boulevard, and Northern Avenue provide a partial circuit around the city center for local traffic (see Map 5-1).

The older portions of Hagerstown's local road network (primarily those in and near the downtown) are a grid system, divided by a major railroad line, streams, and topographic features. More recent additions to the local road system have broken with the grid pattern.

Trucks and commercial traffic traverse the downtown, although most of these trips have either an origin or a destination at a downtown business, or in one of the industrial and commercial areas in the city (see Map 2-2).

### Livable Streets Initiative

Livable streets, or complete streets, are streets designed for and operated by multiple modes of transportation rather than just for automobiles. Complete streets enable safe access for automobiles, pedestrians, bicyclists, and transit riders for all ages and abilities. There is no "boilerplate" approach for complete streets – each street is unique and must respond to the context of the community. For example, a wide, lightly traveled street may not have a need for bicycle lanes, transit stops, and street/sidewalk separation; however, a more heavily traveled road may need to accommodate transit stops and buffer between the street and the sidewalk for safer pedestrian access. Also, since rights-of-way have limited widths, a street may not physically be able to offer all complete street amenities so choices are made as to what amenities are most important and appropriate for that specific street. A complete streets policy can be adopted by a municipality and be used to identify and prioritize improvements to make existing streets more complete while also establishing guidelines for making new streets complete. Elements of



An example of a livable street (Source: Streetmix)

complete street design often includes landscaping buffers that add separation and safety between pedestrians, bicyclists, and motorists – this could serve a dual purpose by also physically and aesthetically enhancing corridors that can make visiting Hagerstown more welcoming.

The City of Hagerstown worked with Sabra Wang, a transportation engineering consultant, to develop a Livable Streets Policy. The Policy and Guidelines were accepted by the Mayor

& City Council in March 2015 and will guide the future design and reconstruction of existing and future city streets with complete street attributes. Implementation of livable streets will be a priority of the city for the next 20 years as alternative transportation, such as bicycling, and accommodation of an aging, but active, population become more prevalent.

### Public Transit

Transit service in the Hagerstown region is provided by the County Commuter service, operated by Washington County. The Central Transfer Facility for County Commuter is located on West Franklin Street in downtown Hagerstown. County Commuter has an annual ridership of over 400,000 and operates ten (10) routes that originate in downtown Hagerstown. Destinations for these routes include Valley Mall, Long Meadow Shopping Center, Williamsport, Maugansville, Hagerstown Regional Airport, Hagerstown Community College, Smithsburg, Premium Outlets, Funkstown, and the Centre at Hagerstown Shopping Center. The County Commuter's 2010 Transit Development Plan identifies the need to add more routes and identifies future transit stops. It is also important that bus shelters be provided for transit riders, and hours of operation be extended to better accommodate variable work schedules of people who use County Commuter. Map 5-4 illustrates the 2010 Transit Plan's recommended route re-alignments for the urban area with the Priority Funding Area, Medium Range Growth Area, and Long Range Growth Area also illustrated.

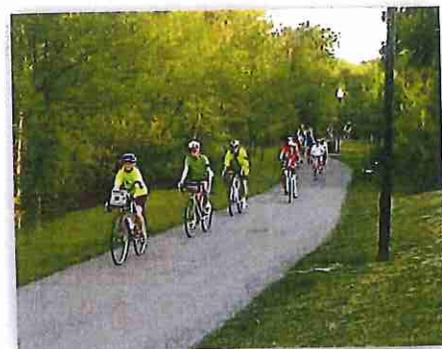
The nearest passenger rail facilities are the AMTRAK/MARC stations in Martinsburg and Frederick (the railroad lines that traverse Hagerstown are owned by CSX and Norfolk-Southern, and are used for freight operations).

The Maryland Transit Authority operates a commuter bus route from the park-and-ride lot at the I-70/MD Route 65 interchange to the Shady Grove Metrorail station. The Hagerstown region is served by several other park-and-ride lots, including several along I-70 (at US Route 40, MD Route 66, and MD Route 632), and a lot at the I-81/MD Route 58 interchange. These lots, along with the MTA park-and-ride lot, provide 599 spaces for commuters from the Hagerstown region and beyond.<sup>1</sup>

Hagerstown Regional Airport provides commercial and private air travel for the four-state region. The Airport is shown on Map 5-1.

### Bicycling

The City of Hagerstown promotes and facilitates bicycling as a safe, convenient and comfortable mode of transportation and recreation in Hagerstown. As interest in bicycling as a viable, alternative mode of transportation grows, the City continues to develop ways to integrate bicycles into its existing infrastructure to improve bicycle riding safety and create a multi-modal transportation system. The City has consistently been recognized for its efforts to promote bicycling in Hagerstown by the League of American Bicyclists, and



Bicyclists using multi-use path between Fairgrounds and Pangborn Parks

<sup>1</sup> Source: Maryland State Highway Administration, <http://www.sha.maryland.gov/pages/parkandridemaps.aspx?PageId=248&d=55>

received Bronze-level Bicycle Friendly Community status in 2014.

The City adopted a Bicycle Master Plan (BMP) in 2010. The BMP seeks to make Hagerstown bicycle friendly and promote bicycling by constructing a comprehensive network of bike lanes and routes. The BMP comprehensively evaluates the city and provides recommendations for an extensive bike network. This plan also emphasizes safety, education, and encouragement programs as key components of success.

An updated BMP was developed and adopted in 2016. The updated Plan, which was developed with assistance from Hagerstown-Eastern Panhandle Metropolitan Planning Organization (HEPMPO) and its consultant, evaluates the city's existing bicycle environment and proposes a variety of recommendations over the next ten years to make Hagerstown more bicycle-friendly. These recommendations include physical improvements, such as bike lanes and paths, and policy initiatives like safety programs and bicycle events. The physical improvements recommended by the 2016 BMP are incorporated into *visionHagerstown 2035* and are generally shown on Map 5-2.

As of 2015, the city has designated 26 miles of bicycle routes (shown on Map 5-2). This includes 8.7 miles of on-street bicycle lanes, 6 miles of off-street multi-use paths, and 12 miles of "share the road" signage and pavement markings. The City has established the Hub City Bicycle Loop that provides a recreational bicycle route around the downtown and through adjacent neighborhoods. Additionally, Map 5-2 shows proposed future multi-use trails accessible to bicycling.

### US Bicycle Route 11

Established by the American Association of State Highway and Transportation Officials (AASHTO) in 1978, the U.S. Bicycle Route System is a developing network of interstate long-distance cycling routes across the United States. The Bicycle Route System utilizes multiple types of infrastructure available from bicycling, including existing roads, off-road paths, and bicycle lanes. In 2014 the City worked with the Maryland Department of Transportation on designating US Bicycle Route 11 (not to be confused with US Route 11) through Hagerstown. The City recognizes the potential health, economic, and tourism benefits of having a U.S. Bicycle Route travel through the city. Map 5-2 shows the alignment of US Bicycle Route 11 through Hagerstown.

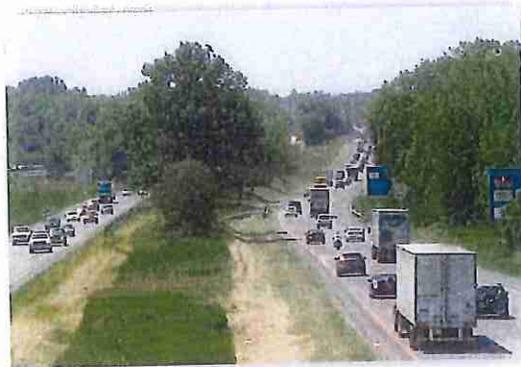
### Pedestrian Access

Most city streets have sidewalks, although there are some areas where sidewalks are in poor condition or are missing altogether. Hagerstown generally requires new development and redevelopment to include sidewalks that connect to existing sidewalks, especially where continuous sidewalks facilitate access to parks and schools. Most portions of the Medium-Range Growth Area outside the city lack sidewalks. The City has placed a high priority on inter-jurisdictional construction and completion of sidewalk and pedestrian networks between the county and the city, specifically Dual Highway. Map 5-2 shows proposed future multi-use trails accessible to pedestrians. The City, State, and (HEPMPO) are assessing pedestrian safety issues

affecting Dual Highway (US Route 40) with the intended outcome of developing improvements to pedestrian safety along this corridor.

### Future Transportation Needs

While Hagerstown's roads currently function well, projected increases in regional traffic volumes will have significant negative impacts on travel in and around Hagerstown. The Hagerstown/Eastern Panhandle Metropolitan Transportation Organization (HEPMPO) is the federally designated body responsible for preparing a Long Range Transportation Plan (LRTP) to assess transportation needs of the region that includes Washington County, Maryland and Berkeley and Jefferson Counties, West Virginia through the year 2040. *Direction 2040*, the long-range transportation plan update for the MPO, found that the Hagerstown/Eastern Panhandle region will experience a 32 percent increase in travel demand by 2040.<sup>2</sup> Unless steps are taken to add capacity to the regional road system by 2040, the entire Maryland portion of I-81 and I-70 from Frederick County to I-81 will both operate at Level of Service (LOS) E or F, characterized by extremely slow speeds and heavy congestion (LOS F indicates near-gridlock conditions).



Traffic on Interstate 81, south of Exit 6 (US 40)

Maintaining capacity on the interstates is critical for the long-term adequacy of Hagerstown's transportation system. Heavy congestion on the interstates will make Hagerstown's thoroughfares and local roads attractive alternative routes for regional through traffic. Specifically, the *Direction 2040* Long-Range Transportation Plan (LRTP) found that, if capacity is not added to the interstate system, Dual Highway, Eastern Boulevard, Northern Avenue, and much of U.S. Route 11 will operate at LOS E. This would encourage traffic to bypass congested interstates by using downtown streets, which, as a result, would operate at LOS E or F. To avoid these problems, the LRTP recommends a number of transportation upgrades, as listed in Tables 5-1 and 5-2 and shown in Map 5-3. It should be noted that, as of 2014, the vast majority of these projects are unfunded. Since the State has plans to add capacity to I-81, the City contends that the widening of US 11 is not necessary and also would not be feasible given site constraints within the city.

<sup>2</sup> Travel demand is measured by daily vehicle-miles of travel (VMT). Between 2014 and 2040, the LRTP estimates that regional travel will increase from 6,673,000 VMT to 10,537,000 VMT.

**Figure 5-1: Transportation Projects Underway (Committed)**

Key (Map 5-3)	Facility	Improvement	Segment
A.	Professional Blvd	Construct new road	Antietam Creek bridge to Robinwood Drive (excludes bridge)
B.	Southern Blvd, Phase I	Construct new road	Frederick St. (US Alt 40) to Villa Ridge Dr.
C.	Interstate 81	Reconstruct & Widen	Potomac River Bridge between MD and WV to Exit 1 (MD Route 63/68)
D.	Shawley Drive	Realignment	Realign intersection to Maugans Ave and Oliver Dr
E.	Eastern Blvd <sup>1</sup>	Widen to four lanes	MD Route 64 to Security Rd

Source: HEPMPO 2040 Long-Range Transportation Plan;  
<sup>1</sup> 2015-2024 Washington County Capital Improvement Plan (CIP)

**Figure 5-2: Recommended Long Range Transportation Improvements (Identified in the 2040 Long-Range Transportation Plan)**

Key (Map 5-3)	Facility	Improvement	Segment
1	Interstate 81	Widen to six lanes	Entire length of Washington County
2	Interstate 70	Widen to six lanes	Frederick County line to Interstate 68
3	Halfway Blvd	Construct new four-lane divided arterial segment (with turn lanes)	Current terminus to MD Route 63
4	US Route 11	Widen to four lanes	Hagerstown city line to Williamsport
5	US Route 11	Widen to four lanes	Burhans Blvd N to Terminal Drive
6	US Route 40	Widen to six lanes	Eastern Blvd to Interstate 70
7	US Route 40	Widen to four lanes and intersection improvements	MD Route 63 to MD Route 144
8	MD Route 65	Widen to four lanes	Poffenberger Road to MD Route 68
9	Southern Blvd, Phase II	Construct new road	Edgewood Drive to Frederick Street
10	MD Route 63	Widen to four lanes	Interstate 70 to US Route 40
11	Paul Smith Blvd	Construct new road	U.S. Route 40 to U.S. Alt 40
12	Robinwood Drive N	Construct new road	Realign from Hagerstown Community College to MD Route 64
13	MD Route 60	Widen to four lanes	Marsh Pike to Longmeadow Road
14	MD Route 64	Reconstruction	Eastern Blvd to Little Antietam Road
15	MD Route 65	Widen to five lanes	Interstate 70 to Poffenberger Road

**Figure 5-2: Recommended Long Range Transportation Improvements**  
(Identified in the 2040 Long-Range Transportation Plan)

Key (Map 5-3)	Facility	Improvement	Segment
16	Eastern Blvd Ext.	Construct new road	Antietam Drive to MD Route 60
17	Longmeadow Road	Widen to five lanes	Halifax Drive to MD Route 60
18	Marsh Pike	Widen to five lanes & Signalization	MD Route 60 to Longmeadow Road
19	New Gate Blvd	Construct new road	Current terminus to US Route 40
20	MD Route 65	Widen to four lanes	Interstate 70 to Wilson Blvd
21	Maugans Ave	Widen to three lanes	Interstate 81 to Main Street
22	Maugans Ave	Construct new road	Main Street to Garden View Road
23	Poffenberger Road	Widen to three lanes	MD Route 65 to US Alt 40
24	Crayton Blvd	Construct new road	Current terminus to Showalter Road
25	Northwest Connector	Construct new road	Haven Road to Salem Ave
26	Showalter Road	Widen to four lanes	Interstate 81 to US Route 11
27	MD Route 60	Reconstruction	Cortland Drive to Marsh Pike
28	E. Oak Ridge Drive & South Pointe Drive	Signalization	Intersection of E. Oak Ridge Drive, South Pointe Drive, and Oakmont Drive
29	Haven Road	Reconstruction	US Route 11 to end
30	Edgewood Drive	Widen to four lanes	Haywood Cir to Howell Rd
31	US Alt 40	Reconstruction	Funkstown to MD Route 68
<i>Locally-Identified Projects Not Included in 2040 LRTP</i>			
32	Eastern Boulevard	Widen to four lanes	Security Road to Antietam Drive

Source: HEPMPO 2040 Long-Range Transportation Plan, Washington County 2015-2024 Capital Improvement Plan (CIP)

Among the projects shown in Tables 5-1 and 5-2, the MPO 2040 Long-Range Transportation Plan lists the following committed road projects around the city and in the MRGA.

Current Projects (underway or soon to be underway as of 2017, and updated 2021):

- Eastern Boulevard widening from Jefferson Boulevard to Security Road [E]
- Eastern Boulevard widening from Security Road to Antietam Drive near YMCA [32]
- Extension of Professional Court to Meritus Medical Center and Hagerstown Community College [A]

Future Projects (varying funding commitments in the City CIP):

- Construction of Northwest Connector from New Haven Road to Salem Avenue [25]
- Construction of Paul Smith Blvd [11]

Projects Completed since 2018

- Southern Boulevard Phase I – from Frederick Street (US Alt 40) to Villa Ridge Dr. [B]
- Crayton Boulevard – construct new road, current terminus to Showalter Road [24]
- Edgewood Drive – widen to four lanes, Haywood Circle to Howell Road [30]

Widening I-81 and I-70 is essential to alleviate the projected congestion in the Hagerstown region and will reduce bypass trips through the city. Improving major thoroughfares outside of the Corporate Boundaries (but within the UGA) will keep intra-regional travel on the city's periphery, rather than in the downtown. New roads such as the Haven Road extension and the Eastern Boulevard/Robinwood Drive connector will shorten trips and alleviate traffic on Dual Highway, Pennsylvania Avenue, and other arterial roads, and will add interconnectivity and flexibility to the road system.

In addition to accommodating future traffic, these transportation improvements also support the City's growth management goals. Added road capacity and new connections are concentrated in the northern and eastern portions of the Medium-Range Growth Area, where there is a large amount of undeveloped land and several potential annexation properties. Setting aside rights-of-way for new or widened roads during the development review and permitting process should become a priority. This can provide important connections between new development, redevelopment, and existing neighborhoods.

Those road improvement projects recommended in Figures 5-1 and 5-2 that are located within the city (#5, 6, 11, 20, 25, 29, and 30) will be coordinated by the City or in some cases, the County or State. Since the added capacity needs for those projects are mostly generated by new development, the City anticipates construction to occur in concert with private development projects with funding by the developer. Timeframes for those projects are dependent upon the timing of private development on the vacant tracts along those routes. The balance of the recommended projects in Figures 5-1 and 5-2 are located outside the city and as such the planning and oversight of those projects will be by Washington County and/or the State of Maryland. Additional detail on the timing and funding plans for these roads is outlined in the *Direction 2040* Long Range Transportation Plan.

**2021 Update on R. Paul Smith Boulevard and Proposed Roads in Southeast Area of City** – On August 10, 2021, the Mayor and City Council directed the Planning Commission to remove the northern leg of R. Paul Smith Blvd, from Edgewood Drive to Howell Road/Dual Highway, from the City's Comprehensive Plan as no longer feasible or desirable given development approved by the County in the proposed path of the road and given proposed development plans for the Harrison tract of land it would traverse. The Planning Commission reviewed this direction and other future road alignments desirable for the vacant land in the city in this area. Map 5-5 shows the removal of the northern leg of R. Paul Smith Boulevard and identifies recommended new road alignments for the vacant tracts of land in the southeast area of the city, as well as a continuation of the recommended alignments of R. Paul Smith Boulevard south of Edgewood. A

future traffic study to update the 2003 Hagerstown-Eastern Panhandle Metropolitan Planning Organization's (HEPMPO) R. Paul Smith Blvd Traffic Study will assess the traffic issues in the area and render a recommendation on road improvements in the Hebb Road to ALT 40 sector on the east side of Funkstown.

2021 Review of Updates to HEPMPO Long Range Transportation Plan – On September 1, 2021, the Planning Commission reviewed the changes made to the 2040 LRTP when the 2045 LRTP was adopted in 2018. Most of the recommended road improvements for the Hagerstown Medium Range Growth Area (MRGA) continued forward from the 2040 to the 2045 Plan. One proposed project outside the city was removed, four proposed projects outside the city were added, and two proposed projects within the city were added:

Projects Removed in the MRGA in 2045 Plan:

- Robinwood Drive Bypass to MD 64

Projects Added in the MRGA in 2045 Plan:

- Colonel Henry Kyd Douglas Drive extension to ALT 40
- Showalter Road extension to Paradise Church Road
- Roundabout at Underpass Way and Halfway Boulevard
- Reconstruct MD 65/US 70 interchange

Projects Added within the City of Hagerstown in the 2045 LRTP:<sup>3</sup>

- Wesel Boulevard widening to four lanes
- Western Maryland Parkway extension to Railway Lane

Since the HEPMPO is in the process of updating the 2045 Plan with adoption scheduled for May 2022, it was determined that no changes would be made to update the 2040 LRTP Plan references in Hagerstown's Comprehensive Plan until after adoption of the 2050 LRTP.

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<sup>3</sup> These projects are not supported by the City of Hagerstown

## Transportation Policies

- Policy 5-1.** The Plan recommends completion of the Long Range Transportation Plan projects and City-identified projects listed in Figures 5-1 and 5-2, and shown in Map 5-3.
- Policy 5-2.** The City of Hagerstown will work with Washington County, the Towns, the State of Maryland, and Hagerstown Eastern Panhandle Metropolitan Planning Organization (HEPMPO) to pursue the timely completion of selected projects that facilitate traffic movement around the city's periphery. Specific projects are:
- Widening of I-81 and I-70.
  - Widening and extension of Eastern Boulevard from MD Route 60 to MD Route 64.
  - Construction of Southern Boulevard
  - Construction of the Northwest Connector
- Policy 5-3.** Transportation improvements will support the *visionHagerstown 2035's* growth management and land use goals.
- Policy 5-4.** Desired alignments for new roads will be identified in advance of new development, and developer participation will be sought.
- Policy 5-5.** The City should review and evaluate the Curb and Sidewalks Policy periodically and update as necessary.
- Policy 5-6.** The City encourages alternatives to automobile travel, specifically:
- Expansion of the County Commuter system, including extending hours of operation
  - Inclusion of sidewalks and pedestrian paths as part of new development, as well as through City projects to fill gaps in the existing pedestrian network as funding allows, and
  - The establishment of bicycle routes on existing and new city streets.
- Policy 5-7.** Continue to encourage ride-sharing by maintaining existing park-and-ride lots, and by developing new park-and-ride lots as necessary.

