



CORPORATION OF HARPERS FERRY, WEST VIRGINIA

ORDINANCE No. 2015-02

An ORDINANCE to amend certain articles of Part 13 of the Codified Ordinances of Harpers Ferry to comply with current West Virginia Code.

[Introduced to Town Council by Planning Commission. Reviewed by Attorney Mark Sadd. Referred to Ordinance Review Committee for formatting and returned to Council.]

Be it enacted by the Town Council of the Corporation of Harpers Ferry:

That Part 13 of the Codified Ordinances, to be titled Zoning and Subdivision Code, be amended and reenacted to read as follows:

**ARTICLE 1301
Authority**

- 1301.01 Authority.**
- 1301.02 Relationship to Other Ordinances.**
- 1301.03 Interpretation, Conflict and Severability.**

1301.01 Authority.

The Zoning Ordinance is enforceable only within the corporate boundaries of the Corporation of Harpers Ferry and is established under the authority granted pursuant to W. Va. Code 8A-7-1 *et seq.* The Zoning Ordinance is intended to comply with the provisions of 8A-7-1 *et seq.*

1301.02 Relationship to Other Ordinances.

- (a) The Zoning Ordinance shall be interpreted to include any and all other provisions of the Harpers Ferry Code that are necessary for an understanding of the Zoning Ordinance and the attainment of its purposes. The Town Council and the Town intend that all ordinances related to land use, and all orders, rules and regulations established under these provisions, be read as part of a uniform system of land use regulation.
- (b) All departments, officials, employees or agents of the Town that or who are vested with the duty or authority to issue permits, certificates or approvals, shall conform to the provisions of the Zoning Ordinance and shall issue no permit, certificate or approval for any use, structure or activity if the same would be in conflict with the provisions of the Zoning Ordinance unless otherwise provided for by law. Any permit, certificate or approval issued in conflict with the provisions of the Zoning Ordinance shall be null and void and, in no event, shall act as a waiver of the standards and requirements of these regulations.

1301.03 Interpretation, Conflict and Severability.

- (a) In their interpretation and application, the regulations in the Zoning Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare.
- (b) The Zoning Ordinance is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute or other provision of law. Where the conditions imposed by, or pursuant to, these regulations are different from those imposed by any other provision of these regulations or any other ordinance, rule or regulation, statute or other provision of law, the provisions that are more restrictive and that impose the higher or greater standards shall control, except where federal or state law otherwise forbids it.
- (c) The provisions of the Zoning Ordinance are severable. If any part or provision of these regulations or their application to any person or circumstances is adjudged invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which the judgment shall have been rendered and shall not affect or impair the validity of the remainder of these regulations or their application to other persons or circumstances. The Town hereby declares that it would have enacted the remainder of these regulations even without any such part, provision or application.

ARTICLE 1302
Words, Terms and Phrases

For purposes of Articles 131, 133, 1301, 1302, 1303, 1304, 1305, 1306, 1307, 1311, 1312, 1313, 1314, 1316, 1317, 1318, 1319, 1320, 1321, 1322, 1323, 1324, 1325, 1326, 1327, 1701, 1702, 1703, 1704, 1705, 1711, 1715, 1723, 1725 and 1729, the following words, terms and phrases shall have the definitions or meanings ascribed to them within this Article. If not defined in this Article, or within other Articles or Sections of any of the ordinances of the Town, any word, phrase or term shall have the meaning or meanings ascribed to them in that Article or Section, or, in the absence of a definition, in any standard or widely published dictionary or American Planning Association publication.

For purposes of this Article, the following rules shall apply:

- A. The particular shall control the general.
- B. In the event there is any conflict or inconsistency between the heading of an article, section, subsection, or paragraph of this ordinance and the context thereof, the heading shall not be deemed to affect the scope, meaning, or intent of the context.
- C. In case of any difference of meaning or implication between the text of this ordinance and any caption, illustration, summary table, or illustrative table, the text shall control.
- D. In case of conflict between regulations, the more restrictive shall apply.
- E. Words used in the present tense shall include the future.
- F. Words used in the singular number shall include the plural, and the plural the singular, unless the context indicates the contrary.
- G. The masculine shall include the feminine and neuter.
- H. The word "shall" is always mandatory and not discretionary.
- I. A defined word, term or phrase, whether capitalized or not, shall have the meaning ascribed to it in this Article or elsewhere, including Appendix A[3].
- J. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and", "or", or "either...or", the conjunction shall be interpreted as follows:
 - 1. "and" indicates that all the connected items, conditions, provisions, or events shall apply.
 - 2. "or" indicates that the connected items, conditions, provisions, or events shall apply singly or in any combination.
 - 3. "either...or" indicates that the connected items, conditions, provisions, or events shall apply singly but not in combination.

- K. The phrase "used for" includes "arranged for", "designed for", "intended for", "maintained for", or "occupied for".
- L. The use of any defined word, term, or phrase is not operable, in and of itself, unless and until it is enacted into an operative regulatory ordinance. The omission of any term denotes inoperability under these ordinances.

Abandonment. The relinquishment of property or a cessation of the use of the property by the owner or lessee without any intention of transferring rights to the property to another owner or of resuming the nonconforming use of the property for a period of one year.

Abutting. See Contiguous.

Access. The way or means by which pedestrians or vehicles approach, enter or exit property.

Accessory Structure. See Structure, Accessory.

Accessory Use. See Use, Accessory.

Adaptive reuse of Structures. The process of reusing an existing building for a purpose other than that for which it was built or designed.

Addition. Any increase in the gross floor area of a structure or use, including those in which the building footprint is not enlarged.

Adverse Impact. A negative consequence for the physical, social, or economic environment resulting from an action or project.

Affected Persons. Those owners of record of real property located in whole or in part within a specified distance as indicated in the Zoning Ordinance, including public streets and other rights-of-way.

Aggrieved Person. A person who (1) is denied by the Planning Commission or Board of Zoning Appeals, in whole or in part, the relief sought in any application or appeal; or (2) has demonstrated that he or she will suffer a peculiar injury, prejudice or inconvenience beyond that which other residents of the Town may suffer.

Agriculture. The business of farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture and animal and poultry husbandry.

Alley. A right-of-way dedicated to public use, other than a street, road, crosswalk, or easement, designed to provide a secondary means of access for the special accommodation of the property it reaches. An alley shall not be considered adequate as the sole access for a parcel of land.

Alteration, Incidental. A change or replacement in the parts of a Building or Structure, such as:

- (a) Alteration of interior partitions to improve a nonconforming residential building, provided no additional dwelling units are created thereby.

- (b) Alteration of interior partitions in all other types of buildings or structures.
- (c) A minor addition on the exterior of a residential building to provide an uncovered porch or patio.
- (d) Making windows or doors in exterior walls.
- (e) Strengthening the load bearing capacity in not more than ten percent of the total floor area to permit the accommodation of a specialized unit of machinery or equipment.
- (f) Replacement of, or minor changes in the capacity of, utility pipes, ducts or conduits.

