

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 2023 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 2023 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, version 3.9
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of the City of Hagerstown be and is hereby amended by adding thereto a new chapter, to replace Chapter 140 hereinabove repealed, to be Chapter 140, Land Management Code, to read as follows: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)

0-23-12

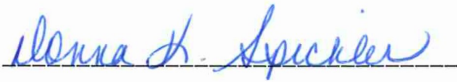
3. This ordinance shall become effective immediately upon the effective date of this Enacting Ordinance.

4. This revised and amended code in its entirety shall be known as version 3.10.

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



Tekesha Martinez, Mayor

Date of Introduction: May 16, 2023

Date of Passage: May 23, 2023

Effective Date: June 22, 2023

LAND MANAGEMENT CODE TEXT AMENDMENT PROPOSAL

Number: 2023-01	Is this a new issue or one previously discussed?	New
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: Modify restrictions to building additions in the Local Conversion District		
Justification: A citizen has initiated and applied for a text amendment so that they would be able to construct an addition on their property. Currently, the code does not allow them to build because of the restricting language present.		

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

Refer to page 4-74.

Article 4: Zoning

Section J. Overlay Zones.

3. Local Conversion District.

i. Special Design Requirements.

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

LAND MANAGEMENT CODE TEXT AMENDMENT PROPOSAL

Number: 2023-03	Is this a new issue or one previously discussed?	New
Version: 1	Is this new text proposed since last discussion in need of initial review?	Yes
	Is this revised text in need of confirmation that it conforms to prior editorial direction?	Yes
<p>Summary: It is proposed to tighten up or further clarify the intent of provisions in the Land Management Code so that new State-allowed uses do not slip in after July 1 that were not intended by existing code provisions. Pending State legislation will legalize adult-use cannabis on July 1 with unknown ramifications for Hagerstown in terms of State roll-out of licenses for allowable distribution points, consumption points, and growing points. For example, it has come to staff’s attention that State licensed medical cannabis dispensaries are anticipating expanding operations to include sale of adult-use cannabis. Currently medical cannabis dispensaries are treated as pharmacies and therefore as retail in the Land Management Code with retail allowed in many zoning districts in the city. Also, the State intends to license on-site consumption establishments for adult-use cannabis, which could potentially slide into existing Hookah Lounges and Vape Lounges since the zoning definition includes “smoking of other substances.” And finally, if additional growing licenses are sought to accommodate demand for the new adult-use cannabis product, it may be prudent to tighten provisions for growing facilities in the CC-MU zoning district which mixes residential, entertainment, and other non-residential uses in close quarters.</p>		
<p>Justification: The new State regulations governing adult-use cannabis go into effect July 1. Not enough information is available from the State yet to educate the City on the impact of these new provisions and to prepare for July 1 roll-out by the State. To preserve the intent of the Land Management Code for existing provisions and to provide protections for expansion of uses with unintended consequences, the following amendments are proposed. The City will take another look at the issue in the future after additional information is provided by the State and the City has had sufficient time to study the issue and determine what may or may not be desirable to the City of Hagerstown in regards to zoning provisions for new adult-use cannabis establishments.</p>		

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

Article 3: Definitions

CANNABIS DISPENSARY AND SALES FACILITY – a facility licensed by the State of Maryland to dispense and sell cannabis. Such facilities shall not include on-site consumption of cannabis products. (*Zoning*)

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

SMALL INDOOR PLANT CULTIVATION AND RETAIL FACILITY– An indoor facility for the cultivation of vegetables, fruits, and herbs for sale or distribution in their raw/unrefined state. Such facilities shall be 5,000 square feet or less in floor area. The facility may be used for cultivation only or also for on-site sale or distribution. For the purposes of this definition, herbs shall not include medical or adult-use cannabis. *(Zoning)*

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

Article 4: Zoning

Section Z: Chart of Permitted and Special Exception Uses [\(page 4-155 and 4-161\)](#)

Use	CC-MU	CG	CR	POM	I-MU	IR	IG	PUD-V	PUD-R
Tobacco stores, and vapor and hookah lounges, and cannabis dispensaries and sales facilities located at least 500 feet from any existing tobacco store, or vapor or hookah lounge, or cannabis dispensary and sales facility.		P	P					P	P
Small Indoor Plant Cultivation and Retail Facility, when interior space is 5,000 sq.ft. or less in gross floor area	P								
Indoor Plant Cultivation and Processing Facilities, when interior space is 25,000 sq.ft. or less in gross floor area	P			SE	P	P	P		
Indoor Plant Cultivation and Processing Facilities, when interior space is over 25,000 sq.ft. in gross floor area	SE			SE	SE	P	P		

LAND MANAGEMENT CODE TEXT AMENDMENT PROPOSAL

Number: 2023-04	Is this a new issue or one previously discussed?	New
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: Correct procedural issue with simplified plats and other minor adjustments		
Justification: Remove the statement from Article 5, stating that the Planning Commission may require its own approval of a simplified plat rather than approved at staff level. Other minor technical adjustments.		

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

[Item 1, found on pages 5-16 and 17](#)

Article 5: Subdivision and Land Development

Section C. Subdivision of Land Procedure.

18. Simplified Plat Procedure.

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

Examples of ~~S~~ subdivisions not for development purposes are as follows: acquisition of additional acreage solely for property enlargement, a conveyance for acquisition purposes only, readjustment of property lines and/or correction of deed discrepancies, and ~~conveyance of an existing structure for residential purposes only~~. **Before any building permit for new construction or any land development occurs on a property subject to a simplified plat, the property shall be processed through the necessary subdivision or site plan process, and a final plat recorded for that property.** **New paragraph break.**

Also, the creation of a plat for the purpose of implementing a condominium regime for existing structures and/or uses (including minor improvements thereto) that do not create additional dwelling units or habitable commercial or industrial space may be processed as a simplified plat.

The ~~Planning Commission~~, Planning Director, Zoning Administrator or the applicant may require Commission approval as provided for in Subsection C.14. **Subsections a. and b. omitted as unchanged.**

c. Simplified Plat Approval. [Correct all inappropriate capitalization in this section.](#)

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

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Item 2, found on Page 5-75

Appendix

Certifications

The certification templates contained herein are adopted standards, however individual conditions may require they be adjusted or altered during the site plan or subdivision process due to unique circumstances as may be required by the Zoning Administrator or an effected (or is it "affected"?) reviewing agency. The Zoning Administrator may update and revise these templates in this appendix on an as-needed basis without an act of the Mayor and City Council to amend this Code.

When dates or other data need to be included, or contextual choices (such as I/We) are provided in these templates, the applicant shall ensure that all data is correctly filled in and contextual choices are selected, removing the omitted choice.

Staff plans a few minor adjustments to some of the current signature blocks to correct inconsistencies with the language of the ordinance, and provide clarifications.

Item 3, found throughout Article 5.

The various types of plans and plats addressed by this article are inconsistently capitalized. In the context of the ordinance, they should be lower case. Since this article is being amended at this time, the opportunity will be taken to review all references to make them consistently lower case, unless the context in which they are used make them proper nouns requiring capitalization.

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