## Transportation Implementation Actions

- Action 5-1.** Work with Washington County, the towns, the State of Maryland, and the HEPMPO to complete the transportation improvements identified in this Comprehensive Plan. In particular, review and comment on the annual City and County Improvement Programs (CIPs) and the State Consolidated Transportation Program as they relate to furthering objectives of this plan.
- Action 5-2.** Work with Washington County to review County Commuter bus service, to evaluate the adequacy of existing routes, adequacy of bicycling features at stations and on buses, transit information, and bus shelters in light of the Growth Management and Land Use element of *visionHagerstown 2035*.
- Action 5-3.** Work with the Maryland Transit Authority to evaluate the need for expanded commuter bus service and additional commuter bus stops in Hagerstown, making existing stops bicycle and pedestrian friendly and making new stops multi-modal (accessible to roads, sidewalks, and multi-use paths)
- Action 5-4.** Expand the city's pedestrian and bicycle infrastructure by considering the following improvements:
- Develop a new walking path/greenway along Antietam Creek (see Map 5-2 or 9-4).
  - Develop east-west bicycle-friendly routes through downtown using existing alley system
  - Develop a continuous multi-use path along Memorial Blvd and Marsh Run from City Park to Municipal Stadium
  - Work with Washington County and the State to develop a multi-use path from City Park along CSX right-of-way and former B&O right-of-way to connect Hagerstown to C&O Towpath in southern Washington County
  - Reserve right-of-way on new or expanded roads for bicycle lanes.
  - Should rail lines be retired from service by the railroads, explore re-use opportunities for pedestrian and bicycle paths
  - Implement the City's Livable Streets Initiative as new streets are constructed or when existing streets are repaved/reconstructed
- Action 5-5.** Investigate the feasibility of alternate funding sources for transportation projects, such as development impact fees and assessment districts, as well as increased State and Federal aid.

- Action 5-6.** Continue to require new development and redevelopment to include interconnected street networks and sidewalks that connect to existing sidewalks, especially where continuous sidewalks facilitate access to parks and schools.
- Action 5-7.** Work with Washington County and State of Maryland to implement pedestrian safety recommendations for the Dual Highway and at challenging intersections in the study area.
- Action 5-8.** As development plans come forward for vacant land in the southeast area of the city, ensure traffic studies include assessment of Comprehensive Plan transportation improvement recommendations as a means of alleviating and/or improving traffic impacts from existing and proposed development in the region.

visionHagerstown 2035  
Comprehensive Plan

Map 5-1: Existing Road, Rail, and Air Network



- Corporate Boundary
- Medium Range Growth Area
- Other Municipality
- Transportation**
- Interstates
- Major Thoroughfares
- Local Street
- Railroads
- County Commuter Transfer Station
- Hagerstown Regional Airport

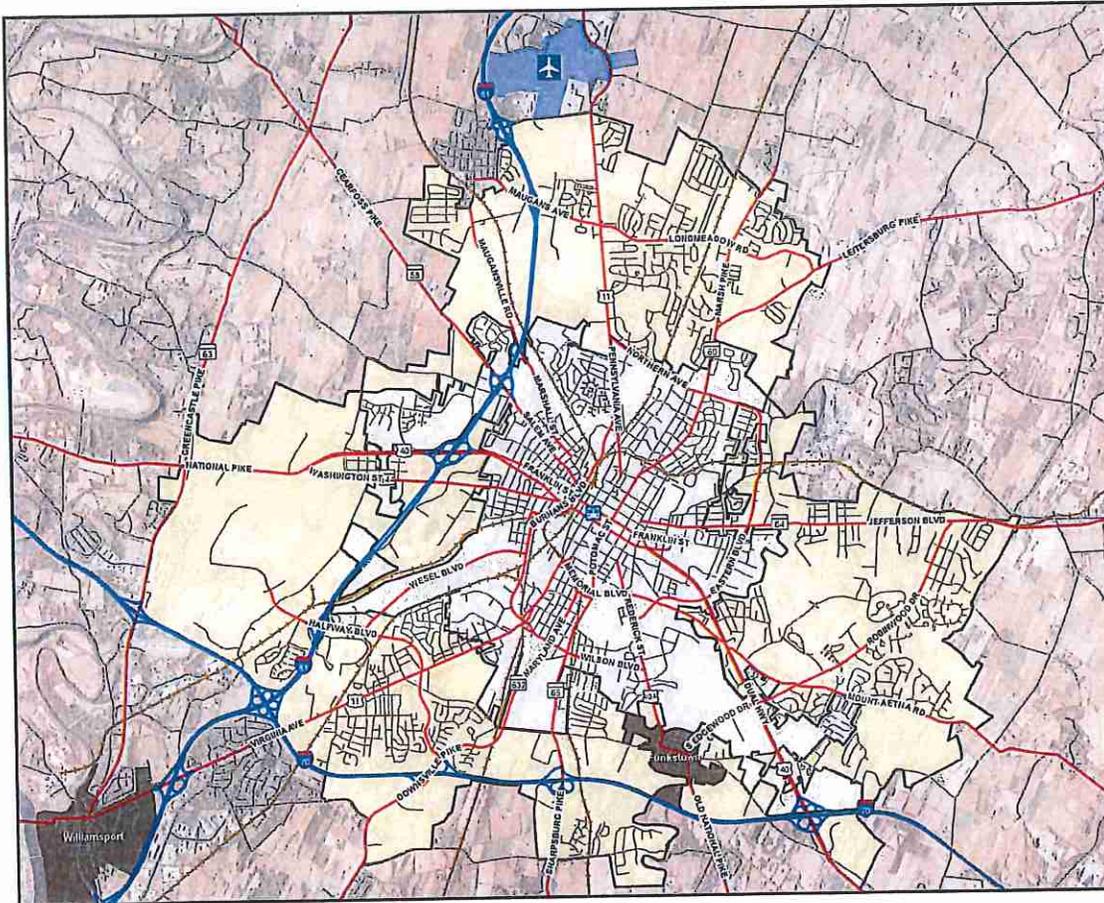
Downtown Thoroughfares



Map Projector: NAD83 State Plane Maryland FIPS (feet)

Data Sources:  
City of Hagerstown, 2015; State of MD Imagery, 2014  
Washington County, 2007

Prepared By:  
Hagerstown Planning & Code Admin Dept, 05/2017, (rev. 10/27/17)



R-22-07

visionHagerstown 2035  
Comprehensive Plan

Map 5-2:  
Bicycle Infrastructure  
Existing and Planned



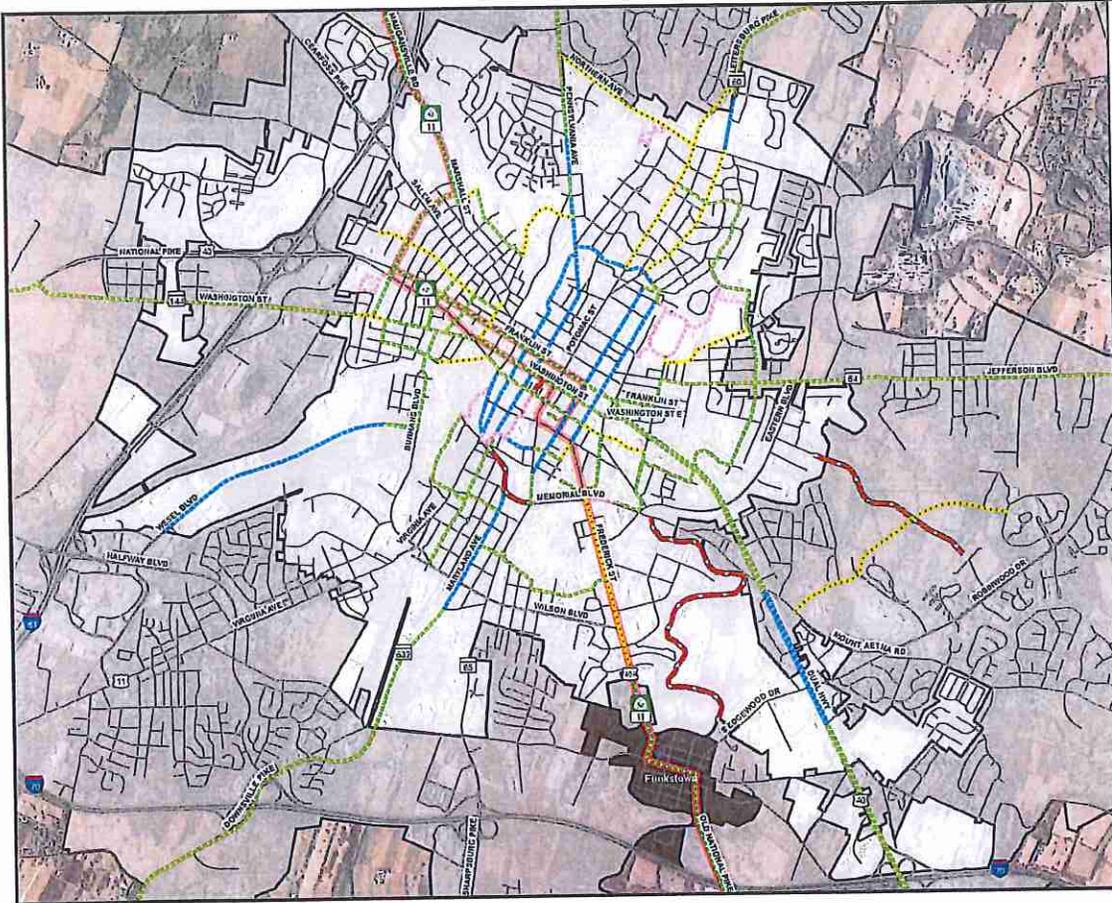
- Street
- Corporate Boundary
- Medium Range Growth Area
- Route Type**
- Existing Shared-Use Path
- Existing On-Street Bike Lane
- Bicycle-Friendly Route
- Proposed Shared-Use Path
- Proposed Bike Lane
- US Bicycle Route 11 Alignment

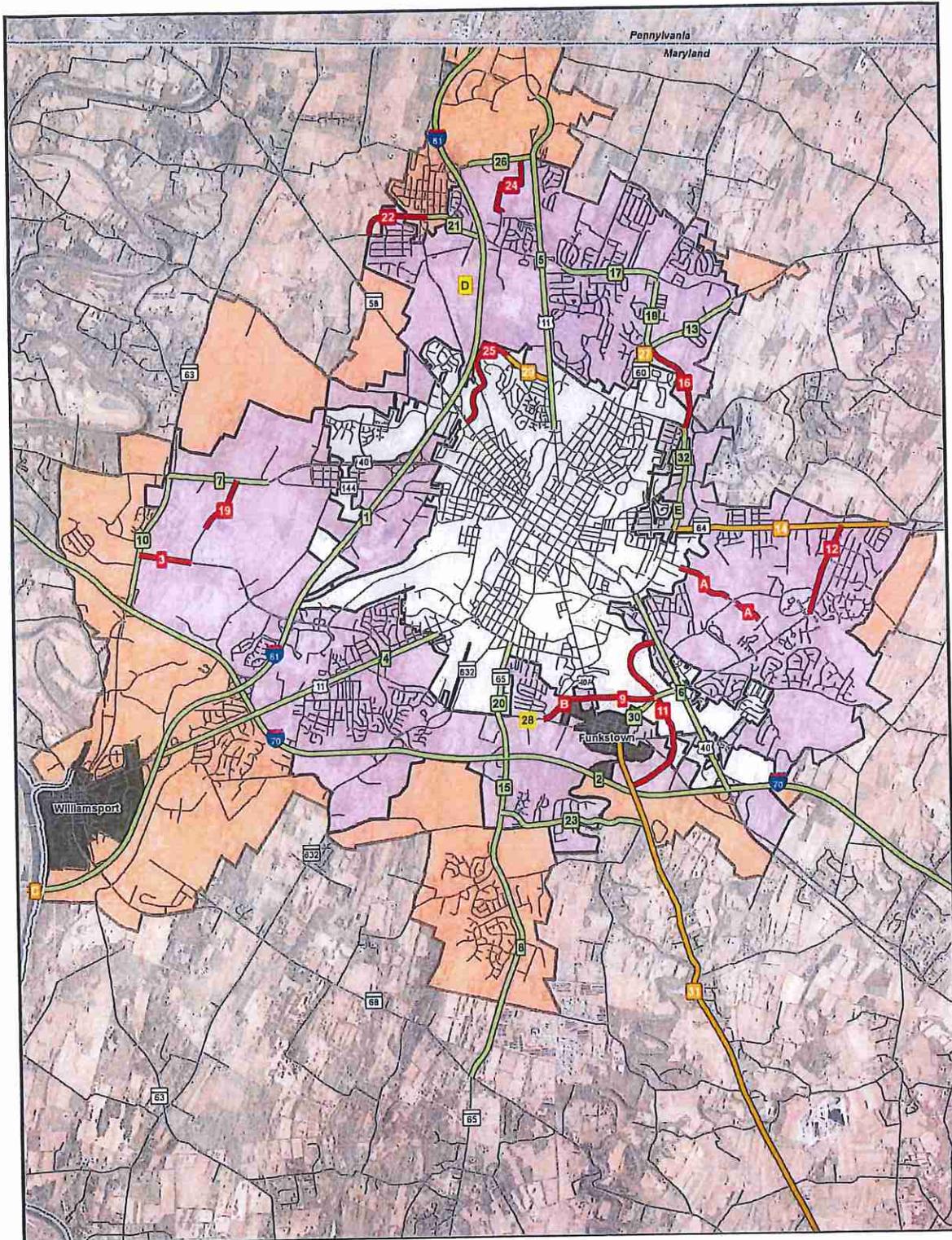
Downtown Thoroughfares



0 0.5 1 1.5 Miles

Map Projection: NAD83 State Plane Maryland FIPS (ft)  
Data Source:  
City of Hagerstown, 2017; State of MD Imagery, 2014  
Washington County, 2018  
Prepared By: Hagerstown Planning & Code Administration, 01/27/17





**visionHagerstown 2035 Comprehensive Plan**  
**Map 5-3: LRTP Recommended Upgrades**

- |                          |                               |
|--------------------------|-------------------------------|
| Road                     | Construct new road            |
| Corporate Boundary       | Reconstruction                |
| State Boundary           | Signalization/Traffic Control |
| Medium Range Growth Area | Widen                         |
| Long-Range Growth Area   |                               |



Improvement Project Letters and Numbers are referenced in Figure 5-1 and Figure 5-2, respectively

Map Projection: NAD83 State Plan Maryland FIPS (feet)

Data Sources:  
 City of Hagerstown, 2017; State of MD Imagery, 2014  
 Washington County, 2016, HEPMPD, 2014

Prepared By:  
 Hagerstown Planning & Code Admin Dept, 01/27/17, (rev. 10/27/17)



R-22-07

visionHagerstown 2035  
Comprehensive Plan

Map 5-4: Recommended  
Re-Alignment of Urban  
Transit Route Service



- Major Road
- Street
- Corporate Boundary
- Medium-Range Growth Area (MRGA)
- Long-Range Growth Area (LRGA)
- Priority Funding Area (PFA)
- PFA Comment Area
- Transfer Points
- Recommended Urban Transit Routes
  - Route 1
  - Route 2
  - Route 3
  - Route 4
  - Route 5
  - Route 6
  - Route 7
  - Hopewell Express

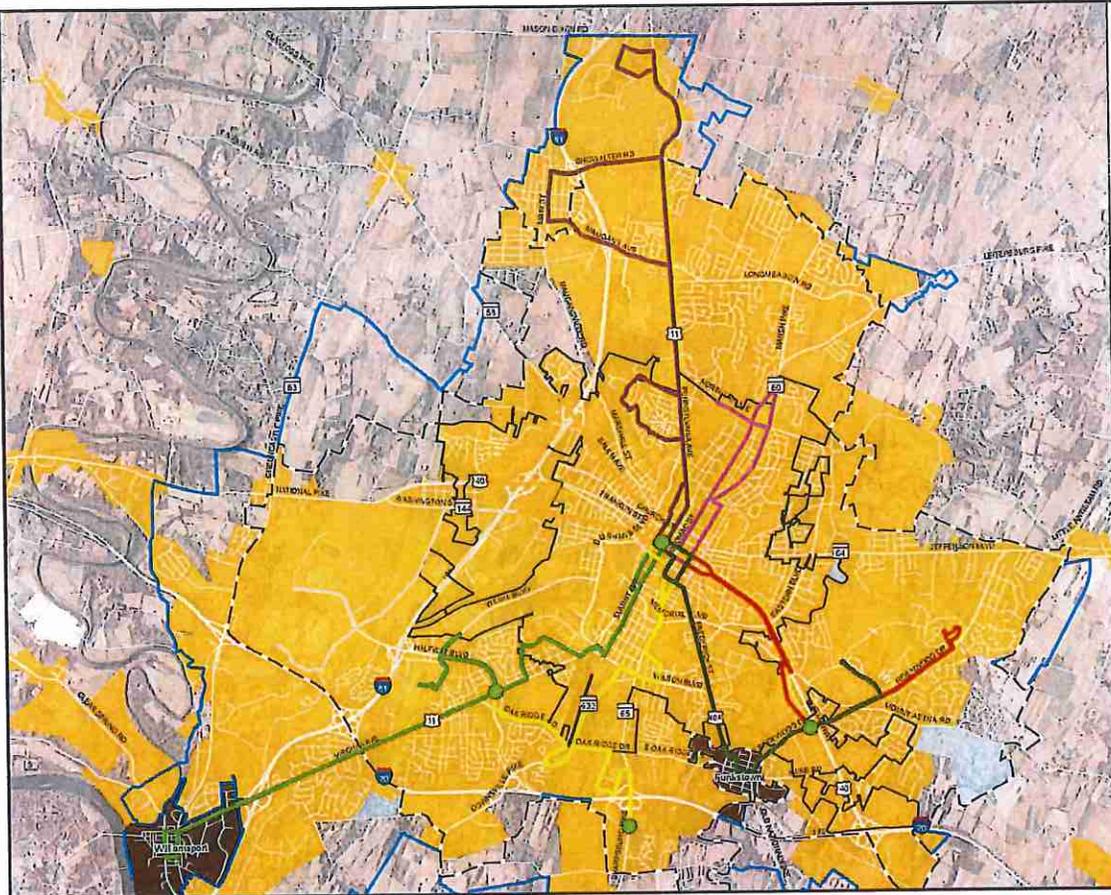
PFA Comment Area: Areas certified by the county as part of its Priority Funding Areas but do not meet the criteria in the 1997 Law for PFAs.