Alteration, Structural. A change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any complete rebuilding of the roof or exterior walls.

Amendment. Any repeal, modification or addition to a regulation; any new regulation; any change in the numbers, shape, boundary or area of a district; or any repeal or abolition of any map, part thereof or addition thereto.

Animal Hospital / Clinic. See Hospital, Veterinary.

Antenna. Any special apparatus, receiver, transmitter or power supply that is designed or capable to transmit or receive radio, television or other frequency signals from man-made satellites in the orbits of the Earth.

Apartment. One or more rooms in a building designed and intended for rental occupancy as an independent and separate dwelling unit in a building containing two or more dwelling units. See Dwelling, Multi-family.

Architectural Decoration. An element, design or motif, other than an architectural feature, installed, attached, painted or applied to the exterior of a building or structure for the purpose of ornamentation or artistic expression.

Architectural Features. Cornices, eaves, gutter, belt courses, sills, lintels, bay windows and chimneys.

Assembly Hall. A facility or part of a building used for the assembly of people for receptions, weddings, parties and similar uses.

Association (Charitable, Fraternal, or Social). A facility for administrative, meeting, or social purposes for a private or nonprofit organization, primarily for use by administrative personnel, members and guests. Examples include, but are not limited to: Lions Club, Veterans of Foreign Wars, etc.

Awning. Any non-rigid material, such as fabric or other approved flexible material, that extends from the exterior wall of a building and is supported by or attached to a frame.

Basement. The portion of a building having at least one-half its floor-to-ceiling height below the average level of the adjoining ground and with a floor-to-ceiling height of 6.5 feet or more.

Bed and Breakfast Inn (B&B). A dwelling in which, for compensation, up to four (4) guest rooms are provided and, for no additional charge, breakfast is customarily provided to the guests but excluding a Rooming House or a Boarding House

Block: A parcel of land, intended to be used for urban purposes, which is entirely surrounded by public streets, highways, public walks, parks, rural land or drainage channels or a combination thereof.

Buildable Area. The remaining area of a Lot after the setbacks are applied on all sides and any significant areas with a slope greater than one foot vertical change in three feet horizontally are subtracted.

Building height. The vertical distance to the highest point of the roof for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and the ridge for gable, hip and gambrel roofs measured from the curb level if the building is not more than 10 feet distant from the front lot line, or from the grade level in all other cases. This height does not include a parapet up to 2 feet when such a parapet is intended to shield rooftop machinery from view. Note: The actual topmost height of a building roof segment or its elements (e.g., chimney, etc.) may exceed this calculation.

Building. Any structure that is permanently affixed to the land and has one or more floors and a roof, including a Manufactured Home Dwelling and a Modular Home Dwelling.

Build-To Line. An alignment established a certain distance from the front property line to a line along which the building shall be built.

Bulk plane. An imaginary inclined plane rising over a lot, drawn at a specified angle from the vertical and originating from some location (e.g., lot line) or height (e.g., height above a lot line) which together with other regulations and lot size requirements, delineates the maximum height or bulk of any improvement which may be constructed on the lot.

Bulk Requirements. Standards that control the height, density and location of structures.

Business. Engagement or enterprise in the purchase, sale, barter or exchange of goods, wares, merchandise or services, the maintenance or operation of offices, or of recreational and amusement enterprises for profit, that is or should be licensed in the Town and that occupies any premises for the conduct of the enterprise, but excluding any Religious Institution.

Business Identification Sign. See Sign, Business Identification.

Business Information Sign. See Sign, Business information.

Business Merchandise Sign. See Sign, Business Merchandise.

By-Right. A use permitted or allowed in the district involved, and which, upon review, has been determined to comply with the provisions of these zoning regulations and other applicable ordinances and regulations.

Canopy. A permanently roofed shelter projecting over a sidewalk, driveway, entry, window or similar area, which shelter may be wholly supported by a building or partially supported by columns, poles or braces extending from the ground. Any roof overhang extending more than three feet from the face of a building shall be considered a canopy.

Cemetery. A site used for the permanent internment of human remains. It may be a burial park for earth internments, a mausoleum for vault or crypt internments or a columbarium for cinerary internments.

Change of Occupancy/Use. A discontinuance of permitted use and the substitution of a use of a different kind or class. Change of occupancy is not intended to include a change of tenants or proprietors unless accompanied by a change in the type of use.

Church. See Religious Institution.

Code Enforcement Official. Any person or persons duly designated, appointed or employed by any commission, board or agency of the Town, or of any jurisdiction that the Town Council has duly designated to exercise any power or authority under any law, ordinance or rule or regulation under its or their jurisdiction.

Columbarium. An accessory structure to a religious institution that is normally a wall, containing one, or more, recesses or cavities, for the depository of the cremated remains of humans.

Common Area. Any portion of a development that is not part of a lot or tract and is designed for the common use of the development. These areas include green open spaces and may include such other uses as parking lots and pedestrian walkways. Maintenance of such areas is not the responsibility of Town government and shall be set forth by the development association in the form of restrictive covenants, which shall guarantee the maintenance of these areas.

Community Center. A public building used for activities that, through proximity to residents, benefit the surrounding neighborhood. Activities permitted include any combination of the following: meeting space for civic groups, clubs, or organizations; spaces for the provision of daycare services; group cultural and/or recreational activities, whether self-directed or organized; space for artisans, crafters, etc., including occasional (not more than one day each week) sale of such merchandise produced on-premises; and educational and/or instructional programs.

Community Garden. A neighborhood-based development with the primary purpose of providing space for members of the community to grow plants for beautification, education, recreation, community distribution or personal use.

Comprehensive plan. A plan for physical development, including land use, adopted by a governing body, setting forth guidelines, goals and objectives for all activities that affect growth and development within the jurisdiction of the Town under state law.

Comprehensive Plan. That certain plan adopted by the Town Council on 9 June 2007, as amended from time to time under W. Va. Code 8A-3.

Conditional Use. A use which because of special requirements or characteristics may be permitted in a particular zoning district only after review by the board of zoning appeals and upon issuance of a conditional use permit, and subject to the limitations and conditions specified in the Zoning Ordinance.

Condominium. A common interest community in which portions of the real estate are designated for separate ownership and the remainder of the real estate is designated for common ownership solely by the owners of those portions. A common interest community is not a condominium unless the undivided interest in the common elements are vested in the unit owners.

Contiguous. Lots, parcels, municipal boundaries or county boundaries that are next to, abutting and having a boundary, or portion thereof, that is coterminous. Lots, parcels, municipal boundaries or county boundaries that are separated from one another only by a street, highway, road, other public right of way or a utility easement shall be considered contiguous.

Cooperative. A multiple-family dwelling owned and maintained by the residents. The entire structure and real property is under common ownership as contrasted to a condominium dwelling where individual units are under separate individual occupant ownership.

