

**ANNUAL PROPOSED AMENDMENTS
HAGERSTOWN LAND MANAGEMENT CODE**

2021

***RECOMMENDATION FORWARDED BY THE HAGERSTOWN PLANNING COMMISSION
FOR THE MAYOR AND CITY COUNCIL'S CONSIDERATION***

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

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):

Proposal 2021-03	Page 3 - Addresses homeless shelters and crisis centers.
Proposal 2021-04	Page 5 - Addresses alternate uses for properties in the POM District that are subject to environmental remediation orders.
Proposal 2021-05	Page 7 - Adjustments to the Conversion Overlay District to make redevelopment of existing buildings more achievable.
Proposal 2021-06	Page 8 - Grouping of 12 unrelated minor adjustments and corrections.
Proposal 2021-07	Page 16 - 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.
Proposal 2021-08	Page 22 - Adjustments to the sign regulations.

How To Read These Proposals:

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.

The Process:

The Planning Commission held a public review meeting on December 8, 2021 and on December 20, forwarded this package of materials to the Mayor and City Council for their consideration. Mayor and Council will conduct a public hearing on these proposals on January 25 at 7:00 p.m. The meeting will be held in the City Council Chambers, 2nd floor of City Hall. Participants are welcome to attend in person or to participate via Zoom in accordance with the Council's adopted meeting policies.

After the hearing, the Council will likely hold the record open for 10 days to receive additional written comment, consider the testimony provided at a future meeting, and determine which proposals will be entered for approval via an ordinance to amend the Land Management Code. The Mayor and Council may adopt none, some or all of the proposals and may direct adjustments to them before adoption. Each recommendation is independent of the others.

LAND MANAGEMENT CODE TEXT AMENDMENT PROPOSAL

Endorsed by the Planning Commission on December 20, 2021.

Number: 2021-03	Is this a new issue or one previously discussed?	Previous
Version: 2	Is this new text proposed since last discussion in need of initial review?	No
	Is this revised text in need of confirmation that it conforms to prior editorial direction?	No
Summary:	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.	
Justification:	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.

Number: 2021-04	Is this a new issue or one previously discussed?	Previous
Version: 2	Is this new text proposed since last discussion in need of initial review?	No
	Is this revised text in need of confirmation that it conforms to prior editorial direction?	No
Summary:	Permit ministorage use in the POM district as an alternate means of developing properties with environmental issues.	
Justification:	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.

Number: 2021-05	Is this a new issue or one previously discussed?	Previous
Version: 2	Is this new text proposed since last discussion in need of initial review?	No
	Is this revised text in need of confirmation that it conforms to prior editorial direction?	No
Summary:	Minor adjustments to the Conversion District provisions of Article 4	
Justification:	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.

Number: 2021-06	Is this a new issue or one previously discussed?	Previous
Version: 1	Is this new text proposed since last discussion in need of initial review?	No
	Is this revised text in need of confirmation that it conforms to prior editorial direction?	No
Summary:	Minor housekeeping amendments and adjustments (generally non-policy driven)	
Justification:	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).	✗	✗	✗	✗

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
Maximum Height – Principal Structures	4 stories	7 stories
Maximum Height – Accessory Structures	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: Pages 2-2 and 4-127

The Historic District Commission (HDC) has experienced situations where a property owner seeks approval to demolish a building, however does not provide sufficient evidence documenting the need for the demolition. Also, since the materials are prepared by the applicant (or at the direction of the applicant) they are usually packaged in the light most favorable to support the applicant’s argument. Language is necessary to make it clearer what the HDC’s standard of review is and provide the HDC with the ability to consult impartial outside consultants to verify the accuracy of the materials submitted.

Article 4, Zoning
Section T.4, Certificate of Hardship

4. Certificate of Hardship.

When it is possible that the issuance of a Certificate of Appropriateness will render use of this provision unnecessary, the applicant shall first proceed with that application as described in Subsection 3 of this Section.

If a Certificate of Appropriateness is denied, or if the Zoning Administrator determines that the HDC, in the reasonable application of the standards in its Design Guidelines duly adopted by the Mayor and City Council, will likely be required to reject the application for a Certificate of Appropriateness, the applicant may apply directly for a Certificate of Hardship.

a. **Application.** Text omitted as unchanged.

b. **Burden of Proof on Applicant.** The burden of proof is on the property owner to prove to the Historic District Commission that its failure to approve a Certificate of Appropriateness will cause undue financial hardship to the owner, will be a deterrent to a major improvement program which will be of substantial benefit to the city, or will not be in the best interests of a majority of the persons in the community.

When the property owner asserts that a Certificate of Hardship should be granted based on undue financial hardship as cited in subsection a(1) above, the applicant shall provide sufficient documentation of the following items, in accordance with subsection c(1) below. This is necessary in order for the HDC to adequately assess whether the property owner has met the burden of proof to secure a Certificate of Hardship:

- (1) Current condition;
- (2) Current property value;
- (3) Efforts conducted to find a purchaser willing to secure and rehabilitate the building;
- (4) Funds available for investment in the project (individual and external);
- (5) Estimated cost of renovation or restoration;
- (6) Expected property value upon completion; and
- (7) Expected rental return (if applicable)

The HDC may provide guidance in its Design Guidelines regarding specifics of these requirements. The HDC is authorized to contract with consultants in the field of structural engineering, property valuation, business development and building renovation to obtain an independent assessment of the accuracy and completeness of the material submitted. Cost incurred by the City to secure these services shall be borne by the property owner. If the owner does not agree to pay the consultant's fees for such assessment, the HDC may dismiss the application.

The following adjustment should also be made to support the above on page 2-2:

Article 2 (Boards and Commissions)

Section C.4.a, Historic District Commission – Powers and Duties

4. **Powers and Duties.** For the purposes of this Article, the powers and duties of the Historic District Commission shall include:
 - a. **Studies.** To direct studies, reports, and surveys to identify, evaluate and assess sites, structures, or districts which are deemed to be of historical, archaeological, or architectural significance;

By comparison, Gaithersburg uses a much more detailed list. See attachment for additional information.

Initial change proposal number 9, regarding earth tone colors is removed, and those changes beginning in the prior draft with number 10 have been renumbered.

CHANGE 9: 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 10: 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 11: 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 12: 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.

Number: 2021-07	Is this a new issue or one previously discussed?	Previous
Version: 1	Is this new text proposed since last discussion in need of initial review?	No
	Is this revised text in need of confirmation that it conforms to prior editorial direction?	No
Summary: Adjustments to the zoning ordinance and subdivision and land development ordinance to promote traditional residential subdivision design over contemporary suburban subdivision design.		
Justification: 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

** see Subsection d.(5)	Rear Yard Depth (feet)
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 and alleys . (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 and alleys .	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.

Number: 2021-08	Is this a new issue or one previously discussed?	Previous
Version: 2	Is this new text proposed since last discussion in need of initial review?	No
	Is this revised text in need of confirmation that it conforms to prior editorial direction?	No
Summary: Adjustments to the sign provisions		
Justification: 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, I-MU, IR, IG	30	100	1 per street
CG, CR, I-MU, IR, IG on a four-lane road or right-of-way 100 feet or more wide.	35	150	1 per street

CG, CR, I-MU, IR, IG, multi-use commercial strip/building or mega-warehouse with over 500 linear feet of arterial road frontage	40	300	1 per entrance, with a maximum of 4 signs per property and spaced at least 500 feet apart
AT, 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	1.5 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 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.