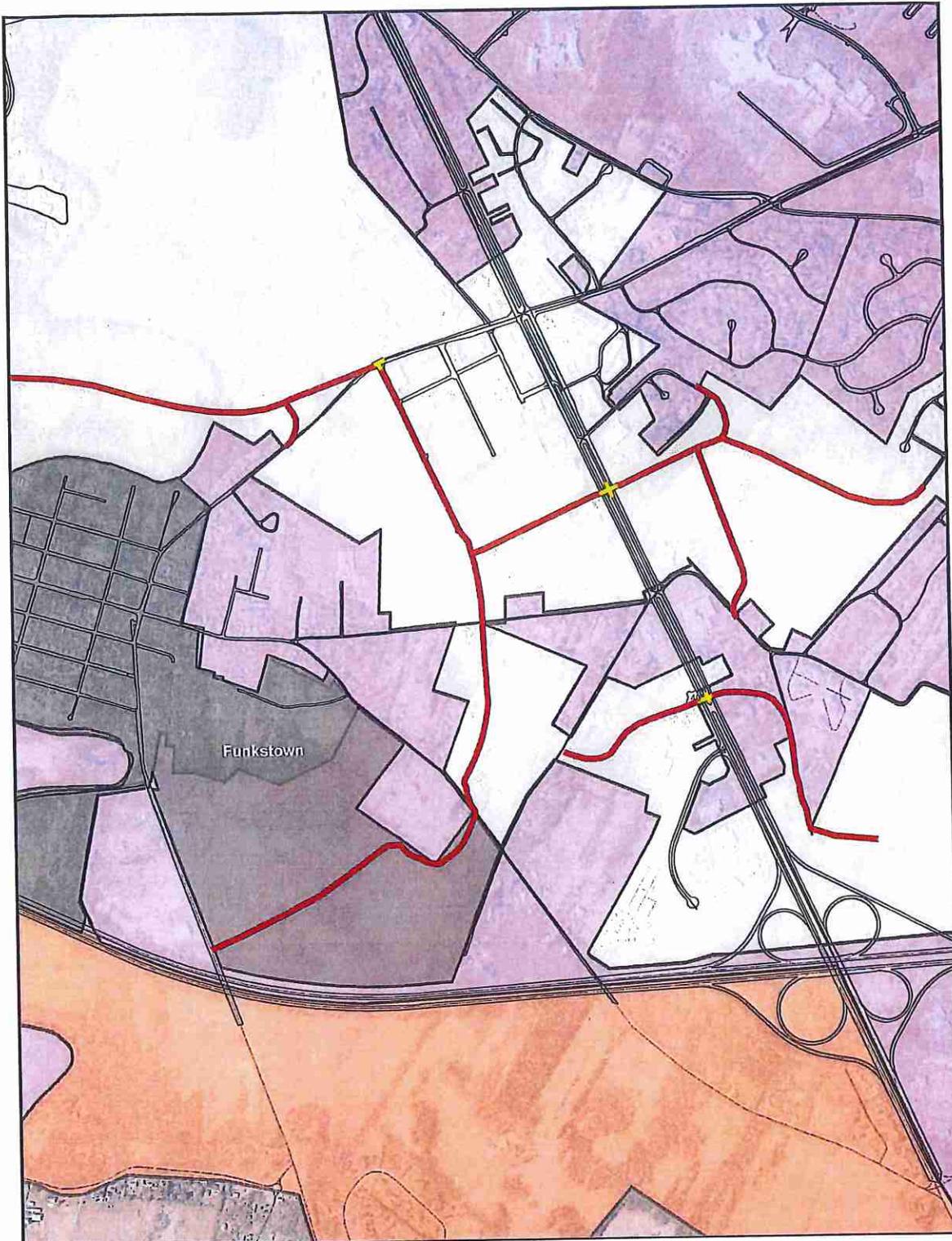


Map Projection: NAD83 State Plane Maryland FIPS (ft)

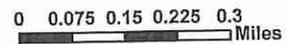
Data Sources:  
City of Hagerstown, 2017; State of MD Inagry, 2014  
Washington County, 2017

Prepared By:  
C. Wren, Hagerstown Planning & Code Admin Dept, 11/2017





**visionHagerstown 2035 Comprehensive Plan**  
**Map 5-5: Local Recommended Upgrades 2021**



- |  |  |
|--|--|
|  Corporate Boundary       | <b>Recommended Road Improvements</b>   |
|  State Boundary           |  Construct new road |
|  Medium Range Growth Area |  Signaling          |
|  Long-Range Growth Area   |  |

Map Projection: NAD83 State Plan Maryland FIPS (feet)  
 Data Sources:  
 City of Hagerstown, 2017; State of MD Imagery, 2014  
 Washington County, 2016, HEPMPD, 2014  
 Prepared By:  
 Hagerstown Planning & Code Admin Dept, 09/09/21



R-22-07



CITY OF HAGERSTOWN, MARYLAND

**AN ORDINANCE TO AMEND THE CODE  
OF THE CITY OF HAGERSTOWN, BY REPEALING AND RE-ENACTING  
CHAPTER 140, *LAND MANAGEMENT CODE*, TO INCORPORATE THE 2021  
ANNUAL PACKAGE OF REVISIONS**

RECITALS

WHEREAS, by virtue of the Land Use Article of the Annotated Code of Maryland the City Charter, the City of Hagerstown regulates land use within the City; and

WHEREAS, the Mayor and Council have a responsibility to promote public health, safety and general welfare of the citizens of Hagerstown; and

WHEREAS, the Mayor and Council have a responsibility to implement the policies of the Comprehensive Plan and provide a system of land use and development regulations that provides for harmonious use and development of land; and

WHEREAS, the Planning Commission have recommended a package of amendments to the *Land Management Code* to better protect our neighborhoods and facilitate desirable use and development of land within the City of Hagerstown; and

WHEREAS, upon discussion with City staff and review during a public hearing process, the Mayor and Council find it in the best interests of the citizens to revise Chapter 140 to incorporate the 2021 package of revisions, as hereafter described;

**NOW, THEREFORE, BE IT RESOLVED, ENACTED AND ORDAINED** by the Mayor and Council of the City of Hagerstown, Maryland, as it's duly constituted legislative body, as follows:

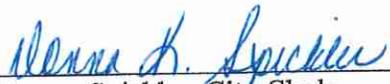
1. The Code of the City of Hagerstown be and is hereby amended by deleting and repealing Chapter 140, *Land Management Code*,
2. The Code of the City of Hagerstown be and is hereby amended by adding thereto a new chapter, to replace Chapter 140 hereinabove repealed, to be Chapter 140, *Land Management Code*, to read as follows:

(See Attached Text of Chapter 140)

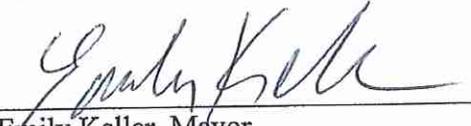
3. This ordinance shall become effective immediately upon the effective date of this Enacting Ordinance.
4. This revised and amended code in its entirety shall be known as version 3.8.

**BE IT FURTHER RESOLVED, ENACTED AND ORDAINED** that this Enacting Ordinance shall become effective upon the expiration of thirty (30) calendar days following its approval.

WITNESS AND ATTEST  
AS TO CORPORATE SEAL

  
\_\_\_\_\_  
Donna Spickler, City Clerk

MAYOR AND COUNCIL OF THE  
CITY OF HAGERSTOWN, MARYLAND

  
\_\_\_\_\_  
Emily Keller, Mayor

Date of Introduction: February 22, 2022  
Date of Passage: March 22, 2022  
Effective Date: April 21, 2022

0-22-01

**ADOPTED ANNUAL AMENDMENTS  
HAGERSTOWN LAND MANAGEMENT CODE**

**2021**

*ADOPTED BY THE MAYOR AND CITY COUNCIL AND EFFECTIVE APRIL 21, 2022*

**For more information, contact;**

Stephen R. Bockmiller, AICP  
Development Review Planner/Zoning Administrator  
City of Hagerstown, Maryland  
Room 300, City Hall  
1 East Franklin Street  
Hagerstown, MD 21740  
Phone: 301-739-8577, extension 139  
Email: [sbockmiller@hagerstownmd.org](mailto:sbockmiller@hagerstownmd.org)

## To whom it may concern:

The Planning and Code Administration Department proposes a package of amendments and updates to the Land Management Code (Chapter 140, City Code) each year. Ideas, suggestions and issues are collected and they are addressed by staff and the Planning Commission all at one time, annually. The effort and expense of amending the Code is substantial, so rather than propose amendments as they come up, resulting in an Ordinance in a perpetual and expensive amendment process, issues that are identified or arise are collected, analyzed and addressed once per year. This is to reduce staff time committed to this process and expenses (such as the cost of legal advertisements).

## This Year's Proposals:

This year's package consists of six proposals. Each proposal addresses a single item or several adjustments closely related to one another. However, one of the proposals is a grouping of unrelated miscellaneous adjustments. The proposals contained herein for 2021 are as follows (proposals 2021-01 and 02 were in last year's package):

<b>Proposal 2021-03</b>	<b>Page 3</b> - Addresses homeless shelters and crisis centers.
<b>Proposal 2021-04</b>	<b>Page 5</b> - Addresses alternate uses for properties in the POM District that are subject to environmental remediation orders.
<b>Proposal 2021-05</b>	<b>Page 7</b> - Adjustments to the Conversion Overlay District to make redevelopment of existing buildings more achievable.
<b>Proposal 2021-06</b>	<b>Page 8</b> - Grouping of 11 unrelated minor adjustments and corrections.
<b>Proposal 2021-07</b>	<b>Page 14</b> - Grouping of 10 related adjustments to clarify provisions in regulations about traditional residential subdivision design, and make use of traditional subdivision design more attractive to developers.
<b>Proposal 2021-08</b>	<b>Page 20</b> - Adjustments to the sign regulations.

## How To Read These Changes:

**Black text** otherwise unmarked is existing language in the Code that will not change.

~~Black strikethrough text~~ is language that is existing language in the Code that will be removed.

**Text in red** is proposed new text.

**Text in blue** is instructional. It provides narration or explanation of the proposals, but is not actual existing or proposed language in the code.

# ***LAND MANAGEMENT CODE TEXT AMENDMENT PROPOSAL***

Endorsed by the Planning Commission on December 20, 2021.

<b>Number:</b> 2021-03	<b>Is this a new issue or one previously discussed?</b>	Previous
<b>Version:</b> 2	<b>Is this new text proposed since last discussion in need of initial review?</b>	No
	<b>Is this revised text in need of confirmation that it conforms to prior editorial direction?</b>	No
<b>Summary:</b>	Address and codify zoning for homeless shelters, which currently are permitted only as an accessory use on the campus of a religious facility, and address crisis centers.	
<b>Justification:</b>	See below.	

Existing text to be removed is in ~~strikeout~~. New text to be added is in **red**. Staff direction is in blue.

The results of the mayor’s community survey have identified as top priority concerns issues related to homelessness. Members of the City Council have been meeting with social service partners to work on this issue and to explore opportunities to provide year-round transient housing and/or shelter solutions. At present, the LMC is silent on “homeless shelters” and they are interpreted as only permitted as an accessory use to an onsite religious sanctuary. While homelessness is not a protected class in the Fair Housing Act, homeless individuals may have characteristics that fall within protected classes (e.g., disability, race, religion, sex, etc.). Below is a recommended amendment to address Homeless Shelter and a proposal for Emergency Transient Housing suggested by staff for the LMC to make a reasonable accommodation to further housing choice options for vulnerable populations experiencing homelessness in our community.

Staff met with some Homeless Coalition members on October 28 to review the homeless shelter/emergency transient housing amendment proposal. Discussion included partner plans for a 24/7 crisis care center to provide after-hours crisis services for individuals in psychiatric or situational crisis. Such facilities take referrals from any source and help relieve strain on local hospitals and law enforcement personnel who are currently the only options for after-hours crisis management. These facilities also help avoid human tragedies resulting from lack of crisis care after hours. Staff have been advised that there are such facilities outside our community in Frederick, Rockville, Salisbury, and Baltimore. Below is a recommended amendment to address 24/7 crisis care facilities suggested by staff for the LMC.

**CHANGE 1:** Create definitions as follows:

### **Article 3, Definitions**

**CRISIS CARE FACILITY** – A facility open 24 hours per day, 7 days per week that provides initial evaluations, emergency shelter beds, and treatment referrals for follow-up care for individuals and families experiencing psychiatric and situational crisis. Such facilities are operated by community partners or a single provider that are (is) licensed, certified, or approved by a government agency to provide crisis care services. Crisis Care Facilities are also permitted as an accessory use to an onsite medical clinic, religious sanctuary or social service provider at such locations where the principal permitted use is permitted by right or special exception in the district in which it is located. *(Zoning)*

**HOMELESS SHELTER** - A barracks-style facility for transient stays by homeless families and individuals which is operated by a provider that is licensed, certified, or approved by a government agency and which has agency staff onsite whenever the shelter is open to clients. A homeless shelter is not “Emergency Transient Housing” as defined in this article. Homeless shelters are also permissible as

an accessory use to an onsite religious sanctuary or as an accessory use to their onsite social service provider. *(Zoning)*

**EMERGENCY TRANSIENT HOUSING** – a dwelling unit, rooming house or hotel room used by a service provider that is licensed, certified, or approved by a government agency to provide emergency transient housing for homeless individuals and families provided each dwelling unit, rooming unit, or hotel room is occupied by a family or individuals living as a common household. Emergency Transient Housing is not a “Homeless Shelter” as defined in this article. Emergency Transient Housing within a dwelling unit, rooming unit, or hotel room is permitted anywhere that type of use is permitted in the city. *(Zoning)*

**CHANGE 2:** List the uses in the use chart, providing districts in which the use is permitted. Include crisis care facilities in the same districts as nursing homes, assisted living facilities and rehabilitation centers.

**Article 4, Zoning**

**Section Z, Subsection 2: Chart of Permitted and Special Exception Uses**

Use	CG	INST	IR	IG
Homeless Shelter	SE	SE	SE	SE

**Article 4, Zoning**

**Section Z, Subsection 2: Chart of Permitted and Special Exception Uses**

Use	CG	CR	INST	POM	IR	IG	C	PUD-R
Nursing homes, assisted living facilities, and rehabilitation centers, and crisis care facilities	P	P	P	P	P	P	P	P

# ***LAND MANAGEMENT CODE TEXT AMENDMENT PROPOSAL***

Endorsed by the Planning Commission on December 20, 2021.

<b>Number:</b> 2021-04	<b>Is this a new issue or one previously discussed?</b>	Previous
<b>Version:</b> 2	<b>Is this new text proposed since last discussion in need of initial review?</b>	No
	<b>Is this revised text in need of confirmation that it conforms to prior editorial direction?</b>	No
<b>Summary:</b>	Permit ministorage use in the POM district as an alternate means of developing properties with environmental issues.	
<b>Justification:</b>	There are properties in the POM district that are unsuitable for redevelopment for uses with regular, ongoing occupation due to environmental contamination and remediation. This proposal provides flexibility for redevelopment of these sites that would otherwise remain abandoned, while ensuring that they are designed in a way consistent with and protective of their surroundings in the POM District.	

Existing text to be removed is in ~~strikeout~~. New text to be added is in **red**. Staff direction is in **blue**.

Permit ministorage facilities in the POM district on properties subject to environmental clean up orders, as an alternate means of redeveloping those properties for uses with 1) low rates of public and staff visitation and 2) limited excavation for footings and foundations. This would apply mostly to the Pangborn plant site on Pangborn Boulevard, and the Central Chemical site on Mitchell Avenue. Both are adjacent to residential uses and the character of the development should be consistent with and protective of the residential character of the adjacent homes. Also, one site is across the street from one of the city's premier parks. **This will not permit mini-storage uniformly throughout the POM District.**

In order to protect the character of surrounding residential and office park type uses common in the POM District, create design standards that for mini-storage facilities that are adjacent to residential zoning or uses, and adjacent or across a public street from a city, county or state park. Standards would require buildings to serve as a perimeter enclosure of the mini-storage use area, require use of brick veneer on outward facing surfaces, and gable roof construction, in order to use these buildings as a means of buffering surrounding uses and conceal less compatible buildings within the compound.

**CHANGE 1:** PAGE: 4-162

**Article 4, Zoning**

**Section Z, Subsection 2: Chart of Permitted and Special Exception Uses**

USE	POM
Self-Storage Mini-Warehouse Facilities (531130), on properties subject to a remediation plan approved by the U.S. Environmental Protection Agency and/or Maryland Department of the Environment, subject to design standards for this use found in Article 5, Section I.9.b.	P

**CHANGE 2:** Page 5-63

**Article 5 (Subdivision and Land Development)**

**Section I.9**

9. **~~Individual Site Design within Nonconforming Subdivisions in POM Zoning Districts.~~  
Design Provisions relating to new development in POM Zoning Districts.**

**a. 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.

**b. Design Requirements for mini-storage facilities in the POM Zoning District.**

For the purposes of masking this use from adjacent and nearby residential and open space uses, the perimeter of a mini-storage facility shall be designed with garage bays facing only the interior of the site as follows:

- (1) Along public streets;
- (2) When adjacent to a residential zoning district;
- (3) When adjacent to residential land uses; and/or
- (4) When adjacent to or across street rights of way from public parks or schools.

In such cases, the building(s) shall serve as a perimeter wall around the facility that architecturally blends with adjacent uses and buildings. The exterior façade of these buildings shall be finished with a brick veneer. Roofs shall be of gable design and construction. These material and roof design provisions shall be required only on buildings when subsections (1), (2), (3), or (4) above apply. They shall not be required of buildings entirely internal to the development.

# LAND MANAGEMENT CODE TEXT AMENDMENT PROPOSAL

Endorsed by the Planning Commission on December 20, 2021.

<b>Number:</b> 2021-05	<b>Is this a new issue or one previously discussed?</b>	Previous
<b>Version:</b> 2	<b>Is this new text proposed since last discussion in need of initial review?</b>	No
	<b>Is this revised text in need of confirmation that it conforms to prior editorial direction?</b>	No
<b>Summary:</b>	Minor adjustments to the Conversion District provisions of Article 4	
<b>Justification:</b>	Staff recently met with counsel regarding a proposed Conversion District for a boutique hotel at the former Surrey School. Counsel pointed out a minor wording issue that may give pause to potential lenders. Also, the proposed hotel has a dining facility with a shown outdoor dining patio. The regulations currently limit all activities other than parking to indoors. It also corrects an inconsistency in the ordinance in that small scale breweries, distilleries and wineries are permitted with outdoor seating – and Conversion District is one of the districts in which they can be located – with outdoor seating, which conflicts with the embedded prohibition of outdoor uses.	

Existing text to be removed is in ~~strikeout~~. New text to be added is in **red**. Staff direction is in **blue**.

## Article 4, Zoning

### Subsection J.2 – Conversion District Overlay

**CHANGE 1:** PAGE: 4-66 – Minor language adjustment and permit an outdoor dining exception to the requirement that all uses but parking be indoors.

e. General Requirements.

- (1) Text omitted here as unchanged.
- (2) The development shall be for an existing, nonresidential structure containing at least two floors within which all proposed uses, except parking, **uses approved for additions and outdoor dining areas**, will be contained.

**CHANGE 2:** Page 4-66 – Permit outdoor dining in Conversion Districts if approved by the Mayor and Council in the Concept Plan. Illustrated assuming Change 1 above is adopted.

e. General Requirements.

- (1) Text omitted here as unchanged.
- (2) The development shall be for an existing, nonresidential structure containing at least two floors within which all proposed uses, except parking and uses approved for additions, will be contained. **However, the following uses, if approved, may include an outdoor dining area provided the area is identified on the concept plan approved by the Mayor and City Council and the area is screened from adjacent residential uses to the satisfaction of the Planning Commission as determined with the review and approval of a site plan:**
  - (a) Small scale brewery, distillery or winery;
  - (b) Hotel or motel with in-house restaurant or dining facility;
  - (c) Bed and breakfast inns;
  - (d) Restaurant;
  - (e) Banquet and reception facilities; and/or
  - (f) Drinking places, brew pubs, distillery pubs and wine pubs.

# LAND MANAGEMENT CODE TEXT AMENDMENT PROPOSAL

Endorsed by the Planning Commission on December 20, 2021.

<b>Number:</b> 2021-06	<b>Is this a new issue or one previously discussed?</b>	Previous
<b>Version:</b> 1	<b>Is this new text proposed since last discussion in need of initial review?</b>	No
	<b>Is this revised text in need of confirmation that it conforms to prior editorial direction?</b>	No
<b>Summary:</b>	Minor housekeeping amendments and adjustments (generally non-policy driven)	
<b>Justification:</b>	Adjustments are needed from time to time when circumstances arise in administering particular provisions of the Ordinances.	

Existing text to be removed is in ~~strikeout~~. New text to be added is in **red**. Staff direction is in **blue**.

## CHANGE 1: PAGE: 5-71

In recent subdivisions and site plans on large tracts on the edge of the city, it has become apparent that some additional documentation direction is necessary to let developers know specifically what they need to provide and how. This doesn't change anything policy-wise in this section. It just informs the developer how the material needs to be presented.

### **Article 5, Subdivision and Land Development Ordinance Section K, Land Development Protection of Human Burial Sites.**

#### **3. Research and 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.

Not all human burial sites benefit from surviving surficial evidence. When a development involves a significant raw land tract, especially in areas along the municipal boundary, the Zoning Administrator, at his or her discretion, may direct the applicant to research the history of the tract to clearly determine whether human burial sites exist or existed on the property. This research may include, at a minimum, 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 on-the-ground field reconnaissance looking for any surficial evidence. Surficial evidence may include, but not be limited to the presence of funerary art, fencing, unexplained topographic irregularities, and unexplained ornamental plantings that seem out of place in their current location. The findings shall be compiled in report format and provided as an addendum to the sketch plan when submitted. Notations about the findings, as directed in the first paragraph of this subsection, shall be made on the sketch plan and the development plan or site plan.