Contributing Resource. A Historic Site, Historic Structure or object that adds to the historic architectural qualities, historic associations, or archeological values of a Historic District because (1) it was present during the period of significance, and possesses historic integrity reflecting its character at that time or is capable of yielding information about the period, or (2) it independently meets the National Register criteria. Contributing Resources that are structures or buildings are identified as contributions in a Historic District nomination in the National Register of Historic Places or on file with the State Historic Preservation Office of West Virginia or the Harpers Ferry Historic Landmarks Commission.

County. The County of Jefferson, West Virginia, and, in context, its geographical limits or its territorial limits of jurisdiction.

Covenant. A restriction on the use of land set forth in a written document or plat. The restriction runs with the land and is binding upon subsequent owners of the property.

Critical Root Zone (CRZ): A circular area centered on a tree with a diameter of 1.5 times the canopy spread, and in no case, closer than five (5) feet from the trunk of any tree

Deck. A structure, without a roof, accessory to but not necessarily attached to a principal building, and which is elevated at least six inches above grade.

Development. (1) Any man-made change to improved or unimproved land, including but not limited to the construction, reconstruction, conversion, structural alteration, relocation, enlargement or use of any structure or parking area; (2) Any mining, excavation, dredging, filling, grading, drilling or any land disturbance; or (3) Any use or extension of the use of the land.

Dish. Either an Earth-Station Satellite or Antenna, and includes the term "Satellite Dish".

Drainage. (1) Surface water run-off; (2) the removal of surface water or groundwater from land by drains, grading or other means which include runoff controls to minimize erosion and sedimentation during and after construction or development; or (3) the means for preserving the water supply and the prevention or alleviation of flooding.

Driveway. A private roadway providing access for vehicles to a parking space, garage, dwelling or other structure.

Driveway, Common. A driveway shared by adjacent property owners and privately owned and maintained.

Dwelling, Duplex. A freestanding building containing two dwelling units.

Dwelling, Live-Work Quarters. Buildings or spaces within buildings that are used jointly for commercial and residential purposes where the residential use of the space is secondary or accessory to the primary use as a place of work and the resident works in the same location.

Dwelling, Manufactured Home. A structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or forty body feet or more in length or when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used for residential, commercial, business or institutional purposes with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein which meets the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 885401 et seq.), effective on the fifteenth day of June, one thousand nine hundred seventy-six, and the federal manufactured home construction and safety standards and regulations promulgated by the Secretary of the United States Department of Housing and Urban Development. The term "manufactured home or structure" does not include job site trailers.

Dwelling, Mixed Use. A building containing primarily residential uses with a subordinate amount of commercial and/or office uses on the ground floor in the front of the building facing the primary street frontage. Residential units can be on the ground floor, but cannot be accessed from any portion of the building that faces the primary street.

Dwelling, Modular Home. Any structure that is wholly, or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installed on a building site and designed for long-term residential use and is certified as meeting the standards contained in the West Virginia State Fire Code.

Dwelling, Multi-Family. A freestanding building containing three or more dwelling units, whether they have direct access to the outside, or access to a common building entrance. Multifamily dwellings can consist of rental apartment buildings, rental or owner occupied townhouse buildings, and rental or owner occupied condominium buildings, provided that all such freestanding buildings contain three or more dwelling units.

Dwelling, Single Family. A freestanding building designed solely for occupancy by one family for residential purposes, as a single housekeeping unit.

Dwelling, Townhouse. Also known as a Rowhouse. A one-family dwelling unit, with private entrance, which is part of a structure whose dwelling units are attached horizontally in a linear arrangement, and having a totally exposed front and rear wall to be used for Access, light, and ventilation. Setbacks are measured from the perimeter of the overall building.

Dwelling, Triplex. A freestanding building containing three dwelling units.

Dwelling Unit. A single unit providing complete, independent living facilities for a single housekeeping unit or family intended for occupancy by its owner or under a lease with the owner for a term of not less than 30 days. In no case shall a motor home, trailer, hotel or motel, Boarding House, automobile, tent, or portable building be considered a dwelling unit. Dwelling units are contained within single-family dwellings (in which case the definition is synonymous), garage and accessory apartments, duplex dwellings, mixed-use dwellings, and multifamily dwellings.

Earth-Station Satellite. Any special apparatus, antenna, receiver, transmitter or power supply that is designed or capable to transmit or receive radio, television or other frequency signals from man-made satellites in the orbit of the Earth.

Easement. A grant by a property owner to the use of the land by the public, a corporation or persons for specific purposes as the construction of utilities, drainage ways and roadways.

Education Facility, Elementary School. A public, private or parochial school offering educational instruction in grades kindergarten through fifth, licensed by the West Virginia Department of Education.

Education Facility, High School. A public, private or parochial school offering educational instruction in grades nine through twelve, licensed by the West Virginia Department of Education.

Education Facility, Middle School. A public, private or parochial school offering educational instruction in grades six through eight, licensed by the West Virginia Department of Education.

Education Facility, Nursery School or Preschool. A public, private or parochial school primarily for children between the ages of three and five, providing preparation for elementary school; includes nursery school and kindergarten.

Elevation. (1) A vertical distance above or below a fixed reference level; or (2) a flat scale drawing of the front, rear or side of a building.

Engineer. A person registered by the State of West Virginia through the Board of Registration of Professional Engineers.

Enlargement. An addition to the floor area of an existing building, an increase in the size of any other structure, or an increase in that portion of a tract of land occupied by an allowed use.

Erosion. The process by which the ground surface is worn away by the action of wind, water, gravity, ice or a combination thereof, or the detachment and movement of soil or rock fragments.

Essential Utilities and Equipment. Underground or overhead electrical, gas, communications not regulated by the Federal Communications Commission, water and sewage systems, including pole structures, towers, wires, lines, mains, drains, sewers, conduits, cables, fire alarm boxes, public telephone structures, police call boxes, traffic signals, hydrants, regulating and measuring devices and the structures in which they are housed, and other similar equipment accessories in connection therewith. Essential utility equipment is recognized in three categories: (1) local serving; (2) non-local or transmission through the Town; and (3) water and sewer systems, the activities of which are regulated, in whole or in part, by one or more of the following agencies: (a) West Virginia Public Service Commission; (b) West Virginia Department of Environmental Protection; or (c) West Virginia Department of Health and Human Resources.

Establishment. An economic unit, generally at a single physical location, where business is conducted or services or industrial operations performed.

Excavation. Removal or recovery by any means whatsoever of soil, rock, minerals, mineral substances or organic substances other than vegetation, from water or land on or beneath the surface thereof, or beneath the land surface, whether exposed or submerged.

Exterior Architectural Features. The architectural character and general composition of the exterior of a structure, including, but not limited to, the kind, texture of the building material, and the type, design and character of all windows, doors, massing and rhythm, light fixtures, signs, other appurtenant elements and natural features when they are integral to the significance of the site, all of which are subject to public view from a public street, way or place.

Exterior Display. The outdoor display of products, vehicles, equipment and machinery for sale or lease. Exterior display is an outdoor showroom for customers to examine and compare products.

Façade. That portion of any exterior elevation on the building extending from grade to top of the parapet, wall, or eaves and the entire width of the building elevation.

Façade, Principal. Exterior walls of a building which are adjacent to or front on a public street, park, or plaza. There may be more than one principal façade on a building.

Factory-Built Housing. See Dwelling, Manufactured Home and Dwelling, Modular Home.

Family. One or more persons occupying a single dwelling unit, provided that unless all members are related by blood, marriage, legal adoption, or legal guardianship, no such family contain more than five non-transient unrelated persons, except where disability requires that more than five unrelated persons reside together; in such cases there shall be no requirement for persons with disabilities to petition, apply or experience a process to obtain approval to live in any zoning district in the Town.

Fence. An artificially constructed barrier or wall of wood, masonry, stone, brick, wire, metal, or other manufactured material or combination of materials that is more than 18 inches in height, the purpose or effect of which is to provide enclosure, protection from intrusion (both physical and visual), to prevent escape, mark a boundary, enclose, screen, restrict access to, or decorate any Lot, Building or structure.

Fence Height. The vertical distance measured from the top of the fence to the lowest point of grade on the exterior side of the fence.

Fill. Sand, gravel, earth or other materials of any composition whatsoever placed or deposited by humans, for purposes of creating a new elevation of the ground.

Flag. Any fabric or bunting containing distinctive colors, patterns or symbols, used as a symbol of a government, political subdivision, corporation, lodge, fraternity or sorority, political party, nonprofit organization, charity, club, association or other entity.

Flag, Commercial. A flag displaying the name, insignia, emblem, or logo of a profit-making entity.

Flag, Public. A flag displaying the name, insignia, emblem, or logo of any nation, state, municipality, or noncommercial organization.

Flood-prone area. Any land area susceptible to repeated inundation by water from any source.

Floor Area, Gross. The sum of the gross horizontal areas of the floors of a building or buildings measured from the exterior walls of the building. This definition shall include attic space providing structural headroom of eight feet or more and basement space, unless such space is used for storage.

Floor Area, Net. The gross area of a floor or several floors of a building or structure, excluding those areas not directly devoted to the principal or accessory use of the building or structure, such as storage areas or stairwells, measured from the exterior faces of exterior walls or interior walls. Examples of areas to subtract from the gross floor area include stairways, storage rooms, mechanical equipment rooms and other areas generally not accessible to the public.

Front Yard. The area from the face of the principal structure to all the front lot lines or street right-of-way lines extending to the adjacent side lot lines.

Frontage. (1) The boundary of a lot fronting on a public street; (2) the front lot line.

Gambling Establishment. An establishment that offers any form of gambling or games of chance that is regulated under the provisions of the Limited Video Lottery Act codified in the Code of West Virginia, Chapter 29, Article 22B, Section 101.

Garage, Private. A detached accessory or portion of a main building housing the automobiles of the occupants of the premises.

Garage, Public. A building or part thereof for the parking or storage of motor vehicles and in which no other use is conducted, which is available for public use.

Garage Sale. The sale of over five items of personal property on any portion of a lot in a residential zoning district, inside or outside of any building.

Gardens. A planned space, set aside for the display, cultivation, and enjoyment of plants including vegetables, flowers, and fruits, which may include the keeping of chickens and/or bees, for private/personal use.

Government Facility. A building or structure owned, operated or occupied by a governmental agency to provide a governmental service to the public. Such facilities are generally exempt from municipal zoning; except when they are sold or leased to a private firm or person for purposes of conducting a nongovernmental use therein.

Grade Level. A reference plane representing the average ground level about a Building or Structure. Grade Level is the average of the finished ground level at the center of all walls of a Building or a Structure. In case walls are parallel to and within five feet of sidewalks, the above-ground level shall be measured at the sidewalks.

Grade, Percentage of. The rise or fall of a slope in feet and tenths of a foot for each 100 feet of horizontal distance.

Ground Cover. Any evergreen or broadleaf evergreen plant that does not attain a mature height of more than one foot. Sod and seed shall also be considered as qualifying groundcover.

Group Housing Development. More than one principal residential building per lot of record, with or without accessory uses or structures.

Hardship, Unnecessary. A hardship by reason of exceptional lot shape, exceptional topographic conditions, or other exceptional physical conditions of a parcel of land. Unnecessary hardship shall not include personal or financial hardship or any other hardship that is self-imposed.

Harpers Ferry. The Corporation of Harpers Ferry.

Hazardous Material. Any substance that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment. The term includes, but is not limited to, hazardous substances and hazardous wastes.

Height, Antenna Tower. The distance from the anchored base of the tower, whether on the top of another building or at grade, to the highest point of the structure, even if the highest point is on the top of an antenna.

Historic District. A geographically definable area, designated as historic on a national, state or local register, possessing a significant concentration, linkage or continuity of sites, buildings, structures or objects united historically or aesthetically by plan or physical development.

Historic Landmark. A site, building, structure or object designated as historic on a national, state or local register.

Historic Landmarks Commission. The public body established by the Town by ordinance under section four, article twenty-six-a of chapter eight of the Code of West Virginia of 1931, as amended.

Historic Resources Plan. A document that identifies all contributing resources within the subject area, a description of the overall historic context of the site, a Historic Structure Report for each contributing resource and a comprehensive historic preservation management plan for the site.

Historic Site. The location of a significant event, a prehistoric or historic occupation or activity, or a building or structure whether standing, ruined or vanished, where the location itself possesses historical, cultural or archaeological value regardless of the value of any existing structure and designated as historic on a national, state or local register.

Historic Structure. Any structure that is: (a) listed individually on the National Register of Historic Places or preliminarily determined by the United States Secretary of Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the United States Secretary of Interior as contributing to the historical significance of a registered historic district; (c) individually listed on the West Virginia inventory of historic places; (d) individually listed on a Town, City, County, or other local inventory of historic places that has been certified by an approved State program as determined by the United States Secretary of Interior.

Historic Structure Report. A document that consists of (1) a narrative that documents the evolution of a contributing resource, its physical description, existing condition assessment and an evaluation of significance, (2) a discussion of historic preservation objectives, together with recommendations for an overall treatment approach and for specific work (including any intended stabilization, preservation, rehabilitation, restoration, reconstruction or demolition), (3) photos of existing conditions and (4) measured drawings

Home-Based Business. Any business, occupation, or activity undertaken for gain where the principal office or place of business is located within a residential structure or a permitted accessory structure that is incidental and secondary to the use of that structure as a dwelling unit. Such a business is not open to the public except by appointment.

Hospital or Sanitarium. A state-licensed institution providing health services, primarily for in-patients, and rendering medical, surgical, or obstetrical care, including an integral part of the institution such related facilities as laboratories, out-patient department, research or training facilities, central service facilities, and staff offices. This definition shall include general hospitals as well as institutions in which service is limited to special fields such as cardiac, eye, ear, nose, and throat, pediatrics, orthopedics, skin and cancer, tuberculosis, chronic disease, and obstetrics. Hospital patients generally require intensive care for periods generally not exceeding several months. See also "Clinic".