## CHANGE 2: PAGE: 4-127

Require large and small group homes to meet parking requirements in the N-MU and CC-MU Zoning District. A large group home/halfway house was discussed recently on a property that had six spaces. There are a few other districts in which they are permitted and parking should be discussed.

**Article 4, Zoning**  
**Section Z, Land Use Charts (both)**

Use	RH	N-MU	CC-MU	CL
Alternative living units, small group homes and small halfway houses.	P	P*	P*	P*
Large group homes and large halfway houses.	P*	P*	P*	P*

Adding the asterisk refers to a key at the beginning of the Section that explains this means that meeting current parking expectations is required.

**CHANGE 3:** Page 4-18

Clarify that the side setback provision for additions to the rear of townhouses and semi-detached dwellings applies only to enclosed additions and not to decks. Staff have never applied this requirement to decks.

**Article 4, Zoning**  
**Subsection D.5.d(4)**

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

(1) through (3) omitted as unchanged.

(4) No **enclosed** addition shall be made to the rear of an existing semi-detached dwelling or townhouse unless a three-foot setback is provided along the interior lot line (in the case of a semi-detached dwelling or end unit townhouse) or each side lot line (in the case of an interior townhouse) adjacent to the addition. **This provision shall not be applied to decks.**

Second paragraph omitted as unchanged.

**CHANGE 4:** PAGE 5-80

The City’s Chief Surveyor has informed us that State licensing board is now requiring surveyors to place on their signatures the expiration date of their license. This change updates the signature block accordingly.

**Article 5, Subdivision and Land Development**  
**Appendix – Certifications and Signature Blocks**

**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 here on to the specifications of the Hagerstown Subdivision and Land Development Ordinance.

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

\_\_\_\_\_  
 Qualified Surveyor  
 Maryland Registration No. \_\_\_\_\_  
 License Expires: \_\_\_\_\_

**CHANGE 5: PAGE 5-28**

The City Engineer has informed us that this provision was driven by their needs in the past, but they do not rely on this system anymore and it should be removed as a requirement. If an engineer continues to provide it, we won't require it be removed, but we shouldn't require something be placed on the plan we no longer need.

**Article 5, Subdivision and Land Development**

**Section F.1, Sketch Plan, Development Plans, Site Plans and Minor Site Plans**

Plan Requirement	Sketch Plan	Development Plan	Site Plan	Minor Site Plan
Location by City tax map, block and parcel numbers (City Unique ID number).	X	X	X	X

**CHANGE 6: PAGE: 4-91**

Nursing Along Damaged Nonconformities - Staff have run into an issue with a nonconformity that suffered damage in a fire, and the owner has not been pursuing the renovation with diligence. Clarification should be provided that requires diligence and deadlines in bringing a nonconformity back online.

**Article 4, Zoning**

**Subsection M.2, Restoration (of damaged nonconforming uses)**

- Restoration.** Nothing in this article shall prevent the restoration of a nonconforming use, building or structure destroyed by fire, windstorm, explosion, act of public enemy, accident or for any other reason whatsoever, or prevent the continuance of said nonconforming use, provided that the owners of the property in question shall file with the Zoning Administrator a notice of intention to continue the nonconforming use within six months of said destruction or damage, and provided further that said restoration or construction is commenced within one year of the date of said notice of intention to continue the nonconforming use in question. **the event in which the structure or use was damaged or destroyed, pursuant to a valid building permit or zoning certificate.** In the event that said notice is not filed, then the nonconforming use in question shall be deemed to have been abandoned. **Should the owner(s) fail to keep a building permit for the reconstruction valid and unexpired, the nonconformity shall expire on the date the building permit lapsed. Per the Hagerstown Building Code, a permit is valid for 6 months if no work has begun and may be renewed one time.**

**CHANGE 7: Page 4-27**

The proposal for the General Store on East Franklin Street presented a dilemma in compliance with the Zoning Ordinance requirement that all new buildings in the mixed-use districts be at least two stories in height. Dollar General was an important addition to the downtown area, but there was no way by which the developer could meet this requirement and the demands of the tenant. They proposed a design of a one-story building that gives the appearance of a two-story building, and staff determined that this met the intent of the Ordinance. This should be addressed clearly in the Ordinance.

**Article 4, Zoning**

**Subsection E.4, Minimum and Maximum Height Requirements.**

a. **Height Limitation Chart.**

	N-MU	CC-MU
<b>Maximum Height – Principal Structures</b>	4 stories	7 stories
<b>Maximum Height – Accessory Structures</b>	25 feet	25 feet

b. Omitted as unchanged.

c. **Minimum Height Requirements.**

All new principal structures shall be at least two stories in height. ~~The maximum permitted height of an accessory structure shall be two stories or 25 feet.~~ When a use is proposed where the Planning Commission determines the use is of significant economic benefit to the district, however by its nature, the use cannot be developed in a multi-story format, the Commission may entertain a waiver to the two-story requirement if the site plan includes elevations showing facades that, through treatments and features, gives the impression of being a two-story building.

**CHANGE 8:** Page 5-11

Clarify direction to applicants when the Planning Commission makes a decision on a sketch plan.

Article 5, Subdivision and Land Development

Subsection C.3.b – Planning Commission Review (of sketch plans)

**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 **and the applicant is authorized to proceed with the preparation of a Development Plan, addressing the comments and/or conditions provided by the Commission with the approval of the Sketch Plan.**
- (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. **The applicant is not permitted to submit a development plan until a new or revised Sketch Plan is approved, with or without conditions by the Commission.**
- (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. **This last sentence is separated out from subsection (3) to make it clear it applies to Sketch Plans approved cleanly or with conditions.**

**CHANGE 9:** Page 4-99

Recent additions to very large buildings demonstrate that a large amount of area could be added to a building, yet fall under the 35% foot cap on building expansion without providing additional parking. This has shown a need to cap this provision. For example, the very large addition to the warehouse at Tractor Supply warehouse on Hopewell Road technically did not require additional parking. This proposal caps the exemption at 20,000 square feet of new construction. Nothing here prevents an applicant from seeking variance relief from the Board of Zoning Appeals.

**Article 4, Zoning**

**Section O, Off-Street Parking Requirements.**

**1. Purpose and Applicability.**

- a. Requirement and Exceptions. Permanent off-street automobile parking space and truck loading space shall be provided for all new structures, except:
  - (1) Single-family, two-family and semi-detached dwellings on infill lots within subdivisions recorded prior to the effective date of this article, and
  - (2) Existing structures or uses, increased in size by less than 35%, **and by no more than 20,000 square feet of building area** after the adoption of this article.
  - (3) and (4) omitted as unchanged.

**CHANGE 10:** Page 5-56

Some comment has been received that the scale of buildings in approved and pending developments are not adequately addressed by current ordinance landscaping requirements and can potentially impact major routes throughout the city.

**Article 5, Subdivision and Land Development**

**Section I.4.m – Buffer Requirements**

**~~m. Sidewalks on Public Streets~~ **Manufacturing and Warehouse Buildings, 750 feet in Length or More****

**The visual impact of very large industrial buildings can have a detrimental impact on streetscapes that cannot be addressed with the normal application of the adopted landscaping standards. While proposals for such buildings are rare and those few situations will vary in circumstance, they should be reviewed on a case-by-case basis to ensure site design addresses the potential impact of such buildings on streetscapes.**

**Therefore, when a sketch plan is presented to the Planning Commission for approval, when a building presents a wall or general façade of 750 linear feet or more to an adjacent or nearby street that is classified as a minor collector road or greater on the transportation maps of the Comprehensive Plan, the applicant shall propose additional measures to provide additional buffering of the building from those streets. The Commission shall come to a decision whether the additional proposed landscaping meets the intent of this provision before approving a sketch plan. The use of landscaping berms is encouraged.**

**n. Sidewalks on Public Streets**

Existing Subsection m moved and relabeled Subsection n. Text omitted here as it will not change.

**CHANGE 11:** Page 4-94 and 4-97

After reviewing a specific case, the Planning Commission directed that text be crafted that allows two family dwellings and townhouses that are expired nonconformities may be restored to their intended use at original construct, even if they have been modified to bring the building closer into conformance with current zoning requirements.

**M. Nonconforming Uses**

**11. Exemption for Buildings Constructed as Two-Family Dwellings or Townhouses.**

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

- a. **The building is located in the RMOD, RMED, RH or RO Zoning District and was constructed as and appears as a two-family dwelling or stick of townhouses, displaying such features as ~~two~~ separate front doors, ~~two~~ separate driveways, separate porches, addresses, and/or other physical characteristics of a two-family dwelling or stick of townhouses; and**
- b. ~~That building has not been modified on the interior for use as a single family dwelling; and~~ **That building may be in its original use configuration or has been modified to combine units, in which case an owner may modify the building back to its originally intended occupancy, including townhouses when in districts where townhouses are not currently permitted uses.**
- c. **The building is located in a zoning district that permits two-family dwellings or townhouses, but is rendered noncomplying or nonconforming due to the property not meeting lot area, width, and other bulk requirements, or in the case of townhouses, in a district that does not currently permit this use. Under the above conditions, each of the ~~two~~ units may be reoccupied regardless of any period that the building has been vacant and units previously combined into a single unit may be redivided by party wall to re-establish the originally intended number of units.**

**N. Noncomplying Structures and Uses.**

**2. Additions Not Requiring Variances.** Any additions to a noncomplying structure or use must comply with current bulk requirements unless a variance is granted. However, an addition to a single-family, two-family or semi-detached dwelling may encroach into a front, side or rear setback without a variance, provided that:

- a. The addition comes no closer than three feet to a side property line; and
- b. The addition encroaches no further into the setback than the existing dwelling; and
- c. Does not result in the creation of additional dwelling units **(except in the case of additions made to foster the re-occupancy of nonconforming two-family homes and townhouses addressed in Section M, Subsection 11.**

# ***LAND MANAGEMENT CODE TEXT AMENDMENT PROPOSAL***

Endorsed by the Planning Commission on December 20, 2021.

<b>Number:</b> 2021-07	<b>Is this a new issue or one previously discussed?</b>	Previous
<b>Version:</b> 1	<b>Is this new text proposed since last discussion in need of initial review?</b>	No
	<b>Is this revised text in need of confirmation that it conforms to prior editorial direction?</b>	No
<b>Summary:</b> Adjustments to the zoning ordinance and subdivision and land development ordinance to promote traditional residential subdivision design over contemporary suburban subdivision design.		
<b>Justification:</b> Implementation of the policies of the Comprehensive Plan, and clarification of the expectation of the ordinances. Among others, see Action 7-5. Promote as the preferred form of residential development more traditionally urban type subdivision designs.		

Existing text to be removed is in ~~strikeout~~. New text to be added is in **red**. Staff direction is in **blue**.

**CHANGE: 1** Page: 4-17 and Article 3

Add provision to setback chart that for houses in subdivisions for which a development plan is approved after the effective date of the amendments and the subdivision’s design includes newly created alley access, the rear yard setback may be reduced to as close as 20 feet to the rear property line (alley) for a one-story garage “ell” on the rear of the house. This will allow a car parking space behind the garage door and the alley.

**Article 3, Definition**

**Ell** – An addition to an existing building or element of a new building that creates an L-shaped building footprint. Historically, an ell was usually added to the rear of an original rectangular shaped structure. *(Zoning)*

Make the following changes to the setback chart on page 4-17:

**Article 4, Zoning**

**Subsection D.5, Residential District Setback Chart**

<b>** see Subsection d.(5)</b>	<b>Rear Yard Depth (feet)</b>
Single-family dwellings, RMOD District	35**
Single-family dwellings, RMED and RO Districts	30**
Single-family dwellings, RH District	30**
Single-family, semi-detached dwellings, RMOD District	35**
Single-family, semi-detached dwellings, RMED, RH and RO Districts	30**
Townhomes	30**

Make the following change to the projection exemption section on Page 4-18:

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

Subsections (1) through (4) omitted as unchanged.

- (5) A dwelling constructed in a subdivision pursuant to a Development Plan approved by the Planning Commission on or after (date of effective date of ordinance amendment), may be constructed (or added to) without variance no closer than 20 feet to the rear property line when:

- (a) the rear property line adjoins an improved alley constructed pursuant to the approved Development Plan,
- (b) the portion of the building located between the codified rear setback and the point 20 feet from the rear property line shall be limited to a one-story ell containing a garage oriented and connected via driveway to the alley, and
- (c) the ell shall be no wider than 50 percent of the width of the lot at the location it is placed on the lot.
- (d) The Board of Zoning Appeals shall not grant variance relief to the provisions of this subsection.

**CHANGE: 2** Page: 4-15

Add a provision to accessory setback chart to permit attached in traditional design subdivisions, comparable to Change 1.

**Article 4, Zoning**

**Subsection D.5.b., Residential Districts Accessory Structure Setback Chart**

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

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

No detached accessory building shall be located forward of the primary front façade of any dwelling. The Board of Zoning Appeals shall not grant a variance to this requirement.

In a subdivision created pursuant to a Development Plan approved by the Planning Commission on or after (date of effective date of ordinance amendment), detached garages may be constructed (or added to) with a 0-foot side setback when

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

Previous Change 3 (reducing the number of units in a block of townhouses) is removed. Remaining changes are renumbered.

**CHANGE: 3** PAGE 4-20 and 21

Language needs to be added that exempts lots built facing open space from the provision that lots built without public street frontage cannot have houses built on them. Add new disclaimer:

i. **Construction On And Use Of Lots That Do Not Front Public Streets.**

On lots in residential zoning districts that do not front a public street, one garage, residential in size and scale, shall be permitted as a principal use, provided:

Subsections 1 through 7 omitted as unchanged.

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

**CHANGE: 4** PAGE 4-18

Language is needed to define what a front yard setback is when a lot fronts a public park or open space and does not front a public street. Public streets are always fronts, but lots fronting a park will not have public street frontage.

**Article 4, Zoning  
Subsection D.5.e.**

- e. **All Public Street Frontages Are Front Yards.** On corner lots and through lots, all sides of a lot adjacent to streets shall be considered front yards, but only the side of the lot opposite the frontage of the building shall be considered the rear yard. **When a lot is approved per a development plan approved on or after (insert date of adoption), and that does not front a public street and the lot fronts only open space or a public park, and is vehicularly accessed via a rear alley, the lot line fronting the open space lot or public park shall be the property line to which a front setback shall be applied.**

**CHANGE: 5** PAGE 4-79

Same need to ensure lots in new subdivisions can be created without street frontage.

**Article 4, Zoning  
Subsection K.3**

**3. Structures to Have Access.**

Every dwelling hereafter erected or moved shall be located on a lot adjacent to a public street. For the purpose of this section, alleys do not constitute a public street.

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

**CHANGE: 6** PAGE 4-99 and 100

Change reference to rear yard parking being preferred to expected. This will encourage use of alleys where they already exist, and give more validity to the Commission’s and the Ordinance’s expectations that new subdivisions be more historically urban in character.

**Article 4, Zoning  
Subsection O.1.d.**

**d. Off-Street Yard Parking for Residential Development.**

On all existing improved residential lots and lots in new residential development, the following off-street parking design requirements shall apply:

- (1) Parking Areas shall be solid paved surfaces or permeable pavers;
- (2) Rear yard parking garages or parking pads are the preferred expected off-street parking system;
- (3) through (5) omitted as unchanged.

**CHANGE 7:** PAGE 5-22

Provide clear statement that traditional street layouts are the priority form of subdivision development.

**Article 5, Subdivision and Land Development  
Subsection E.2.g**

Subsections a through f omitted as unchanged.

**g. Traditional Street Design Preferred. Is The Priority Form of Residential Subdivision.**

Preferred Priority 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. See subsection o below regarding alleys.

Subsections h through n omitted as unchanged.

**o. Development and Use of Alleys Encouraged. Is The Priority Form of Residential Subdivision.**

Alleys are a predominant Hagerstown feature and the use of alleys is encouraged generally expected in new subdivisions to allow for vehicle parking to the rear of properties, to provide additional connectivity, increase available on-street parking, allow for more discrete and manageable trash collection, 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 owned and maintained by a homeowners’ association. Alleys dedicated to and accepted by the City shall be constructed to City standards.

**CHANGE 8:** PAGE 5-29

Add alleys to the street plan requirement.

**Article 5, Subdivision and Land Development**  
**Section F.1, Plan Requirements**

Plan Requirement	Sketch Plan	Development Plan
Street Plan containing the following: (a) Location of all proposed streets <b>and alleys</b> . (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 <b>and alleys</b> .	X (generally depicted)	X

**CHANGE 9:** Page 5-35

Clarify that alleys to be dedicated to the City will be built to City standards without exception, but provide more flexibility for those to be retained by a homeowner’s association.

**Article 5, Subdivision and Land Development**  
**Subsection G.2, Requirements in Subdivisions**

**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. **Any alley that may be dedicated to the City for ownership and maintenance shall be constructed to City standards without exception. The construction standards for alleys that will be retained and maintained by a homeowner’s association shall be reviewed and approved by the City Engineer for quality and durability.**

Remaining subsections omitted as unchanged.

**CHANGE 10:** PAGE 5-24

Specifically lay out the conditions under which lots can be created fronting open space or public parks without being required to front public streets.

**Article 5, Subdivision and Land Development**  
**Subsection E.2.t, Permitting Lots Facing Open Space and Parks**

**t. 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 7.c 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.

In some cases, developers may propose open space as part of a development when it is not required above. Regardless of whether open space is required or offered, within a development plan approved after (insert effective date), the Planning Commission may approve a subdivision where single family, semi-detached, two-family and townhouse dwellings on fee-simple lots may be relieved of the requirement that they front on a public street, provided that:

- (1) They front on an open space lot that is accepted by the Mayor and City Council as a City Park or maintained in perpetuity by a property owner's association consisting of all properties within the subdivision; and
- (2) No dwelling is more than 300 feet from a public street; and
- (3) Parking for the dwellings is provided in the rear yards of the dwellings via an alley system.

# ***LAND MANAGEMENT CODE TEXT AMENDMENT PROPOSAL***

Endorsed by the Planning Commission on December 20, 2021.

<b>Number:</b> 2021-08	<b>Is this a new issue or one previously discussed?</b>	Previous
<b>Version:</b> 2	<b>Is this new text proposed since last discussion in need of initial review?</b>	No
	<b>Is this revised text in need of confirmation that it conforms to prior editorial direction?</b>	No
<b>Summary:</b> Adjustments to the sign provisions		
<b>Justification:</b> Additional circumstances have come up in the last year that warrant discussion of certain provisions of the sign regulations.		

Existing text to be removed is in ~~strikeout~~. New text to be added is in **red**. Staff direction is in **blue**.

## **Subsection 2, b – Prohibitions**

- (1) Animation, bare bulbs, or flashing illumination or imagery **is prohibited in the residential zoning districts and the CC-MU and N-MU zoning districts.** All lighting shall be steady, stationary, and/or shielded light sources directed solely onto the message.
- (2) ~~Roof mounted signs are not permitted.~~ Portable street signs, except as exempted per Subsection 2.b(2) below, are not permitted.

## **Subsection 3, b – Signs Excluded From Maximum Area Requirements**

- (11) **Business and Industrial Park Directory Signs:** When business parks and industrial parks have lots which do not front on the adjoining collector or arterial roadway, park entrance signs are permitted as follows:
  - a. One freestanding park entrance sign per entry street off the adjoining collector or arterial roadway is permitted, but must be located out of the public right-of-way.
  - b. These signs may include a directory of park tenants if so desired.
  - c. The maximum size is 150 square feet per side.
  - d. The maximum height is 35 feet.

## **Subsection 3, d – Procedures for Measuring Building Frontage**

- (6) **For warehouse and other larger industrial buildings:** measure length of wall fronting or parallel to the public street.