Hospital, Veterinary. A use or structure intended or used primarily for the testing and treatment of animals on an emergency or outpatient basis. Veterinary Hospital shall not include the boarding or training of animals,

except for medical purposes and shall not provide outdoor runs or kennels. Also includes veterinary clinic.

Hostel: A single family dwelling that provides inexpensive shared lodging, breakfast, and sanitary accommodations for supervised short term stays, typically for hikers and bikers.

Hotel. A building in which lodging is provided and offered to the public for compensation, and that is open to transient guests and is not a Rooming House or Boarding House.

House, Boarding: A single family dwelling that provides inexpensive shared lodging and sanitary accommodations for extended stays, typically serving meals. The Boarder is considered to be in residence at that location.

House, Rooming: A single family dwelling that provides inexpensive shared lodging and sanitary accommodations for extended stays, typically without serving meals. The Roomer is considered to be in residence at that location.

House Trailer. Any vehicle, with or without motive power, with or without wheels at the time of being placed on such premises or real property, and designed, or modified to be used as a Dwelling Unit.

Household. A family living together in a single dwelling unit with common Access to, and common use of, all living and eating areas and all areas and facilities for the preparation and storage of food within a Dwelling Unit.

Impervious Surface. A surface composed of any material that significantly impedes or prevents natural infiltration of water into soil, including but not limited to roofs, Buildings, streets, parking areas, and any concrete, asphalt, or compacted gravel surface.

Improvement. Modifications to land that increases its value or utility, including but not limited to Buildings and structures, road grading, road surfacing, fences, retaining walls, curbs, street gutters, below- or above-grade utility lines and facilities, storm sewers and drains, sidewalks, signs, modifications to watercourses, water supply facilities, sewage disposal facilities, and park and recreation equipment.

Infill Development. To fill in vacant or underused land in existing communities with new development that blends in with its surroundings.

Inn: See Hotel

Junkyard. A parcel of land, or portion thereof, where any waste, discarded, used, salvaged, or secondhand materials are bought, sold, exchanged, stored, processed, or handled as a business. Materials shall include scrap iron and other metals, rubber tires, glass, used lumber or brick, or other similar property. A junkyard shall also include a lot, or portion thereof, used for the collecting, dismantling, storage, salvaging, or sale of parts of machinery or appliances not in running condition or inoperative motor vehicles as a business. Junkyard is synonymous with Salvage Yard.

Land Development. The development of one or more lots, tracts or parcels of land by any means and for any purpose, but does not include easements, rights-of-way or construction of private roads for extraction, harvesting or transporting of natural resources.

Land surveyor: A person so registered by the State of West Virginia through the Board of Examiners of Land Surveyors.

Landfill, Earth. The burial of excavated dirt, stone, brick, concrete, fly ash or other solid materials but does not include garbage, rubbish or trash of any other kind.

Landfill, Sanitary. The site at which the depositing and burial of garbage, rubbish and trash occurs permitted in compliance with state and municipal regulations.

Landscaped Area. A portion of the site or property containing vegetation to exist after construction is completed. Landscaped areas include, but are not limited to, natural areas, buffers, streetscapes, lawns and plantings.

Landscaped Buffer. An area of landscaping separating two distinct land uses, or a land use and a public right-of-way, and acts to soften or mitigate the effects of one land use on the other.

Landscaping. Open area devoted primarily to trees, grass, shrubs, or plants to soften building lines, provide shade and generally produce a pleasing visual effect of the premises. As complementary features, fountains, pools, screens, decorative lighting, sculpture, or outdoor furnishings may be placed within the area.

Landscaping Plan. Those site plan requirements listed in the landscaping section of the Zoning Ordinance.

Library. A building containing printed, pictorial, and digital material for public use for purposes of study, reference and recreation.

Liquor Store. An establishment operated under the authority of state law primarily engaged in the retail sale of packaged alcoholic beverages, such as ale, beer, wine and whiskey, for off-premises consumption.

Live-Work Quarters. See Dwelling, Live-Work Quarters.

Loading Space. An off-street space or berth on the same lot with a building, or contiguous to a group of buildings, for the temporary parking of a vehicle while loading or unloading merchandise, materials or persons, and which has ingress and egress upon a street, alley, other appropriate means of Access.

Logo. The graphic or pictorial presentation of a message, including, but not limited to, the use of shapes, designs, decorations, emblems, trademarks, symbols or illustrations, or the superimposition of letters or numbers or any other use of graphics or images other than the sequential use of letters and numbers.

Lot. See Lot of Record.

Lot Area. The total horizontal area contained within the front, rear and side lot lines of any Lot.

Lot, Building. A parcel of land that was legally existing at the time of adoption of the Zoning Ordinance, or is legally created through subdivision thereafter, upon which a building or structure may be erected in accordance

with all relevant provisions in the Zoning Ordinance (including variance provisions, if applicable).

Lot, Corner. A lot located at the junction of two or more intersecting streets.

Lot Coverage. The total area covered, measured from the outside of the exterior walls, by all principal and accessory buildings on a lot including driveways and parking areas. Open porches, decks, balconies and similar features that are not covered by a roof shall not be counted.

Lot Depth. The distance measured from the front lot line to the rear lot line. Where the front and rear lot lines are not parallel, the lot depth shall be measured by drawing lines from the front to rear lot lines at right angles to the front lot line, every ten feet and averaging the length of these lines.

Lot, double frontage: A lot which runs through a block from street to street and which has frontage on two or more streets, but not a corner lot.

Lot, Flag. A polygonal-shaped lot with the appearance of a frying pan or flag and staff in which the handle is most often used as the point of Access. The handle, when less than the minimum width for a building lot in the zoning district in which it is located, is not to be used in computing the minimum required lot area or delineating the minimum required building envelope.

Lot, Irregular. A lot of such shape or configuration that technically meets the area, frontage and width to depth requirements of the Zoning Ordinance but has unusual elongations, angles, and curvilinear lines.

Lot, reverse frontage: A corner lot of such size and shape that a building erected on it might logically be designed to face on either adjoining street, thus causing the building to rear on the sideline of any abutting lot.

Lot Line. The property line bounding a Lot.

Lot line adjustment: A relocation of the lot lines of two or more lots included in a plat which is filed of record, for the purpose of making necessary adjustments to building sites.

Lot Line, Front. The Lot Line that abuts an existing or dedicated public street. In no case shall there be more than two Front Lot Lines applied to any Lot.

Lot Line, Rear. (1) The Lot Line that is opposite and most distant from the Front Lot Line; (2) in the instance of a Rear Lot Line is less than 10 feet in length, or if the Lot forms a point opposite the Front Lot Line, the Rear Lot Line shall be a line 10 feet in length within the lot, parallel to and at the maximum distance from the Front Lot Line.

Lot, Nonconforming. A Lot or Parcel of land that was of record and lawfully established and maintained but which, because of the enactment of the Zoning Ordinance, no longer conforms to the land-use standards or use regulations of the zone in which it is located.