## **Subsection 5, a – Freestanding Signs**

Zoning District/Use	Maximum Height (feet)	Maximum Area (square feet)	Number of Signs Permitted
RMOD*, RMED*, RH*	10	36 for buildings set back 25 feet or less from the street, 48 for buildings set back more than 25 feet from the street	1 per street
RO*, N-MU, CC-MU, CI, C, LC	10	40	1 per street
CG, CR, POM, INST, <b>I-MU, IR, IG</b>	30	100	1 per street
CG, CR, <b>I-MU, IR, IG</b> on a four-lane road or right-of-way 100 feet or more wide.	35	150	1 per street

CG, CR, I-MU, IR, IG, multi-use commercial strip/building or mega-warehouse with over 500 linear feet of arterial road frontage	40	300	1 per entrance, with a maximum of 4 signs per property and spaced at least 500 feet apart
AT, I-MU	10	100	1 per street
IR, IG	30	100	1 per street

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

**Subsection 5, b – Flush, Wall-Mounted Signs, and Roof-Mounted Signs**

Zoning District	Maximum Cumulative Area – 50 feet or less of building or strip store frontage (square feet)	Maximum cumulative Area – more than 50 feet of building or strip store frontage (square feet)	Maximum Cumulative Area – more than 500 feet of wall fronting or parallel to street (square feet)
RMOD, RMED, RH*	1 per each linear foot of building frontage	±.5 1 per linear foot of building frontage	1 per linear foot of building frontage
RO*, N-MU, CC-MU, CL, C, LC	1 per linear foot of building frontage	± 1.5 per linear foot of building frontage	1.5 per linear foot of building frontage
CC-MU, N-MU	1 per linear foot of building frontage; or area of existing historic sign panel space	1.5 per linear foot of building frontage; or area of existing historic sign panel space	1.5 per linear foot of building frontage; or area of existing historic sign panel space
CG, CR, POM, INST, AT	1.5 per linear foot of building frontage	2 per linear foot of building frontage	2 per linear foot of building frontage
IR, IG, I-MU	1.5 per linear foot of building frontage	2 per linear foot of building frontage	3 per linear foot of frontage

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

**Subsection 5, d. Secondary Changeable Copy/Image Signs**

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

**Subsection 5, f. Roof-mounted Signs**

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

## 5. Sign Dimensional and Design Requirements

### c. Projecting Signs

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

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

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

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

CITY OF HAGERSTOWN, MARYLAND

**AN ORDINANCE TO AMEND THE CODE  
OF THE CITY OF HAGERSTOWN, BY REPEALING AND RE-ENACTING  
CHAPTER 140, *LAND MANAGEMENT CODE*, TO INCORPORATE THE 2020  
ANNUAL PACKAGE OF REVISIONS**

RECITALS

WHEREAS, by virtue of State Law and the City Charter, the City of Hagerstown regulates land use within the City; and

WHEREAS, the Mayor and Council have a responsibility to promote public health, safety and general welfare of the citizens of Hagerstown; and

WHEREAS, the Mayor and Council have a responsibility to implement the policies of the Comprehensive Plan and provide a system of land use and development regulations that provides for harmonious use and development of land; and

WHEREAS, the Planning Commission have recommended a package of amendments to the *Land Management Code* to better protect our neighborhoods and facilitate desirable use and development of land within the City of Hagerstown; and

WHEREAS, upon discussion with City staff and review during a public hearing process, the Mayor and Council find it in the best interests of the citizens to revise Chapter 140 to incorporate the 2020 package of revisions, as hereafter described;

**NOW, THEREFORE, BE IT RESOLVED, ENACTED AND ORDAINED** by the Mayor and Council of the City of Hagerstown, Maryland, as it's duly constituted legislative body, as follows:

1. The Code of the City of Hagerstown be and is hereby amended by deleting and repealing Chapter 140, *Land Management Code*,
2. The Code of the City of Hagerstown be and is hereby amended by adding thereto a new chapter, to replace Chapter 140 hereinabove repealed, to be Chapter 140, *Land Management Code*, to read as follows:

(See Attached Text of Chapter 140)

3. This ordinance shall become effective immediately upon the effective date of this Enacting Ordinance.
4. This revised and amended code in its entirety shall be known as version 3.7.

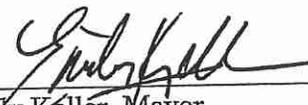
0-21-09

**BE IT FURTHER RESOLVED, ENACTED AND ORDAINED** that this Enacting Ordinance shall become effective upon the expiration of thirty (30) calendar days following its approval.

WITNESS AND ATTEST  
AS TO CORPORATE SEAL

MAYOR AND COUNCIL OF THE  
CITY OF HAGERSTOWN, MARYLAND

  
\_\_\_\_\_  
Donna Spickler, City Clerk

  
\_\_\_\_\_  
Emily Keller, Mayor

Date of Introduction: May 11, 2021  
Date of Passage: May 25, 2021  
Effective Date: June 24, 2021

File Number and Effective Date	Description of Amendment(s)
	<p><i>(ZT-2019-01 Continued)</i></p> <p>Amend Article 4 to implement comprehensive updates to the section on wireless communications facilities, add several new permitted uses to the I-MU and CG zoning districts, expand permitted uses in the Local Conversion Overlay District, adopt comprehensive revisions to the requirements for a PUD, adopt comprehensive revisions to the regulation of signs, permit wineries where breweries and distilleries are permitted, permit electric vehicle charging stations as a principal permitted use in six districts and a special exception use in one district, and permit civic and social organizations and community centers in the IR Zoning District.</p> <p>Move the Mixed Use District Design Standards from Article 4 to Article 5. Amend Article 5 to require a note on plans regarding the State Roadside Tree Permit requirement, require a note on plans regarding prohibition of setback variances in cluster subdivisions, establish design standards for permitted mixed use developments in the CG and CR District and for PUD Overlay Districts.</p> <p>Amend Article 7 to reflect recent changes in the State Forest Conservation Law.</p>
<p>ZT-2020-01 and                      ZT-2021-01 (v3.7)                      June 24, 2021</p>	<p>Amend Article 3 to define small scale breweries, distilleries and wineries.</p> <p>Amend Article 4 to correct outline format for use chart and table of contents, re-insert parking requirements for drive-up restaurants, make consistent all references to adult entertainment businesses, address small scale breweries, etc. as a principal use and establish parking requirements for them, add certain permitted uses to the CG, CC-MU, CR and IR Districts, relax current parking requirements for warehousing and manufacturing plants, <u>eliminate front yard fence standards for through lots backing to a municipal boundary or a minor collector road and redefine "open fence"</u>, refine standards for use and development of lots in residential districts that have no public street frontage, refine standards for construction of larger accessory buildings on large lots in the residential districts, provide the zoning administrator flexibility is applying minimum requirements for new dwelling units in buildings being retrofitted for new dwelling units (apartments), move all remaining regulation of buffers to Article 5 and clarify administrative history of dates of nonconformity.</p> <p>Amend Article 5 to refine language required on the approval of final plats and set paving depth standards for parking and driveway areas, and amend Article 7 to rephrase language about off-site forest conservation easements to make it easier to understand.</p>
<p>ZT-2021-02</p>	<p>Reserved.</p>



**K. Supplementary Regulations.**

**1. Fences and Walls.**

No fence or wall shall be constructed without first securing a zoning certificate from the Planning and Code Administration Department. The applicant shall submit a plan for the fence for review of the zoning certificate application. The following standards shall apply:

**a. Visibility at Intersections.**

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

**b. Height and Setback.**

The following maximum height limitation shall be applied to fences (except as regulated by Section K.1.a, above):

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

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

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

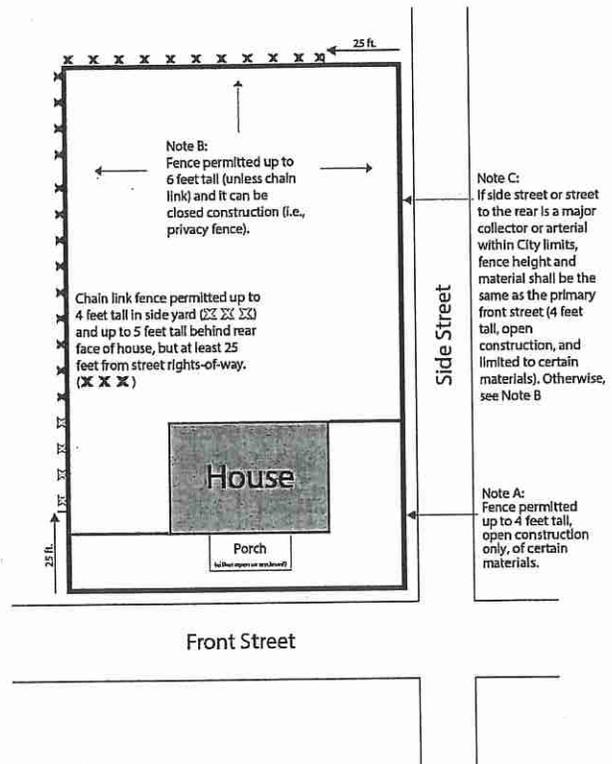
- (a) When a residential property in a residential zoning district fronts more than one public street, the frontage on the side street and/or street to the rear shall be treated as a side or rear setback for the purpose of fence location, provided the fence is not installed closer to the principal frontage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

This provision shall not apply when the side street or street to the rear is a major collector or arterial roadway as determined by the City Engineer, and the adjoining street is located within the municipal boundary. In such cases, the

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

- (b) Front yard fences shall be constructed only of decorative metal, wood picket, vinyl picket or composite picket construction, with the spaces between the pickets being at least one inch wide or half the width of the picket, whichever is greater.

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



The Board of Zoning Appeals shall not grant variances to the requirements of this paragraph.

(2) **Entrance Features.**

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

(3) **Specialty Features.**

Specialty fences of a specific and unique purpose, typically not associated with a property boundary, may exceed the height limits of a particular zoning district, subject to Planning Commission approval of the fencing plan as part of the Site Plan or Subdivision Plan approval. Fences of this type may include, but are not limited to, those associated with athletic fields, tennis courts, swimming pools, commercial and industrial storage areas, fencing surrounding telecommunications facilities, and noise attenuation walls.

**CITY OF HAGERSTOWN, MARYLAND**

**AN ORDINANCE TO AMEND THE CODE  
OF THE CITY OF HAGERSTOWN TO REVISE CHAPTER 140, *LAND  
MANAGEMENT CODE***

**RECITALS**

WHEREAS, by virtue of State Law and the City Charter, the City of Hagerstown regulates land use within the City; and

WHEREAS, the Mayor and Council have a responsibility to promote public health, safety and general welfare of the citizens of Hagerstown; and

WHEREAS, the Mayor and Council have a responsibility to implement the policies of the Comprehensive Plan and provide a system of land use and development regulations that provides for harmonious use and development of land; and

WHEREAS, the Planning Commission has recommended amendments to the *Land Management Code* to provide more flexibility for small-scale breweries, distilleries, and wineries while providing opportunity for neighbor input for larger facilities; and

WHEREAS, the Mayor and Council find it in the best interests of the citizens to move forward with the following amendment ahead of action on the Planning Commission's forwarded package of proposed amendments and to revise Chapter 140 as hereafter described;

**NOW, THEREFORE, BE IT RESOLVED, ENACTED AND ORDAINED** by the Mayor and Council of the City of Hagerstown, Maryland, as it's duly constituted legislative body, as follows:

1. The foregoing recitals be and are incorporated herein as if restated verbatim.
2. The Code of the City of Hagerstown is hereby amended to revise Chapter 140, *Land Management Code*, as follows:
  - Modify the definition of Small-Scale Breweries, Wineries, and Distilleries to 25,000 square feet;
  - Remove the prohibition on outdoor speaker systems for Small-Scale Breweries, Wineries, and Distilleries; and
  - Amend the Chart of Permitted and Special Exception Uses in Section Z of Article 4, Zoning Ordinance, to permit Small-Scale Breweries, Wineries, and Distilleries up to 25,000 square feet by Special Exception in CC-MU and C zoning districts and in CG,

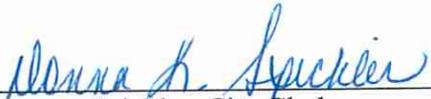
POM, IR, and IG zoning districts in industrial buildings built before October 1, 1956.

Please see attached exhibits.

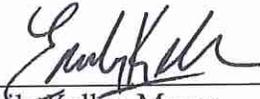
3. This amendment to the Code of the City of Hagerstown shall become effective immediately upon the effective date of this Enacting Ordinance.

**BE IT FURTHER RESOLVED, ENACTED AND ORDAINED** that this Enacting Ordinance shall become effective upon the expiration of thirty (30) calendar days following its approval.

WITNESS AND ATTEST  
AS TO CORPORATE SEAL

  
\_\_\_\_\_  
Donna Spickler, City Clerk

MAYOR AND COUNCIL OF THE  
CITY OF HAGERSTOWN, MARYLAND

  
\_\_\_\_\_  
Emily Keller, Mayor

DATE OF INTRODUCTION: 9/28/21

DATE OF PASSAGE: 10/26/21

EFFECTIVE DATE: 11/26/21

0-21-15

## ***LAND MANAGEMENT CODE TEXT AMENDMENT PROPOSAL***

<b>Number:</b> 2021-02	<b>Is this a new issue or one previously discussed?</b>	Previous
<b>Version:</b> 2	<b>Is this new text proposed since last discussion in need of initial review?</b>	
	<b>Is this revised text in need of confirmation that it conforms to prior editorial direction?</b>	
<b>Summary:</b> Minor changes to provisions for small scale breweries, distilleries and wineries.		
<b>Justification:</b> Economic development and tourism. Update our zoning ordinance to be competitive with surrounding jurisdictions which have fostered clusters of such uses in their urban areas. Expand maximum floor area.		

### **Article 3: Definitions**

***SMALL SCALE BREWERY, DISTILLERY, WINERY*** - an establishment 25,000\_sq.ft. or less in building area whose purpose is the production, storage, distillation, manufacturing, processing, distribution and wholesale and retail sale of beer, liquor, wine, mead, and/or cider made from produce grown or produced off-site and for tours, tastings, on-premise consumption of the products, and sales for carry-out. The use may include transient food trucks to support the tasting room activity. Such establishments shall be in compliance with any and all local and state liquor laws and licensing requirements and health department regulations, and shall possess any and all license which may be required by Washington County, the City of Hagerstown, and/or the State of Maryland. (*Zoning*)

**Article 4:       Zoning**  
**Section Z:       Chart of Permitted and Special Exception Uses**

STAFF NOTE: See next page for use chart revisions.

0-21-15

Use	N-MU	CC-MU	CL	CG	CR	POM	INST	I-MU	IR	IG	C	LC	PUD-V	PUD-R
Small Scale Brewery, Distillery, Winery; 15,000 gross square feet or less in building area, with or without outdoor tables.		P									P			
Small Scale Brewery, Distillery, Winery; 25,000 gross square feet or less in building area, with or without outdoor tables.		SE									SE			
Small Scale Brewery, Distillery, Winery; 25,000 gross square feet or less in building area, in industrial buildings built before October 1, 1956, with or without outdoor tables.				SE		SE			SE	SE				

**AN ORDINANCE AMENDING THE ZONING ORDINANCE  
AND ZONING MAP OF THE CITY OF HAGERSTOWN**

WHEREAS; pursuant to the provisions of Article 4, Zoning, of the Land Management Code of the City of Hagerstown, Maryland, an application for rezoning and zoning map reclassification was made by **EKLUND FAMILY, L.L.C.**;

WHEREAS; said application for zoning classification and amendment to the Zoning Map and Zoning Ordinance is known and designated as Case No. ZM-2021-01;

WHEREAS; the Mayor and City Council, as the duly constituted legislative body for the City held a Public Hearing in compliance with said Ordinance on March 22, 2022, wherein the Applicants and the general public were given an opportunity to fully present evidence and information pertinent to the request for zoning classification amendment and amendment to the Zoning Ordinance;

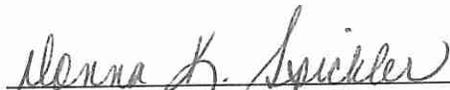
WHEREAS; the Mayor and City Council, prior to and subsequent thereto, have complied with all of the provisions of the General Laws of the State of Maryland and the Zoning Ordinance for the City of Hagerstown;

WHEREAS; said Mayor and City Council do find and determine in this case, based on said Public Hearing and the evidence presented therein, and having considered all of the criteria as set forth by the laws of the State of Maryland and the Zoning Ordinance, did on May 24, 2022, take formal action to approve the Local Conversion District Overlay for the property designated as **4 CYPRESS STREET**, Hagerstown, Maryland.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council for Hagerstown, Maryland, that the Zoning Reclassification and Zoning Map Amendment requesting Case No. ZM-2021-01 for a Local Conversion District Overlay and is hereby granted pursuant to the conditions and requirements set forth in the Opinion and Findings of Fact, attached hereto as **Exhibit A** and incorporated herein by reference.

WITNESS:

MAYOR AND CITY COUNCIL OF THE  
CITY OF HAGERSTOWN, MARYLAND

  
\_\_\_\_\_  
Donna K. Spickler, City Clerk

By:   
\_\_\_\_\_  
Emily Keller, Mayor

PUBLIC HEARING: 03/22/2022  
DATE OF INTRODUCTION: 04/26/2022  
DATE OF PASSAGE: 05/24/2022  
EFFECTIVE DATE: 06/24/2022

**EXHIBIT "A" ZONING  
RECLASSIFICATION APPLICATION NO. ZM-2021-01**

Applicant: Eklund Family, L.L.C.  
Location: 4 Cypress Street  
Hagerstown, Maryland 21740

**OPINION AND FINDINGS OF FACTS**

The foregoing matter was heard at Public Hearing by the Mayor and City Council on March 22, 2022, in accordance with the provisions of the Zoning Ordinance for the City of Hagerstown, Maryland.

**FINDINGS OF FACT**

The property which is the subject of the proposed map amendment is located at 4 Cypress Street. The proposal was filed by the owner of the property. The tract consists of 0.227 acres. The property currently contains a mixed-use building which was constructed prior to 1977. The owner represented to the Mayor and City Council that it is the owner's intent to continue the use of one dwelling unit and reuse the existing office space for additional commercial uses.

The proposal is in accordance with the provisions for a Local Conversion District as set forth in the Land Management Code, Article 4, Zoning, including the following:

1. A Local Conversion District Overlay is permitted in the underlying zoning district of RMOD (Residential Moderate Density);
2. The building was constructed and configured for mixed-use prior to 1977;
3. The building will be re-occupied as last occupied with 1 dwelling unit and 1 commercial space. The commercial space may be occupied by:
  - Professional offices;
  - Administrative support offices;
  - Business and professional offices;

- Ambulatory health care services; and
  - Scientific and technical services.
4. The building is oriented toward Cypress Street and has additional frontage on Potomac Avenue, both public streets;
  5. The total land area of the subject parcel is approximately 9904 square feet, which is below the maximum square footage allowed of 20,000 square feet of land area;
  6. No additions to the building are proposed;
  7. Outdoor vending machines are prohibited and none are proposed; and
  8. Outdoor storage is not allowed, with the exception of display of merchandise at convenience and grocery stores if historically a part of a use on the subject property which is not applicable in this case.

The Local Conversion District Overlay was designed to allow the adaptive reuse of pre-1977 commercial and mixed-use buildings embedded in residential districts on small lots, provided they are reviewed individually so that the proposal is complimentary to the residential nature of the area in which it is located. This site was analyzed for this application and the following conditions were approved and endorsed by the Planning Commission:

1. Modifications to the building shall be in accordance with the proposal; and
2. Additional parking shall be provided to accommodate the new commercial use and will require a site plan.

### CONCLUSION

Therefore, the Mayor and City Council find that those matters contained in the staff analysis and presented by the applicants at the Public Hearing on March 22, 2022, to be true and accurate, and that all procedural requirements prerequisite to approval of the Local Conversion District Overlay by

Exhibit "A"  
Case No. ZM-2021-01

this Body have been met. The Mayor and City Council find as a matter of fact that the proposal generally does not violate the spirit and intent of the Zoning Ordinance. We further find that the approval of the proposed Local Conversion District Overlay modification will not materially or adversely affect adjoining properties provided that the two (2) enumerated conditions are adhered to.

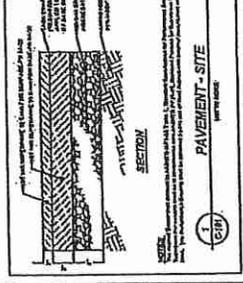
MAYOR AND COUNCIL FOR THE  
CITY OF HAGERSTOWN, MARYLAND

By:   
Emily Keller, Mayor

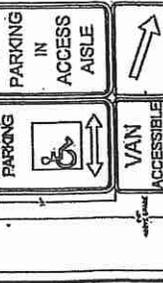


**VICINITY MAP**  
SCALE: 1" = 100'

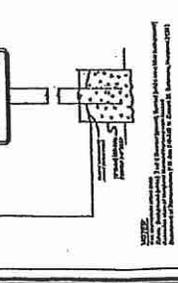
**NOTES:**  
1. The site is located within the City of Washington, District of Columbia, and is subject to the applicable laws, regulations, and ordinances of the District of Columbia and the City of Washington.  
2. The site is located within the City of Washington, District of Columbia, and is subject to the applicable laws, regulations, and ordinances of the District of Columbia and the City of Washington.  
3. The site is located within the City of Washington, District of Columbia, and is subject to the applicable laws, regulations, and ordinances of the District of Columbia and the City of Washington.  
4. The site is located within the City of Washington, District of Columbia, and is subject to the applicable laws, regulations, and ordinances of the District of Columbia and the City of Washington.  
5. The site is located within the City of Washington, District of Columbia, and is subject to the applicable laws, regulations, and ordinances of the District of Columbia and the City of Washington.  
6. The site is located within the City of Washington, District of Columbia, and is subject to the applicable laws, regulations, and ordinances of the District of Columbia and the City of Washington.  
7. The site is located within the City of Washington, District of Columbia, and is subject to the applicable laws, regulations, and ordinances of the District of Columbia and the City of Washington.  
8. The site is located within the City of Washington, District of Columbia, and is subject to the applicable laws, regulations, and ordinances of the District of Columbia and the City of Washington.  
9. The site is located within the City of Washington, District of Columbia, and is subject to the applicable laws, regulations, and ordinances of the District of Columbia and the City of Washington.  
10. The site is located within the City of Washington, District of Columbia, and is subject to the applicable laws, regulations, and ordinances of the District of Columbia and the City of Washington.



**PAVEMENT - SITE**  
SCALE: 1" = 100'



**HANDICAPPED - SIGNAGE - MD**  
SCALE: 1" = 100'



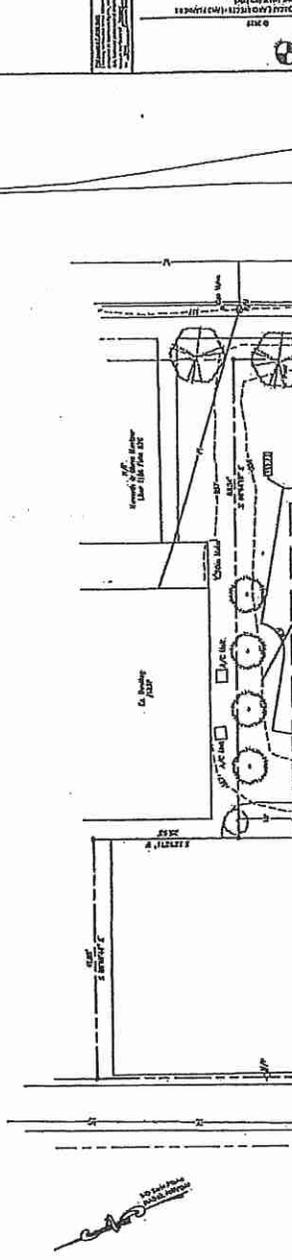
**HANDICAPPED PARKING LAYOUT**  
SCALE: 1" = 100'

**SITE DATA**

PROJECT NO.	10-0000
CLIENT	DC WATER UTILITIES
DATE	10/1/00
SCALE	AS SHOWN
PROJECT NAME	DC WATER UTILITIES
PROJECT ADDRESS	1000 11TH ST NW
PROJECT CITY	WASHINGTON, DC
PROJECT STATE	DC
PROJECT ZIP	20004
PROJECT PHONE	(202) 541-1000
PROJECT FAX	(202) 541-1000
PROJECT E-MAIL	dcwater@dcwater.org
PROJECT WEBSITE	www.dcwater.org
PROJECT CONTACT	DC WATER UTILITIES
PROJECT CONTACT ADDRESS	1000 11TH ST NW
PROJECT CONTACT CITY	WASHINGTON, DC
PROJECT CONTACT STATE	DC
PROJECT CONTACT ZIP	20004
PROJECT CONTACT PHONE	(202) 541-1000
PROJECT CONTACT FAX	(202) 541-1000
PROJECT CONTACT E-MAIL	dcwater@dcwater.org
PROJECT CONTACT WEBSITE	www.dcwater.org

**DESIGNER:**  
FREDERICK A. SHERBERT & ASSOCIATES, INC.  
1000 11TH ST NW  
WASHINGTON, DC 20004  
(202) 541-1000  
www.fasinc.com

**DATE:** 10/1/00  
**SCALE:** AS SHOWN  
**PROJECT:** DC WATER UTILITIES  
**ADDRESS:** 1000 11TH ST NW  
**CITY:** WASHINGTON, DC  
**STATE:** DC  
**ZIP:** 20004  
**PHONE:** (202) 541-1000  
**FAX:** (202) 541-1000  
**E-MAIL:** dcwater@dcwater.org  
**WEBSITE:** www.dcwater.org



**LANDSCAPE SCHEDULE**

Symbol	Plant Name	Quantity	Notes
Circle with '1'	Plant 1	10	Plant 1
Circle with '2'	Plant 2	5	Plant 2
Circle with '3'	Plant 3	3	Plant 3
Circle with '4'	Plant 4	2	Plant 4
Circle with '5'	Plant 5	1	Plant 5

**GRAPHIC SCALE**  
1" = 100'

**Legend**

SYMBOL	DESCRIPTION
Circle with '1'	Plant 1
Circle with '2'	Plant 2
Circle with '3'	Plant 3
Circle with '4'	Plant 4
Circle with '5'	Plant 5
Circle with '6'	Plant 6
Circle with '7'	Plant 7
Circle with '8'	Plant 8
Circle with '9'	Plant 9
Circle with '10'	Plant 10
Circle with '11'	Plant 11
Circle with '12'	Plant 12
Circle with '13'	Plant 13
Circle with '14'	Plant 14
Circle with '15'	Plant 15
Circle with '16'	Plant 16
Circle with '17'	Plant 17
Circle with '18'	Plant 18
Circle with '19'	Plant 19
Circle with '20'	Plant 20
Circle with '21'	Plant 21
Circle with '22'	Plant 22
Circle with '23'	Plant 23
Circle with '24'	Plant 24
Circle with '25'	Plant 25
Circle with '26'	Plant 26
Circle with '27'	Plant 27
Circle with '28'	Plant 28
Circle with '29'	Plant 29
Circle with '30'	Plant 30
Circle with '31'	Plant 31
Circle with '32'	Plant 32
Circle with '33'	Plant 33
Circle with '34'	Plant 34
Circle with '35'	Plant 35
Circle with '36'	Plant 36
Circle with '37'	Plant 37
Circle with '38'	Plant 38
Circle with '39'	Plant 39
Circle with '40'	Plant 40
Circle with '41'	Plant 41
Circle with '42'	Plant 42
Circle with '43'	Plant 43
Circle with '44'	Plant 44
Circle with '45'	Plant 45
Circle with '46'	Plant 46
Circle with '47'	Plant 47
Circle with '48'	Plant 48
Circle with '49'	Plant 49
Circle with '50'	Plant 50

**LANDSCAPE SCHEDULE**

Symbol	Plant Name	Quantity	Notes
Circle with '1'	Plant 1	10	Plant 1
Circle with '2'	Plant 2	5	Plant 2
Circle with '3'	Plant 3	3	Plant 3
Circle with '4'	Plant 4	2	Plant 4
Circle with '5'	Plant 5	1	Plant 5

**MINOR SITE PLAN**  
SHEET 1 OF 1

**DATE:** 10/1/00  
**SCALE:** AS SHOWN  
**PROJECT:** DC WATER UTILITIES  
**ADDRESS:** 1000 11TH ST NW  
**CITY:** WASHINGTON, DC  
**STATE:** DC  
**ZIP:** 20004  
**PHONE:** (202) 541-1000  
**FAX:** (202) 541-1000  
**E-MAIL:** dcwater@dcwater.org  
**WEBSITE:** www.dcwater.org

**DESIGNER:**  
FREDERICK A. SHERBERT & ASSOCIATES, INC.  
1000 11TH ST NW  
WASHINGTON, DC 20004  
(202) 541-1000  
www.fasinc.com

**DATE:** 10/1/00  
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**E-MAIL:** dcwater@dcwater.org  
**WEBSITE:** www.dcwater.org

**AN ORDINANCE AMENDING THE ZONING ORDINANCE  
AND ZONING MAP OF THE CITY OF HAGERSTOWN**

WHEREAS; pursuant to the provisions of Article 4, Zoning, of the Land Management Code of the City of Hagerstown, Maryland, an application for rezoning and zoning map reclassification was made by **O'SICK FAMILY TRUST**;

WHEREAS; said application for zoning classification and amendment to the Zoning Map and Zoning Ordinance is known and designated as Case No. ZM-2021-02;

WHEREAS; the Mayor and City Council, as the duly constituted legislative body for the City held a Public Hearing in compliance with said Ordinance on May 24, 2022, wherein the Applicants and the general public were given an opportunity to fully present evidence and information pertinent to the request for zoning classification amendment and amendment to the Zoning Ordinance;

WHEREAS; the Mayor and City Council, prior to and subsequent thereto, have complied with all of the provisions of the General Laws of the State of Maryland and the Zoning Ordinance for the City of Hagerstown;

WHEREAS; said Mayor and City Council do find and determine in this case, based on said Public Hearing and the evidence presented therein, and having considered all of the criteria as set forth by the laws of the State of Maryland and the Zoning Ordinance, did on July 26, 2022, take formal action to approve the Local Conversion District Overlay for the property designated as **245 NORTH POTOMAC STREET**, Hagerstown, Maryland.

0-22-08

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council for Hagerstown, Maryland, that the Zoning Reclassification and Zoning Map Amendment requesting Case No. ZM-2021-02 for a Local Conversion District Overlay and is hereby granted is hereby granted pursuant to the conditions and requirements set forth in the Opinion and Findings of Fact, attached hereto as **Exhibit A** and incorporated herein by reference.

WITNESS:

MAYOR AND CITY COUNCIL OF THE  
CITY OF HAGERSTOWN, MARYLAND

  
\_\_\_\_\_  
Donna K. Spickler, City Clerk

By:   
\_\_\_\_\_  
Emily Keller, Mayor

PUBLIC HEARING: 05/24/2022  
DATE OF INTRODUCTION: 06/28/2022  
DATE OF PASSAGE: 07/26/2022  
EFFECTIVE DATE: 08/26/2022

**EXHIBIT "A" ZONING  
RECLASSIFICATION APPLICATION NO. ZM-2021-02**

Applicant: O'Sick Family Trust  
Location: 245 North Potomac Street  
Hagerstown, Maryland 21740

**OPINION AND FINDINGS OF FACTS**

The foregoing matter was heard at Public Hearing by the Mayor and City Council on May 24, 2022, in accordance with the provisions of the Zoning Ordinance for the City of Hagerstown, Maryland.

**FINDINGS OF FACT**

The property which is the subject of the proposed map amendment is located at 245 North Potomac Street. The proposal was filed by the owner of the property. The tract consists of 0.1 acres. The property currently contains a mixed-use building which was constructed prior to 1977. The owner represented to the Mayor and City Council that it is the owner's intent to continue the use of seven dwelling units, one office space, and reuse the vacant storefront space fronting North Potomac Street for additional commercial uses.

The proposal is in accordance with the provisions for a Local Conversion District as set forth in the Land Management Code, Article 4, Zoning, including the following:

1. A Local Conversion District Overlay is permitted in the underlying zoning district of RO (Residential Office);
2. The building was constructed and configured for mixed-use prior to 1977;
3. The building will be re-occupied as last occupied with 7 dwelling units, 1 office space, and 1 commercial space. The commercial space may be occupied by:
  - Bank or credit union
  - Business service centers or quick printing services;

- Bed and breakfast inns;
  - Catering kitchens; and
  - Retail/wholesale trade excluding auto.
4. The building is oriented toward North Potomac Street and has additional frontage on Bethel Street, both public streets;
  5. The total land area of the subject parcel is approximately 4,388 square feet, which is below the maximum square footage allowed of 20,000 square feet of land area;
  6. No additions to the building are proposed;
  7. Outdoor vending machines are prohibited and none are proposed; and
  8. Outdoor storage is not allowed, with the exception of display of merchandise at convenience and grocery stores if historically a part of a use on the subject property which is not applicable in this case.

The Local Conversion District Overlay was designed to allow the adaptive reuse of pre-1977 commercial and mixed-use buildings embedded in residential districts on small lots, provided they are reviewed individually so that the proposal is complimentary to the residential nature of the area in which it is located. This site was analyzed for this application and the following conditions were approved and endorsed by the Planning Commission:

1. Modifications to the building shall be in accordance with the proposal;
2. The building lot and parking lot are to be combined into one lot; and
3. Landscaping in the front area will be reviewed and approved at the site plan stage.

**CONCLUSION**

Therefore, the Mayor and City Council find that those matters contained in the staff analysis and presented by the applicants at the Public Hearing on May 24, 2022, to be true and accurate, and that all procedural requirements prerequisite to approval of the Local Conversion District Overlay by this Body have been met. The Mayor and City Council find as a matter of fact that the proposal generally does not violate the spirit and intent of the Zoning Ordinance. We further find that the approval of the proposed Local Conversion District Overlay modification will not materially or adversely affect adjoining properties provided that the three (3) enumerated conditions are adhered to.

MAYOR AND COUNCIL FOR THE  
CITY OF HAGERSTOWN, MARYLAND

By: \_\_\_\_\_

  
Emily Keller, Mayor



**A RESOLUTION TO APPROVE A  
JOINT SEWER SERVICE AREA AGREEMENT  
WITH THE BOARD OF COUNTY COMMISSIONERS  
OF WASHINGTON COUNTY FOR THE  
PURPOSE OF ESTABLISHING  
THE GENERAL TERMS AND RESPONSIBILITIES  
FOR THE PROVISION OF SANITARY SEWER SERVICE  
TO THOSE GEOGRAPHIC AREAS DELINEATED IN THE  
JOINT SEWER SERVICE AREA TO BE SERVED BY THE  
RESPECTIVE SEWERAGE FACILITIES  
OF THE CITY AND COUNTY**

**RECITALS**

WHEREAS, the Mayor and Council of the City of Hagerstown, Maryland, is a municipal body corporate and politic ("City"), and the Board of County Commissioners of Washington County, Maryland, is a body corporate and politic and a political subdivision of the State of Maryland ("County"). The City and the County are hereinafter referred to in this Resolution collectively as "the Parties;"

WHEREAS, the Parties own, operate and maintain respective facilities for the treatment of wastewaters within their respective boundaries;

WHEREAS, the Parties recognize the importance for providing Joint Sewer Service (defined as sewer service provided jointly by the City and the County where one party agrees to own and maintain a sewer collection system through sewer lines owned by that party and treatment may be provided at a sewage treatment plant owned by the other party) to the Joint Sewer Service Area (defined as that area depicted in gold, blue, and red on Exhibit A attached to the Agreement), in which the City and the County have agreed to provide said Joint Sewer Service;

WHEREAS, the Agreement consolidates terms for the provision of sewer service to the present and future service areas within the Joint Sewer Service Area;

WHEREAS, the Agreement governs the terms by which the Parties shall accept the wastewaters generated in the Joint Sewer Service Area for transport, treatment, and disposal, provided that the accepting Party's facility has adequate capacity to accept additional sewage flow;

WHEREAS, the Agreement provides that the provision of sanitary sewer service to the Joint Sewer Service Area shall be pursued by the City and the County in a cooperative and non-competitive manner. The Parties agree that they will continue their present practice of providing sanitary sewer service to areas outside the Joint Sewer Service Area and other such joint sewer

service areas approved under Paragraph 16 of the Agreement by negotiating individual service agreements with each property owner who requests sanitary sewer service.

WHEREAS, the Agreement shall replace and revoke all prior City/County sewer service agreements in their entirety, including, but not limited to, the following:

- Consolidated General Service Agreement, effective September 16, 1997, and amended several times as follows:
- Amendment #1, effective October 31, 1997;
- Amendment #2, effective April 27, 1999;
- Amendment #3, effective April 27, 1999;
- Amendment #4, effective September 26, 2000;
- Amendment #5, drafted but never approved;
- Amendment #6, effective September 24, 2002;
- Amendment #7, effective June 13, 2006;
- Amendment #8, drafted but never approved;
- Amendment #9, effective June 19, 2007;
- Amendment #10, effective April 12, 2011;
- Amendment #11, drafted but never approved; and
- Amendment #12, effective February 23, 2021;

WHEREAS, the Agreement *incorporates* the Parties' Flow Transfer Agreement, effective August 5, 2013, except that Paragraph VII AGREEMENT TERMS (of said Flow Transfer Agreement) is amended to reflect that the term is no longer twenty (20) years, as set forth therein;

WHEREAS, the Parties deem said Agreement to be mutually beneficial to provide sewer service to the Joint Sewer Service Area in accordance with the terms set forth in said Agreement;

WHEREAS the Mayor and Council believe it to be in the best interest of the citizens of the City of Hagerstown to enter into said Agreement.

**NOW THEREFORE, BE IT RESOLVED** by the Mayor and Council of the City of Hagerstown, Maryland, as its duly constituted legislative body, as follows:

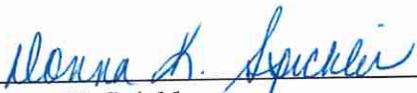
1. That the foregoing Recitals be and are hereby incorporated herein as if set forth verbatim.
2. That the Mayor be and is hereby authorized to execute and deliver to the County the Joint Sewer Service Area Agreement, a copy of which is attached hereto and incorporated herein by reference, and to execute any additional documentation required to effectuate the purposes of this Resolution.

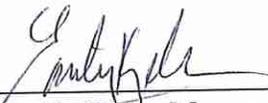
R-22-03

**BE IT FURTHER RESOLVED THAT** this resolution shall become effective immediately upon its approval.

WITNESS AND ATTEST  
AS TO CORPORATE SEAL

MAYOR AND COUNCIL OF THE  
CITY OF HAGERSTOWN, MARYLAND

  
\_\_\_\_\_  
Donna K. Spickler,  
City Clerk

  
\_\_\_\_\_  
Emily N. Keller, Mayor

Date of Introduction: January 25, 2022  
Date of Passage: January 25, 2022  
Effective Date: January 25, 2022

PREPARED BY:  
SALVATORE & MORTON, LLC  
CITY ATTORNEYS

R-22-03



RS-2022-06

**RESOLUTION OF  
THE BOARD OF COUNTY COMMISSIONERS  
OF WASHINGTON COUNTY, MARYLAND,  
APPROVING THE  
JOINT SEWER SERVICE AREA AGREEMENT  
WITH THE MAYOR AND COUNCIL OF THE CITY OF HAGERSTOWN  
FOR THE PURPOSE OF ESTABLISHING  
THE GENERAL TERMS AND RESPONSIBILITIES  
FOR THE PROVISION OF SANITARY SEWER SERVICE  
TO THOSE GEOGRAPHIC AREAS DELINEATED IN THE  
JOINT SEWER SERVICE AREA TO BE SERVED BY THE  
RESPECTIVE SEWERAGE FACILITIES OF THE COUNTY AND THE CITY**

- WHEREAS,** the Board of County Commissioners of Washington County, Maryland, a body corporate and politic and a political subdivision of the State of Maryland, is the duly constituted legislative body of Washington County, Maryland (the "County"); and the Mayor and Council of the City of Hagerstown, a municipal corporation, is the duly constituted legislative body of the City of Hagerstown, Maryland (the "City"). The County and the City are hereinafter referred to individually as the "Party" and collectively as the "Parties"; and
- WHEREAS,** the Parties own, operate, and maintain respective facilities for the treatment of wastewaters within their respective boundaries; and
- WHEREAS,** the Parties, recognizing the importance of providing Joint Sewer Service (defined as sewer service provided jointly by the County and the City where one party agrees to own and maintain a sewer collection system through sewer lines owned by that party and treatment may be provided at a sewage treatment plant owned by the other party), have determined that it is in the best interests of their respective jurisdictions and citizenry thereof to approve the Joint Sewer Service Area Agreement (the "Agreement") for the purpose of establishing the general terms and responsibilities for the provision of sanitary sewer service to the Joint Sewer Service Area defined as that area depicted in gold, blue, and red on Exhibit A of the said Agreement, a copy of which is attached hereto and made a part hereof by reference; and
- WHEREAS,** the Agreement consolidates terms for the provision of sewer service to the present and future service areas within the Joint Sewer Service Area; and
- WHEREAS,** the Agreement governs the terms by which the Parties shall accept the wastewaters generated in the Joint Sewer Service Area for transport, treatment, and disposal, provided, however, that the accepting Party's facility has adequate capacity to accept additional sewage flow; and

**WHEREAS,** the Agreement provides that the provision of sanitary sewer service to the Joint Sewer Service Area shall be pursued by the Parties in a cooperative and non-competitive manner. The Parties agree that they will continue their present practice of providing sanitary sewer service to areas outside the Joint Sewer Service Area and other such joint sewer service areas approved under Paragraph 16 of the Agreement by negotiating individual service agreements with each property owner who requests sanitary sewer service; and

**WHEREAS,** the Agreement shall replace and revoke all prior County/City sewer service agreements in their entirety, including, but not limited to, the following:

- ♦ Consolidate General Service Agreement, effective September 16, 1997, and amended several times as follows:
- ♦ Amendment #1, effective October 31, 1997;
- ♦ Amendment #2, effective April 27, 1999;
- ♦ Amendment #3, effective April 27, 1999;
- ♦ Amendment #4, effective September 26, 2000;
- ♦ Amendment #5, drafted but never approved;
- ♦ Amendment #6, effective September 24, 2002;
- ♦ Amendment #7, effective June 13, 2006;
- ♦ Amendment #8, drafted but never approved;
- ♦ Amendment #9, effective June 19, 2007;
- ♦ Amendment #10, effective April 12, 2011;
- ♦ Amendment #11, drafted but never approved;
- ♦ Amendment #12, effective February 23, 2021; and

**WHEREAS,** the Agreement incorporates the Parties' Flow Transfer Agreement, effective August 5, 2013, except that Paragraph VII., Agreement Terms, of said Flow Transfer Agreement is amended to reflect that the term is no longer twenty (20) years, as set forth therein; and

**WHEREAS,** the Parties deem said Agreement to be mutually beneficial to provide sewer service to the Joint Sewer Service Area in accordance with the terms set forth in said Agreement; and

**WHEREAS,** the Board of County Commissioners believes it to be in the best interest of the citizens of Washington County to enter into said Agreement.