Lot, Pre-existing Nonconforming. A lot or parcel of land that was of record and lawfully established and maintained by which, because of the enactment of

the Zoning Ordinance, no longer conforms to the land-use standards or use regulations of the zone in which it is located. To qualify as a pre-existing, nonconforming lot of record, the lot had to have been created on or before August 8, 1977.

Lot Line, Side. Any lot line which is not a front lot line or a rear lot line.

Lot of Record. In Harpers Ferry, a lot is a parcel of land within the municipal boundaries that is described by metes and bounds, the description of which has been placed of record in the County, or a parcel of land platted and numbered by S. Howell Brown as shown on maps of the town dated 16 April 1869, copies of which may be seen on the wall of the office of the Clerk of the Jefferson County Commission and on the wall of the offices of the Town of Harpers Ferry along with subsequent modification to plat boundaries as recorded in the County Deed Books and on the Zoning Map.

Lot, Through. A lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.

Lot Width. The distance between the side lot lines of a lot at the building line.

Marquee. A roof-like structure that cantilevers from the wall of a building over its principal entrance, that has no vertical supports other than the wall from which it cantilevers, and that provides a wall surface at least four feet high, generally constructed for purposes of containing a sign.

Mini-Storage. See Storage Facility, Indoor Self or Storage Facility, Mini.

Motel. An establishment providing transient lodging in which the guest rooms are usually accessible from an outdoor parking lot.

Mural. Any pictorial or graphic representation applied on an outside wall, façade, or other surface of a building or structure, generally for the purposes of decoration or artistic expression. Any such graphic representation conveying a commercial message shall be considered a sign and shall be regulated by the Sign Ordinance.

Museum. A building having public significance by reason of its architecture or former use or occupancy or a building serving as a repository for a collection of natural, scientific, or literary collections, or works of art, and arranged, intended, and designed to be used by members of the public for viewing, with or without an admission charge, and which may include as an accessory use the sale of goods to the public.

Nonprofit Organization. Any person(s), partnership, association, corporation or other group legally established under federal and state law whose activities are conducted for unselfish, civic, or humanitarian motives, or for the benefit of others, and not for the gain off any private individual or group and may include, but shall not be limited to, patriotic, philanthropic, social service, welfare, benevolent, educational, civic, fraternal, cultural, charitable, scientific, historical, athletic, or medical activities.

Off-site improvements: Any utility, structure, or modification of topography located other than on the development site it is intended to serve.

Office, Apartment Rental. An accessory building, or part thereof, used primarily for the purpose of performing the administrative and clerical duties associated with renting or leasing the apartment units in a development containing at least 20 units.

Office, Associated with Permitted Industrial Land Use. An accessory building, or part thereof, used primarily for the purpose of performing the administrative and clerical duties associated with the principal permitted industrial land use.

Office Building. A building used primarily for offices that may include ancillary services for office workers, such as a restaurant, coffee shop, newspaper, or snack stand.

Office, Business or Professional (Unlimited). A room or suite of rooms or portion of a building used for the practices of a profession or for the conduct of a business that involves the accessory sale of goods from the premises. If the goods or merchandise are sold for delivery on or from the premises, and constitutes greater than 20 percent of the gross revenue from the office, then the premises shall be considered a store rather than an office.

Office Park. A development that contains a number of separate office buildings, supporting uses and open space designed, planned, constructed, and managed on an integrated and coordinated basis, and located on one or more parcels under single ownership.

Office, Professional. A building, or part thereof, used for conducting the affairs of a business, profession, service industry, or government. Does not include the sale or display of materials or goods.

Open Space. Any land or area, the preservation of which in its present use would: (1) conserve or enhance natural or scenic resources; or (2) promote streams or water supply; or (3) promote conservation of soils, or wetlands; or (4) enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations, or sanctuaries; or (5) enhance recreational opportunities.

Open Space, Improved. Parks, playgrounds, swimming pools, ball fields, plazas, landscaped green spaces, and other areas that are created or modified by man. Improved open space shall not include schools, Community centers or other similar areas in public ownership.

Open Space, Natural. Areas of natural vegetation, water bodies, or other landforms that are to be left undisturbed. Creation of a graded and surfaced walking trail through areas of natural open space shall constitute disturbance of the area in the amount of the length of the walking trail multiplied by its approximate average width. Natural open space shall not include schools, community centers or other similar areas in public ownership.

Overlay District. A zoning district that extends on top of a base zoning district and is intended to protect certain critical features and resources. Overlay districts generally govern only development standards. The uses permitted in the underlying zoning district remain the same.

Parapet. The portion of a wall which extends above the roofline.

Parcel. A single lot, or a grouping of old lots of record acquired by a single deed, and considered as one buildable lot for zoning purposes. Parcels that consist of a grouping of old Town lots of record acquired by a single deed may be subdivided for purposes of creating more buildable parcels, provided all regulations contained within the Zoning Ordinance and the Town's subdivision and land development ordinances are adhered to.

Park. Any area that is predominately open space, used principally for active or passive recreation, and not used for a profit-making purpose. Any area designated by the Town as a park.

Parking Aisle. The clear space for either one or two-way traffic movement or maneuvering between rows of parking stalls.

Parking, Off-Street. Space occupied by automobiles on premises rather than streets.

Parking, On-Street. The storage space for an automobile that is located within the street right-of-way.

Parking, Shared. A public or private parking area used jointly by two or more uses.

Parking Lot, Commercial. A private parking lot that is the stand alone use of a parcel, and whose stalls are leased to individuals.

Parking Lot, Public. A publicly owned or operated open area other than a street or alley, designed to be used for the temporary parking of more than four motor vehicles, whether free or for compensation, and available for public use or as an accommodation for clients or customers.

Parking Lot, Restricted Accessory. A parking lot, whether free or for compensation, and available for private use or as an accommodation for clients or customers, that provides parking that is accessory to a use on that parcel or a separate contiguous parcel.

Parking Space. A space in a garage or parking area, not less than 8.5 feet wide clear dimension and 18 feet long clear dimension, reserved for the parking of only one automobile.

Parking Space, Compact. A space in a garage or parking area, not less than 7 ½ feet wide clear dimension and 15 feet long clear dimension, reserved for the parking of only one compact automobile.

Parking Space, Handicap. A space in a garage or parking area not less than 13 feet wide and 18 feet long in clear dimension, reserved exclusively for an automobile registered with the State with handicapped license plates or displaying an official State issued handicapped placard.

Parking Structure. A structure designed to accommodate vehicular parking spaces that are fully or partially enclosed or located on the deck surface of a building. This definition includes parking garages, deck parking and underground or under building parking areas.

Patio. A level surfaced area directly adjacent to a principal building, without walls or a roof. A patio may be constructed of any material or combination of materials, and is typically constructed at grade level or slightly higher.

Paved Surface Area. Ground surface covered with cobblestones, clay fired bricks, concrete precast paver units, poured concrete with or without decorative surface materials, blacktop, or other asphalt or rubber mixture which may include sand or gravel as an ingredient and which creates a hard surface. A graded natural surface or one covered with rolled stone or overlaid with loose gravel is not considered a paved surface.

Pennant. Any lightweight plastic, fabric or other material, whether or not containing a message of any kind, which is suspended from a rope, wire, string or pole, usually in series, and which is designed to move in the wind.

Performance Guarantee. Any security that may be accepted by the Town as a guarantee that improvements required as part of an application for development are satisfactorily completed.

Permit, Project. A document of approval for construction, improvement or demolition, whether or not conditional, issued by the Town or its agents, commissions or boards upon the application of any person seeking an approval to undertake such construction activity within the Town for which official approval is required under an ordinance, law, rule, regulation, order or decree.

Permitted Use. Any use allowed within a zoning district, subject to the restrictions applicable to that zoning district and is not a conditional use.

Plan. A written description for the development of land.

Plat. A map of the land development, including sometimes a survey by a surveyor licensed to prepare and seal plats of surveys.

Person. Any association, company, corporation, firm, organization or partnership, singular or plural, of any kind.

Personal Services Establishment. A business which is associated with the grooming or health of persons or the maintenance or repair of personal wardrobe articles and accessories, and may include a barber shop, beauty parlor, shoe repair shop, self-service laundry, but not a tattoo parlor. The definition shall apply whether or not the individual engaged in the offering of said service is required to be licensed by the State of West Virginia.

Personal Storage Facility. See Storage Facility, Indoor Self or Storage Facility, Mini.

Plan, Land Development. A written description for the development of land.

Plat, or Final Plat: A map of major land subdivision giving, in form suitable for filing in the office of the County Clerk, necessary affidavits, dedications, and acceptances, and delineating the layout of such subdivision as required within.

Plat, Land Development. A map of the land development.

Plat, preliminary: A map of a proposed major subdivision showing the character and proposed layout of the tract in sufficient detail to indicate the relationship of the proposed development to topography, existing streets, existing drainage, utilities, zoning, easements of record and to indicate the nature of the land planning design.

Plaza. An open space that may be improved, landscaped, or paved usually surrounded by buildings or streets.

Porch. A covered but unenclosed projection from the main wall of a building that may or may not use columns or other ground supports for structural purposes. If a porch is uncovered it is considered to be a deck.

Professional Services Establishment. An establishment engaged in providing professional services such as consulting, legal, engineering, accounting, architectural and the like, but not including personal services.

Public Improvement. Any improvement, facility, or service together with its associated public site or right-of-way necessary to provide transportation, drainage, public utilities, cable television, or similar essential services.

Public Services (Police or Fire). Police and fire service establishments owned, operated and managed by the Town or County.

Public Space. Any lots, tracts or parcels of land, structures, buildings or parts thereof owned or leased by a governing body or unit of government.

Public Utility. An establishment engaged in the generation, transmission, and/or distribution of electricity, gas, steam, water and stormwater management systems.

Quarry. An open pit from which stone, sand, gravel, mineral or fill is taken to be processed for commercial purposes.

Recreational or Sports Facility, Group. A private athletic or sports facility designed to serve a large number of people as opposed to individuals or individual families. Such facilities include but shall not be limited to arenas, auditoriums, stadiums, play fields, tracks, and country clubs. Such facilities may contain rooms and other provisions for social functions and the serving of food or alcoholic beverages.

Recreational Facility, Small: A private facility designed to serve a small number of people for free time activities such as exercise, music, games, reading, arts and crafts, or dance. Such facilities may contain rooms for social functions and the serving of food or alcoholic beverages.

Recreational Vehicle (RV). A vehicle built on a single chassis, and designed to be self-propelled or towed by another vehicle. A recreational vehicle is not designed or intended for use as a permanent dwelling, but as temporary living quarters for recreational camping, travel, or seasonal use. This definition includes vehicles such as travel trailers, motor homes, boats, house-boats, and campers.

Religious Institution. A Building or Structure where persons assemble for religious worship or expression of religious faith and which is maintained and controlled by a religious body organized to sustain worship or expression of religious faith, together with all accessory buildings and uses associated

with the primary purpose. Such buildings include churches, synagogues, temples, mosques, or other buildings for worship and religious activities, including schools, daycare centers.

Religious Organization Bulletin Board. A Sign on the premises of a Religious Institution that gives information about that Religious Institution.

Repair or Maintenance. An activity that restores the character, scope, size, or design of a serviceable area, structure, or land use to its previously existing, authorized, and undamaged condition. Activities that change the character, size or scope of a project beyond the original design and drain, dredge, fill, flood, or otherwise alter additional regulated wetlands are not included in this definition.

Reserve strip: A strip of land located next to an abutting public easement or right of way which has the effect of denying access to adjacent property owners to said public easement or right of way. Reserve strips shall be prohibited.

Residential Care Facility: A residential dwelling used for long term care of residents on a commercial basis.

Restaurant. A commercial establishment where food and beverages are prepared, served, and consumed primarily within the principal building and where food sales constitute more than 60 percent of the gross sales receipts. Take-out and walk-away services are included.

Restaurant, Fast Food with Drive-Thru. An establishment whose primary business is serving food to the public for consumption on the premises by order from and service to vehicular passengers outside the structure.

Retail Sales Establishment. A business having as its primary function the supply of merchandise or wares to the end consumer. Such sales constitute the primary function of the business when such sales equal at least 80 percent of the gross sales of the business.

Retaining Wall. A wall or terraced combination of walls used principally to retain more than 18 vertical inches of material and not used to support, provide a foundation for, or provide a wall for a Building or Structure

Retention System. A storm water facility that is designed to accept runoff from a developed site and discharge it at a limited rate (when the runoff rate into the system drops below the limited rate). A specified volume is stored indefinitely (retained) until it is displaced by runoff from another storm.

Reuse of Building or Structure. The reuse, re-design, renovation or redevelopment of a Building or Structure that formerly housed a previous land use.

Rezoning. An amendment to the zoning map to effect a change of the designated land use district on a parcel of land.

Right-of-Way. A strip of land acquired by reservation, dedication, prescription, or condemnation and intended to be occupied by a street, trail, waterline, sanitary sewer or other public utilities or facilities.

Runoff. The portion of rainfall, melted snow, or irrigation water that flows across ground surface and is eventually returned to a waterbody such as a river, stream, pond, or reservoir.

Sales Establishments (Retail or Wholesale). A business having as its primary function the supply of merchandise or goods for retail or wholesale sale.

School. See Educational Facilities.

Secretary of the Interior's Standards. The standards and guidelines adopted and published by the National Park Service, United States Department of the Interior, for the rehabilitation of historic sites or properties.

Service Establishment. See Personal Services Establishment or Professional Services Establishment.

Setback, Front. The distance between the street right-of-way line and the closest point of the foundation of a building or projection thereof.

Setback, Rear. The shortest distance between the building line and the rear lot line.

Setback, Side. The shortest distance between the building line and the side lot line.