**NOW, THEREFORE, BE IT RESOLVED,** by the County as follows:

1. That the foregoing Recitals be and are hereby incorporated herein as if set forth verbatim; and

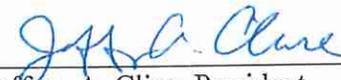
2. That the Agreement is hereby accepted, approved, and ratified; and
3. That Jeffrey A. Cline, President of the Board of County Commissioners, or his successor, is hereby authorized, empowered, and directed to execute and deliver to the City the Agreement, together with any other documents necessary to effectuate the purposes hereof.

**BE IT FURTHER RESOLVED**, by the County that this Resolution shall become effective immediately effective upon its approval.

ATTEST:

  
Krista L. Hart, County Clerk

BOARD OF COUNTY COMMISSIONERS OF  
WASHINGTON COUNTY, MARYLAND

By:  (SEAL)  
Jeffrey A. Cline, President

Date signed: 1/25/22

Approved as to form and legal sufficiency  
for execution by the County:

  
Kirk C. Downey  
County Attorney

Mail to:  
Office of the County Attorney  
100 W. Washington Street, Suite 1101  
Hagerstown, MD 21740



JOINT SEWER SERVICE AREA AGREEMENT  
FOR THE PROVISION OF SEWER SERVICE  
BY AND BETWEEN  
THE MAYOR AND COUNCIL OF  
THE CITY OF HAGERSTOWN, MARYLAND,  
AND  
THE BOARD OF COUNTY COMMISSIONERS  
OF WASHINGTON COUNTY, MARYLAND

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## INTRODUCTION

This Joint Sewer Service Area Agreement (*Agreement*) dated February 24, 2022, by and between the Mayor and Council of the City of Hagerstown, a municipal corporation (*City*), and the Board of County Commissioners of Washington County, Maryland, a body corporate and politic and a political subdivision of the State of Maryland (*County*), establishes the general terms and responsibilities for the provision of sanitary sewer service to those geographic areas delineated in the Joint Sewer Service Area (defined herein) to be served by the sewerage facilities of the City and the County. The City and the County are sometimes referred to herein as "party," individually, and "parties," collectively.

This Agreement replaces and revokes all prior City/County sewer service agreements in their entirety, including, but not limited to, the following:

- Consolidated General Service Agreement, effective September 16, 1997, and amended several times as follows:
- Amendment #1, effective October 31, 1997;
- Amendment #2, effective April 27, 1999;
- Amendment #3, effective April 27, 1999;
- Amendment #4, effective September 26, 2000;
- Amendment #5, drafted but never approved;
- Amendment #6, effective September 24, 2002;
- Amendment #7, effective June 13, 2006;
- Amendment #8, drafted but never approved;
- Amendment #9, effective June 19, 2007;
- Amendment #10, effective April 12, 2011;
- Amendment #11, drafted but never approved; and
- Amendment #12, effective February 23, 2021.

All of the geographic areas included in this Agreement constitute the Joint Sewer Service Area and are depicted on the map attached hereto as Exhibit A and incorporated by reference herein.

This Agreement also incorporates the Flow Transfer Agreement, effective through August 5, 2023. The Flow Transfer Agreement is attached hereto as Exhibit B and incorporated by reference herein, except that Paragraph VII AGREEMENT TERMS is hereby amended to reflect that the term is no longer twenty (20) years; rather, the Flow Service Agreement shall remain in place until the improvements to the City's Pump Station 13 and all associated infrastructure required to transfer the flow back to the City are completed and placed into service. This area is indicated as Area "B" on Exhibit A. Area "A" on Exhibit A shall remain in place until the improvements to the Maugansville Pump Station and all associated infrastructure required to transfer the flow back to the County are completed and placed into service. Upon the completion of a party's respective improvements and infrastructure, and upon six (6) months' written notice to the other party, the County may remove Area "A" in its entirety and/or the City may remove Area "B" in its entirety from the Agreement, in which case there shall be no need to execute an amendment to this Agreement. The parties agree that the provisions of this paragraph incorporating the Flow Transfer Agreement shall be satisfied no later than five (5) years from the execution date of the last party to sign this Agreement, meaning that all improvements to the City's Pump Station 13 will have been completed and placed into service thereby transferring the flow back to the City pursuant to Area "B" on Exhibit A within said five (5) years, and also meaning that all improvements to the County's Maugansville Pump Station will have been completed and placed into service thereby transferring the flow back to the County pursuant to Area "A" on Exhibit A within said five (5) years. The County or the City may remove a service area from the Joint Sewer Service Area to the County's or the City's exclusive responsibility, so as to transfer the County's or the City's collection system and accept sole responsibility for the same, in accordance with Paragraph 15 below.

The City and the County recognize the importance for providing sewer service to the Joint Sewer Service Area. This Agreement consolidates terms for the provision of sanitary sewerage services to the present and future service areas within the Joint Sewer Service Area.

1. City and County Provision for Service: The City and the County shall accept the wastewaters generated in the Joint Sewer Service Area for transport,

treatment, and disposal, provided that the accepting party's facility has adequate capacity to accept additional sewage flow.

2. City and County Service Priorities: The provision of sanitary sewer service to the Joint Sewer Service Area shall be pursued by the City and the County in a cooperative and non-competitive manner. The City and the County understand and mutually agree that they will continue their present practice of providing sanitary sewer service to areas outside the Joint Sewer Service Area and other such joint sewer service areas approved under Paragraph 16 of this Agreement by negotiating individual service agreements with each property owner who requests sanitary sewer service.
  
3. New and Existing Construction: In areas where sewer service is to be provided under the County's jurisdiction, the City and the County shall cooperate in a joint pursuit of maintaining existing interconnection between the County's and the City's respective wastewater systems, and the design and construction effort as to any necessary new wastewater systems. The interconnection will be designed and maintained to allow for the transfer of sewage flow in accordance with the terms and conditions of this Agreement. All new construction shall be designed to the standards and specification of the party that owns and operates the system. The primary work effort and responsibility for design and construction shall be with the party that will own and operate the system. Construction contracts shall be awarded and managed by the County with appropriate assistance by the City. Construction inspection shall be under the County's management with full authority to issue change orders and other construction procedures, utilizing the County's inspection personnel. Upon completion of construction, the County shall retain ownership of all sewerage facilities constructed under the County's jurisdiction. The City shall be under no obligation to be the applicant, grantee, or financing agent for funds to construct systems to be owned by the County.
  
4. City Service Responsibilities: The City shall operate and maintain all City-owned sewerage facilities in accordance with all applicable rules, regulations, ordinances, permits, guidelines, and other criteria of any federal, state, and

local agencies and jurisdictions. The City shall have the authority to monitor water and waste flows to determine volume, flow delivery rate, and/or strength of same. Furthermore, all sewerage facilities in the Joint Sewer Service Area shall be monitored to ensure compliance with the applicable inflow/infiltration requirements. The City shall include in its bill to City/County Joint Sewer Service Customers the applicable County charge. These funds shall be forwarded promptly to the County after receipt in accordance with a schedule mutually acceptable to the County's Director of Finance and the City's Director of Finance.

5. County Service Responsibilities: The County shall operate and maintain all County-owned sewerage facilities in accordance with all applicable rules, regulations, ordinances, permits, guidelines, and other criteria of any federal, state, and local agencies and jurisdictions. The County shall have the authority to monitor water and waste flows to determine volume, flow delivery rate, and/or strength of same. Furthermore, all sewerage facilities in the Joint Sewer Service Area shall be monitored to ensure compliance with the applicable inflow/infiltration requirements. The County shall include in its bill to City/County Joint Sewer Service Customers the applicable City charge. These funds shall be forwarded promptly to the City after receipt in accordance with a schedule mutually acceptable to the City's Director of Finance and the County's Director of Finance. Furthermore, the County shall operate and maintain the interconnection facilities, including periodic adjustments to diverted flow, to achieve the purposes of the Flow Transfer Agreement until such time that the improvements to the City's Pump Station 13 and associated infrastructure are complete and placed into full service and the flow is transferred back to the City.
  
6. Industrial Waste Pretreatment Program: All industries in the Joint Sewer Service Area will be subject to the provisions of federal law, state law, and the respective codes, regulations, ordinances, policies, or other requirements of the City and the County, regarding industrial waste discharge limitations, permits, user charges, fines, testing, monitoring, pretreatment requirements, or other ordinance provision, all as may be amended from time to time. Any business or industry in the Joint Sewer Service Area shall obtain any required

industrial waste discharge permit(s) from the party who will be providing sewage treatment for that business or industry, regardless of its geographic location within or outside the corporate boundaries of the City. Likewise, the governing entity providing sewage treatment for a business shall have the full authority to enforce any conditions of any industrial waste discharge permit(s), regardless of the location of such business within or outside the corporate boundaries of the City. The parties agree to cooperate fully in such enforcement.

7. City Service Charges: The charge to Joint Sewer Service Customers by the City for transporting and treating the sewage emanating from the Joint Sewer Service Areas through the City-owned sewerage facilities shall be based on metered water consumption and shall be in accordance with the provisions of the City Code for such services. The City shall bill the County's sewer customers in the Joint Sewer Service Areas unless otherwise specified by written agreement. The user charge rates to be charged to all users of the system located within the Joint Sewer Service Areas shall be established in compliance with all applicable federal, state, and local regulations. The City shall recover the actual cost of service through the City rates charged to Joint Sewer Service Customers. Cost of service shall include operating expenses, depreciation, return on investment, and cash flow requirements. A commercial and industrial rate system meeting all applicable requirements of federal, state, and local regulations shall establish the surcharges and other additional rates to be charged to all commercial and industrial users of the system. The City shall apprise the County of any proposed changes in the City Code or any other policy affecting such charges so that the County may have the opportunity to comment on same. The City shall assist the County with official representation at any public hearing to be held to the extent necessary to present and to explain the charges being levied by the City for sewerage services that the City provides to Joint Sewer Service Customers.
  
8. County Service Charges: The County's charge to Joint Sewer Service Customers for transporting and treating the sewage emanating from the Joint Sewer Service Areas through the County-owned sewerage facilities shall be

based on metered water consumption and shall be in accordance with the provisions of the County's applicable Ordinances, Resolutions, and policies for such services. The County shall bill the City's sewer customers in the Joint Sewer Service Areas unless otherwise specified by written agreement. The user charge rates to be charged to all users of the system located within the Joint Sewer Service Areas shall be established in compliance with all applicable federal, state, and local regulations. The County shall recover the actual cost of service through the County rates charged to Joint Sewer Service Customers. Cost of service shall include operating expenses, depreciation, return on investment, and cash flow requirements. A commercial and industrial rate system meeting all applicable requirements of federal, state, and local regulations shall establish the surcharges and other additional rates to be charged to all commercial and industrial users of the system. The County shall apprise the City of any proposed changes in the County Code or any other policy affecting such charges so that the City may have the opportunity to comment on same. The County shall assist the City with official representation at any public hearing to be held to the extent necessary to present and to explain the charges being levied by the County for sewerage services that the County provides to Joint Sewer Service Customers.

9. Connection Fee and/or Benefit Assessment: In addition to the charges described in Paragraph 7 and Paragraph 8, there shall be a Connection Fee per connection to users who are creating new connections to the system. Said Connection Fee shall be established by each party as to its respective accounts pertaining to parcels located within the Joint Sewer Service Area, and shall be collected by the City from users of the system located in the corporate limits of the City, and shall be collected by the County to users of the system located outside the corporate limits of the City. The collecting party shall promptly remit to the non-collecting party those Connection Fees collected on behalf of the non-collecting party. There may also be a Benefit Assessment imposed by either party as permitted by Maryland law. The amount of the Connection Fee and/or Benefit Assessment shall be established by each party by ordinance, resolution, or other appropriate enactment.

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10. County Charges: The County shall charge that amount determined to be equal to the County's cost of providing sewer collection service to City/County Joint Sewer Service Customers. Costs shall be calculated based on generally accepted class cost of service methodology. For County rate-setting purposes, City/County Joint Sewer Service Customers shall be classified geographically in one of the following three ways: 1) original service area, 2) total City/County Joint Sewer Service Area, or 3) as a part of the entire County sewer collection service area.
  
11. Reallocations: The City and the County will evaluate all commercial users annually for any allocation increase over and above the previously established allocation base. The City and the County shall assess and collect any allocation increase fees due the City or the County. All fees collected for the City or County shall be forwarded to the City or the County in accordance with a schedule mutually acceptable to the County's Director of Finance and the City's Director of Finance.
  
12. Delinquent Accounts: The City and the County shall provide each other with a list of accounts carrying delinquent balances at least quarterly for Joint Sewer Service Customers. The City and the County shall assist each other in the collection of these delinquent accounts through discontinuance of water service or any other lawful means. If these means of collection fail, then the County and/or the City shall exercise its/their statutory rights and enter suit against all offenders in accordance with prevailing collection policies. Likewise, the County shall by suit seek to enforce connection against all property owners who fail to connect to the sewer system in the time allowed therefor.
  
13. Upgrades to Facilities: The cost of any future upgrades or other alterations made to the County's system or the City's system, constructed to meet future applicable rules, regulations, ordinances, permits, guidelines, and other criteria of any federal, state, and local agencies and jurisdictions, shall be borne by all users of the system in accordance with a system of charges. The cost of any future expansions of or extensions to the system, constructed to

provide sewer service to the Joint Sewer Service Area, shall be borne by the users of the system for whom such expansions or extensions are constructed.

14. New Joint Sewer Service Areas: Neither the City nor the County shall make any expansions or other alterations to the boundaries of any Joint Sewer Service Area, nor establish any new Joint Sewer Service Area, without obtaining the other party's prior written approval. Neither the City nor the County shall commence any design work for sewer extensions into any proposed service area in the Joint Sewer Service Area until prior written approval is obtained from the other party. Joint Sewer Service Areas may be modified, clarified, or added to this Agreement by formal amendment pursuant to Paragraph 16. Unless agreed otherwise in writing, the terms and conditions for providing sewer service to Joint Sewer Service Areas presently approved shall apply to all Joint Sewer Service Areas formally approved in the future.
  
15. Joint Sewer Service Areas: The terms and provisions of this Agreement apply to the Joint Sewer Service Areas that are designated on Exhibit A. The parties agree that, except for the removal of Area "A" and/or Area "B" in accordance with the provisions set forth on Page 3 hereof, any amendment to said Joint Sewer Service Area will be created by entering into a revised joint service agreement containing and/or referencing a new comprehensive map. The parties agree that any amendment shall be made only after due consideration of capacity for wastewater contributions to the City's and/or the County's respective plants and that no property shall be added to the Joint Sewer Service Area unless adequate capacity exists for treatment and conveyance of sewage from said property.
  
16. Amendments: Any modification or revision to this Agreement shall be made by formal writing and adopted by resolution or other formal enactment by the City and the County. Amendments shall be effective for, and consistently applied to, all Joint Sewer Service Areas as originally approved in Paragraph 15 of this Agreement and to all Joint Sewer Service Areas subsequently

R-22-03

approved by the parties in future amendments to Paragraph 15 of this Agreement.

17. Severability: The conditions and requirements of this Agreement are subject to modification by acts, orders, or directives of regulatory agencies or courts of competent jurisdiction. Should any paragraph, section, or provision of this Agreement be annulled by acts, orders, or directives of regulatory agencies or courts of competent jurisdiction, the remaining portions of this Agreement shall remain in full force and effect.

18. Due Authorization: The parties agree and represent to each other that this Agreement has been approved by each respective governing body at a duly constituted public meeting and that each undersigned has been designated as the duly authorized signatory and representative of said governing body.

(SIGNATURES APPEAR ON NEXT PAGE.)

R-22-03

In witness whereof, the parties hereto have executed this Agreement by their respective duly authorized signatories and representatives.

ATTEST:

Kristall Hart  
Krista L. Hart, County Clerk

BOARD OF COUNTY COMMISSIONERS  
OF WASHINGTON COUNTY, MARYLAND

By: Jeff Cline  
Jeff Cline, President

Date: 2/14/2022

ATTEST:

Donna K. Spickler  
Donna Spickler, City Clerk

MAYOR AND COUNCIL OF THE  
CITY OF HAGERSTOWN

By: Emily Keller  
Emily Keller, Mayor

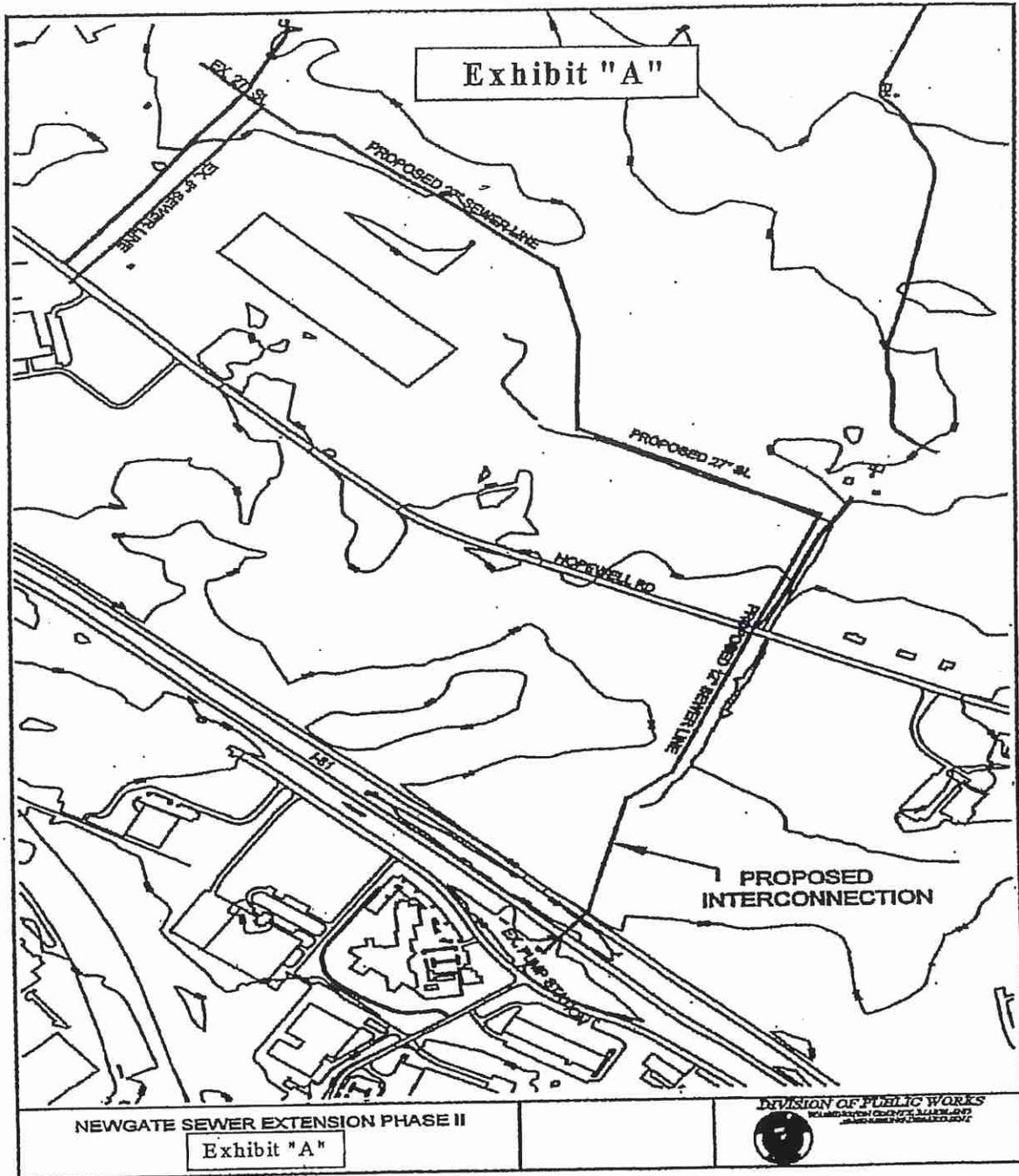
Date: January 25, 2022

## DEFINITIONS

**Joint Sewer Service:** Sewer service provided jointly by the City and the County where one party agrees to own and maintain a sewer collection system through sewer lines owned by that party and treatment may be provided at a sewage treatment plant owned by the other party.

**Joint Sewer Service Area:** That area depicted in gold, blue, and red on Exhibit A attached hereto, in which the City and the County have agreed to provide Joint Sewer Service.

**Joint Sewer Service Customer:** A sewer customer whose sewer service is provided by collection systems, conveyance systems, and/or treatment facilities owned and operated by a combination of the County and the City. The customer is considered a customer of both the City and the County and receives charges from both the City and the County for the sewage service each party provides.

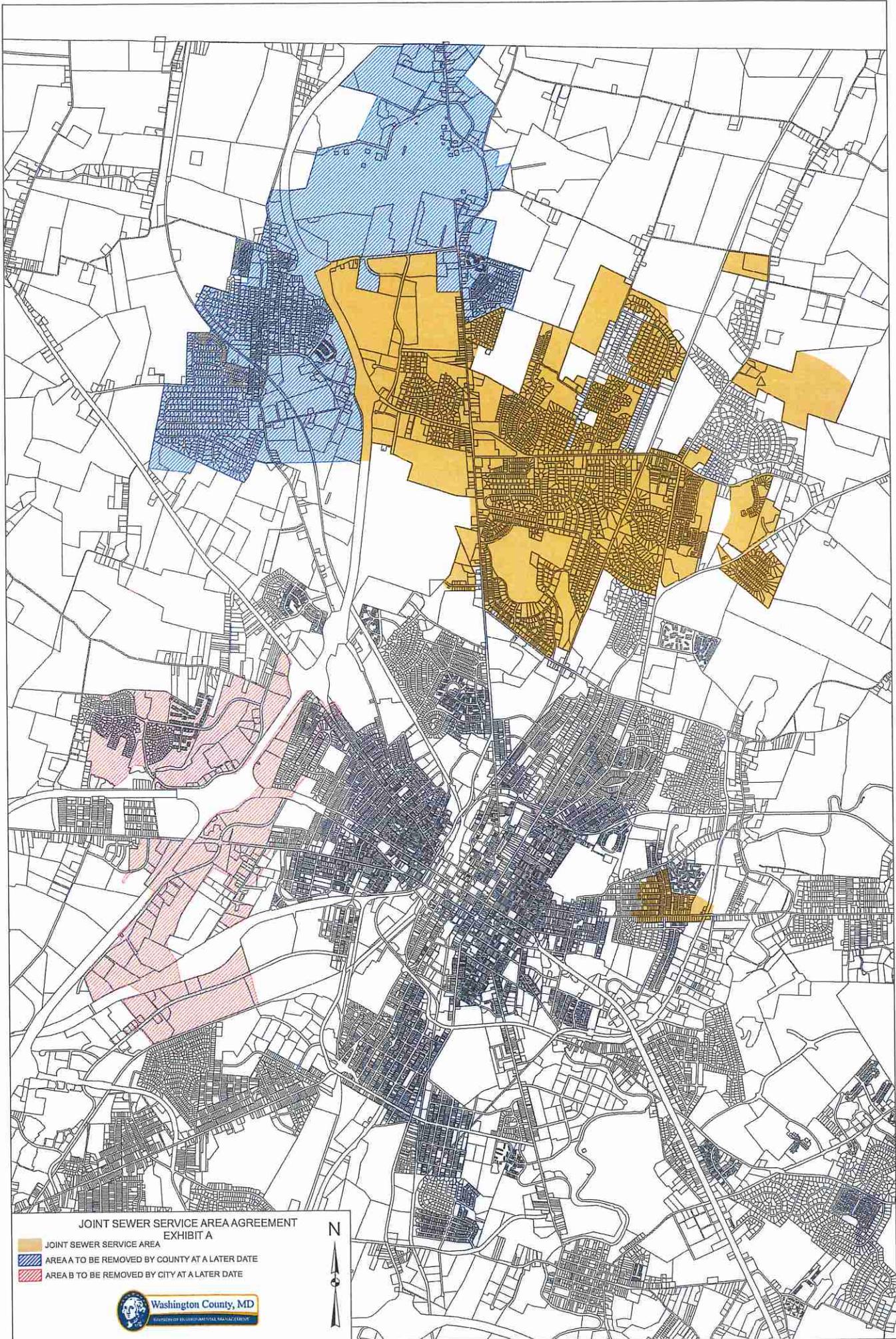


NEWGATE SEWER EXTENSION PHASE II

Exhibit "A"

DIVISION OF PUBLIC WORKS  
 WASHINGTON COUNTY, MARYLAND  
 2000 WASHINGTON COUNTY, MARYLAND





**FLOW TRANSFER AGREEMENT  
BY AND BETWEEN  
THE CITY OF HAGERSTOWN, MARYLAND AND  
THE BOARD OF COUNTY COMMISSIONERS OF WASHINGTON COUNTY**

For the Transfer of Flows  
from the City of Hagerstown's Wastewater System  
to Washington County's Wastewater System

**I. INTRODUCTION**

This Flow Transfer Agreement, hereafter called the "Agreement," dated this <sup>August</sup> ~~5th~~ <sup>5th</sup> of ~~2003~~ <sup>2003</sup>, by and between the **Mayor and Council of the City of Hagerstown**, as the duly-constituted legislative body of the City of Hagerstown, Maryland, a municipal corporation (hereinafter called the "City") and the **Board of County Commissioners of Washington County**, a body corporate and politic and a subdivision of the State of Maryland (hereinafter called the "County") is to define certain terms, conditions, and responsibilities for the transfer of wastewater flow from the City wastewater system to the County wastewater system.

The City and County agree that it would be mutually advantageous for both wastewater agencies and their customers to transfer wastewater flows from the City's service area to the County's service area for collection and treatment services. This Agreement provides for the transfer of this wastewater flow during a specified period of time and at an interconnection described herein.

The City and County agree to transfer flows from the City system to the County system in an amount equivalent to actual, additional customer contributions originating from new allocations to the City's wastewater system from accounts located outside the corporate boundaries of the City. The total amount of flow to be transferred under this Agreement will include the flows allocated to customers outside the City corporate boundaries during the term of this agreement hereinafter described. This flow will consist of new customer flows, and incremental flows from allocation increases to existing customers. It will be limited by the maximum amount of representative flow that is physically available to transfer at the interconnection, or the maximum amount of flow that can be physically transported by the interconnection to be constructed under this Agreement.

The equivalent amount of these additional flows will be transferred from the City's system at the interconnection described in Section II of this Agreement. It is agreed by both parties that these transferred flows represent the sewage contributions from outside City customers regardless of the source of these flows, and it is recognized that the actual flows transferred may originate from customers located inside the City's corporate boundaries. The cost of service for treating transferred flows will be included in the City's calculation of rates for customers located outside City limits as they currently exist or as they are modified in the future. It is the intent of this Agreement to provide the physical and administrative mechanisms to enable the Washington County Department of Water Quality to serve outside City customers on the Hagerstown wastewater system at no cost or financial obligation to those wastewater customers located inside the City corporate boundaries.

This Agreement also provides for a Construction Reserve Fund for the design and construction of additional, future interconnections. The Construction Reserve Fund is established by this Agreement as a financing source only and does not obligate the City or County to the transfer of any additional flows in excess of the amounts specifically defined in this Agreement. The transfer of any additional flows beyond those defined herein shall require formal written agreement by the City and County.

## II. PHYSICAL INTERCONNECTION

In order to fulfill the purpose of this Agreement, it is agreed that an interconnection between the City and County wastewater systems will be designed and constructed. This interconnection will allow for diversion of sewage flow flowing to existing City Pump Station #13 to the County owned interceptor which is generally located or planned to be situated along Hopewell Road on the west side of Interstate Route 81. A conceptual drawing of this interconnection is attached to this Agreement and identified as Exhibit A. This interconnection and its appurtenances will be designed to allow for the transfer of sewage flow in accordance with the terms and conditions of this Agreement.

## III. AMOUNT OF FLOW TO BE TRANSFERRED

The City and County agree that the amount of flow to be transferred under this Agreement shall be determined as follows:

A. Transferred flows will be limited to an amount representing new wastewater contributions as defined herein that are located outside of the City corporate boundaries. These wastewater contributions will be based on actual metered water consumption, or metered sewage discharge for commercial or industrial accounts if such a meter has been approved for use by the appropriate service provider.

B. The total amount of flows transferred under this Agreement will be based on those flows (as described under III-A) that cumulatively accrue over the five (5) year period prescribed in Section VII hereof. The first year accrual for flow transfer and billing purposes will begin 90 days after the Agreement is signed by both parties.

C. The County and City agree that the amount of flow to be transferred shall be limited to the amount of wastewater contributions generated in the service area of existing City pumping station 13. The County and City also agree that the amount of flow to be transferred shall be limited to the maximum amount of hydraulic capacity of the physical interconnection described in Section II of this Agreement.

D. The County and City recognize that a component of inflow/infiltration could be transferred to the County's system and agree to cooperate on monitoring and correcting infiltration if it should become excessive. The County shall have the authority to monitor flows to determine volume, flow delivery rate and/or strength of same. Furthermore, all sewerage facilities shall be monitored to assure compliance with any applicable inflow/infiltration requirements. Upon request from the County, The City shall permit the County to examine and make copies of all records necessary to effectuate the purpose of this Agreement. The parties agree that each shall operate their respective facilities in accordance with all applicable rules, regulations, ordinances, permits, guidelines, and other criteria of any federal, state, and local agencies and jurisdictions.

#### IV. COUNTY RESPONSIBILITIES.

County responsibilities under this Agreement include but are not limited to the following:

- A. Secure the financing needed to design and construct the interconnection and assume liability for repayment of any indebtedness as needed.
- B. Assume primary responsibility for design and construction of the interconnection including consulting and coordinating with the City as needed.
- C. Operate and maintain the interconnection facilities including periodic adjustments to diverted flow to achieve the purposes of this Agreement. If mutually agreeable to both wastewater agencies, it is understood that all flow may be diverted from Pump Station 13 at one time for ease of management, although billing would still occur as stated in Section VI-C. This would allow for immediate de-commissioning of the pumping station with associated savings.
- D. In accordance with all applicable local, state and federal requirements, regulations and laws, provide wastewater collection and treatment services to the Hagerstown Water Pollution Control Department for all flows transferred under this Agreement and submit monthly invoices to the City for these wastewater services.
- E. Maintain records of new outside-City Joint Service wastewater contributions as defined herein, and provide said records to the City to assist in preparation of information to be submitted for billing of transferred flows.
- F. Remit to the City any appropriate fees and charges collected on their behalf in accordance with the

provisions of Section 6, Financial Arrangements of this Agreement.

G. Establish and maintain a Construction Reserve Fund as established under Section 6, Financial Arrangements, of this Agreement. At least annually, provide the City a complete audit of the Construction Reserve Fund.

H. Maintain a reasonably current cost of service calculation to serve as a basis for the rate charged for collection and treatment services billable to the City.

## V. CITY RESPONSIBILITIES

City responsibilities under this Agreement include but are not limited to the following:

A. As needed, assist the County in the design and construction of the interconnection.

B. Operate Pump Station 13 as needed.

C. Supply metered consumption data from the customers as defined herein to allow the County to bill for transferred flows.

D. Maintain records for total amount of flow being diverted.

E. Remit to the County any appropriate fees and charges collected on behalf of the County in accordance with the provisions of Section 6, Financial Arrangements of this Agreement.

F. Make payments to the County for collection and treatment services related to transferred flows.

## VI. FINANCIAL ARRANGEMENTS

### A. Initial Financing for Capital Improvements

The County will secure the financing for the design and construction of the interconnection. It is anticipated that grant financing will be available for interconnection. If the County does not, or chooses not to consummate the financing needed for the interconnection, then this agreement may be terminated at the sole discretion of the County by issuance of a letter of notification to the City. The City shall not be liable for any capital financing related to the design and construction of the interconnection

### B. Collection and Distribution of Customer Allocation / Benefit Charges

Regarding new customers outside the City corporate boundaries, the City and County will assess and collect uniform initial customer charges at the time of approval for sanitary sewer service. For those

customers applying for connection directly to a County owned sewer line, the County will collect charges on behalf of the City. For those customers applying for connection directly to a City owned sewer line, the City will collect charges on behalf of the County. The charges referred to in this section are currently identified as a Benefit Charge for the City and an Allocation Fee for the County. Upon collection of these charges on behalf of each other party, the amounts collected will be transferred to the appropriate receiving agency in a timely manner and in accordance with a schedule and procedure as mutually agreed by the City and County Directors of Finance, respectively. In addition, both the City and County will collect amounts to be deposited in the construction reserve fund, and all amounts collected will be transferred to the reserve fund that will be managed by the County in accordance with this Agreement.

The customer charges to be collected at the time of approval of application for sewer service or reassessment will hereinafter be collectively referred to as Allocation Fees. The City and County agree that the prevailing Allocation Fees, per equivalent dwelling unit or 200 gallons per day of domestic strength waste, at the time of acceptance of this Agreement will be as follows:

City Benefit Charge	\$1,800
County Connection Charge	\$1,800
Construction Reserve Charge	<u>\$ 300</u>
Total Allocation Fees	\$3,900

These fees apply to the prospective new customers or annual reassessments to existing customers for the first five years of assessments pursuant to this Agreement.

After this first five-year period and for the next five years, the Allocation Fees are anticipated to be as follows:

City Benefit Charge	\$2,100
County Connection Charge	\$1,500
Construction Reserve Charge	<u>\$ 300</u>
Total Allocation Fees	\$3,900

There will be a minimum initial assessment for each customer based on 200 gallons per day.

The City or County may change or alter their respective component of these Allocation Charges at any time when duly authorized and after providing adequate written notice to the other party. Any change to the construction reserve charges will require the formal agreement and approval of the Hagerstown Mayor and City Council and the County Commissioners of Washington County. If neither the City nor County exercises their right to change the Allocation Fees as stipulated in this agreement, then these Allocation Fees shall remain in full force and effect for both the first and second

five-year periods or ten years in total.

### C. Service Charges

Service charges for the collection and treatment of flows transferred to the County will be billed to the City based on thousands of gallons of wastewater accepted and treated based on metered consumption of new customers as defined in Section III.A. Such service charges shall be based on generally accepted, utility rate making methods. The City will insure that these service charges shall be included in the calculation of rates for all classifications of outside City customers receiving benefit of County treatment of transferred wastewater flows (Note: At this time, these customer classes are referred to as Outside City and Joint). Service charges for County treatment of transferred flows shall not be included in the calculation of rates for City Water and Sewer Department customers located within the City corporate boundaries. Future calculations of rates for City Water and Sewer Department customers shall also be subject to the provisions of this section.

### D. Construction Reserve Fund

The County shall establish and maintain, as primary custodian, a construction reserve fund to escrow the portion of the Allocation Fees that are designated for the construction reserve fund. This fund shall be used to finance future improvements to the City and County wastewater systems. The City and County will meet periodically to identify and prioritize specific projects. Expenditures, withdrawals, or disbursements from the construction reserve fund shall require the formal approval of both the Hagerstown Mayor and City Council and the County Commissioners of Washington County.

The construction reserve fund shall be held in an interest bearing account with all interest income accruing to the fund balance for use in accordance with the purpose of the fund.

The County will make records available to the City upon request and provide an audited financial statement of the fund at least annually.

If after 10 years from the date of this Agreement the City and County mutually agree that there will be no future uses for the construction reserve fund, then any unexpended proceeds shall be divided equally between the parties. These proceeds shall be used for capital improvements to the respective sewer systems, without the necessity for the consent or approval of the other party.

## VII. AGREEMENT TERMS

Unless otherwise formally agreed in writing by both the City and County, the following terms shall apply to this Agreement :

The term for the provision of treatment services for flows transferred to the County wastewater system is twenty (20) years.

The term for Section III-B of this Agreement is five (5) years.

The term for Section VI-B of this Agreement is ten (10) years.

#### VIII. CONTINGENCY CLAUSES

The City and County agree that this Agreement is contingent upon consummation of capital financing for the design and construction of the interconnection.

Neither the City nor the County shall be penalized or bear any unreasonable financial burden for delays or other matters arising from Force Majeure.

#### IX. SEVERABILITY

The conditions and requirements of this Agreement are subject to modification by acts, orders or directives of regulatory agencies or courts of competent jurisdiction.

Should any sections or provisions of this agreement be annulled by acts, orders or directives of regulatory agencies or courts of competent jurisdiction, the remaining portions of this Agreement shall remain in full force and effect.

#### X. DISPUTE RESOLUTION

Any dispute between the parties arising from or in connection with this Agreement shall be resolved by arbitration. Either party may demand arbitration by written notice within ninety (90) days after the dispute arises, and the notice shall include the designation of an arbitrator. Within thirty (30) days after receipt of the notice of demand for arbitration, the other party shall designate by written notice to the party demanding arbitration a second arbitrator. The two arbitrators shall within twenty (20) days of the designation of the second arbitrator designate a third. The three (3) arbitrators shall:

- a. designate a time and place for hearing;
- b. specify the evidentiary and procedural rules to be followed in the arbitration; and
- c. pass a written award or decision within thirty (30) days of the date of the hearing.

An award or decision rendered by a majority of the arbitrators shall be final and binding on all parties, and judgment on the award or decision may be entered by any court of competent jurisdiction. Arbitration shall be the sole and exclusive remedy under this Agreement. The arbitration costs and expenses of each party shall be borne by that party.

XI. INTEGRATION

This Agreement constitutes the entire agreement of the parties. There are no promises, covenants, representations, or undertakings other than those expressly set forth herein.

XII. COUNTERPARTS

This Agreement may be executed in counterparts.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their duly authorized signatories and representatives.

Witness and Attest  
As to Corporate Seal

Joni L. Bittner  
Joni L. Bittner, County Clerk

Board of County Commissioners  
of Washington County, Maryland

By: Gregory I. Snopk  
Gregory I. Snopk, President

Date: July 22, 2003

Witness and Attest  
As to Corporate Seal

Donna K. Spickler  
Donna K. Spickler, City Clerk

Mayor and City Council of Hagerstown

By: William M. Breichner  
William M. Breichner, Mayor

Date: August 5, 2003