Sexually-Oriented Business. An establishment other than a hotel, motel, or similar establishment offering public accommodations, which for any form of consideration provides a place where any number of persons may congregate, associate, or consort in connection with specified sexual activities or the exposure of specified anatomical areas.

Short-term rental: The use of a Dwelling Unit offered for rent for transient occupancy by tenants for a tenancy of less than 30 days, excluding a Motel, Hotel, Rooming House, Boarding House or Bed and Breakfast.

Sidewalk Sale. A seasonal or occasional sale held on the sidewalk or other structure along the front or side of the place of business where goods are offered for sale to the public, typically at a discounted price.

Sidewalk Vendor Stand. Any portable pushcart, or similar device used for the displaying, storing, or transporting of articles offered for sale by a sidewalk vendor.

Sign. Any device including but not limited to writing, letter work, letters, words, numerals, figures, emblems, illustrations, decorations, pictorial representations, pictures, emblems, devices, symbols, wordmarks, service marks, trademarks, flags, banners, pennants, device figures, device characters or any part or combination of these used for visual communication intended to attract the attention of the public and be visible from the public right-of-way or other properties.

Sign, Abandoned. A sign and/or supporting structure which no longer identifies a bona fide business conducted or product sold on the premises. A sign shall be deemed abandoned when these conditions have been in existence for a period exceeding ninety consecutive calendar days.

Sign, Animated. Any sign that uses movement or change of lighting to depict action or create a special effect or scene.

Sign Awning. A sign located on an awning. See Canopy Sign.

Sign, Back-to-Back. Two or more integrally connected Signs facing in opposite directions and separated by not more than five feet.

Sign, Banner. Any Sign with or without characters, letters, illustrations, or ornamentations applied to cloth, paper, flexible plastic, or fabric of any kind with only such material for backing. All banners are temporary signs.

Sign, Building. Any Sign attached to any part of a building.

Sign, Building Marker. Any Sign indicating the name of a building and date and incidental information about its construction. Such sign typically is cut into a masonry surface or made of bronze or other permanent material.

Sign, Business Identification. Any Sign located within and upon the premises of a Business that pertains to the name, purposes and conduct of the Business.

Sign, Business Information. Any Sign that is not a Business Identification Sign but rather pertains to operations (such as "open" or "closed") or pertains to means for access (such as "entrance up stairs").

Sign, Business Merchandise. Any Sign that lists or describes the goods or articles for sale or types of services offered by the enterprise (such as menus).

Sign, Canopy. Any Sign that is a part of or attached to a structural protective cover over a door, entrance, window or outdoor service area. A marquee sign is not a canopy sign.

Sign, Changeable Copy. Any Sign designed so that letters or numbers attached to the sign can be periodically changed to indicate a different message.

Sign, Commercial Message. Any sign, wording, logo or other representation, except for the actual name of the business, that, directly or indirectly, names, advertises or calls attention to a business, product, service or other commercial activity.

Sign, Construction. Any sign bearing the names of contractors, architects, engineers and the like, or advertising, promotions, price ranges and similar information that is placed at a construction site that has received development plan approval from the Town.

Sign Copy. Any word, letter, number or emblem affixed to the sign surface either permanently or in removable form.

Sign, Directional. An on-premise sign that includes information assisting in the flow of pedestrian or vehicular traffic such as enter, exit, and one-way. A directional sign excludes commercial messages and logos but may include information, that has a purpose secondary to the use of the site on which it is located, such as "no parking," "entrance," "loading only," "telephone," and similar information and directives. A directional sign may also include

information stating the hours of operation of a business, emergency telephone numbers, credit card usage, or other information of a similar nature.

Sign, Directory. A ground or building sign that lists tenants or occupants of a building or project with unit numbers, arrows or other directional information.

Sign, Electronic Message Board. A sign with a fixed or changing display/message that is electronically programmed and can be modified by electronic processes.

Sign, Externally Illuminated. A sign illuminated primarily by light directed toward or across it or by backlighting from a source not within it. Sources of illumination for such signs may be in the form of gooseneck lamps, spotlights, or luminous tubing.

Sign Fabrication or Painting Establishment. A service establishment engaged primarily in the production, painting, repairing and finishing of signs.

Sign, Flashing. A sign, the illumination of which is not constant in intensity when in use, and which exhibits sudden or marked changes in lighting effects.

Sign Face. The area of a sign on which the copy is placed.

Sign, Freestanding. A sign that is attached to, erected on, or supported by some structure (such as a post, mast, frame, or other structure) that is not itself an integral part of or attached to a building or other structure whose principal function is something other than support.

Sign, Ground. Any sign attached to the ground. See Freestanding sign.

Sign, Internally Illuminated. A sign whose light source is either located in the interior of the sign so that the rays go through the face of the sign, or which is attached to the face of the sign and is perceived as a design element of the sign.

Sign, Marquee. A sign attached to or mounted on a marquee.

Sign, Menu-Board. An accessory sign providing items and prices associated with a drive-thru window.

Sign, Monument. A freestanding sign where the base of the sign structure is on the ground or a maximum of 12 inches above the adjacent grade. The width of the top of the sign structure can be no less than 90 and no more than 120 percent of the width of the base.

Sign, Neon. A sign containing glass tube lighting in which a gas and phosphors are used in combination to create a colored light.

Sign, Nonconforming. A sign lawfully erected and maintained before the effective date of the Zoning Ordinance that does not conform with the requirements of the Zoning Ordinance.

Sign, Off-Premise. A sign that directs attention to a business, commodity, service, or entertainment not exclusively related to the premises where such a sign is located or to which it is affixed.

Sign, On-Premise. Any sign identifying or advertising a business, person, activity, goods, services, or products, located on the premises where the sign is installed and maintained.

Sign, Permanent Business. Any Business Identification Sign, Business Information Sign or Business Merchandise Sign not a Temporary Business Sign that is intended for permanent use and for which a Sign Permit is required under Section 1725.06.

Sign, Pole. A sign that is mounted on a freestanding pole(s) or other support so that the bottom edge of the sign face is six feet or more above the grade. Also called a pylon sign.

Sign, Political. A sign attracting attention to political candidates or issues, expressing support for a candidate for public office or another position regarding a public figure or issue, but bearing no commercial message.

Sign, Portable. Any sign not permanently attached to the ground or other permanent structure or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs made as A-frames or T-frames; and balloons used as signs.

Sign, Post and Panel. A sign consisting of one or more panels which are supported between two posts and which is permanently placed in the ground.

Sign, Projecting. Any sign attached to a building wall and extending laterally more than 18 inches from the face of such wall.

Sign, Public Information. Any sign erected and maintained by public officials or public agencies, or approved and authorized for use by state or local government authorities.

Sign, Real Estate. A sign advertising real property for sale or for lease.

Sign, Roof. A sign erected, constructed, and maintained above the eaves of a building.

Sign, Sandwich Board. A sign not permanently attached to the ground or some type of permanent structure; a sign connected to or located on A or T frames; a two-sided sign attached to boards.

Sign, Shingle. A sign suspended from and located entirely under a covered porch, covered walkway or awning.

Sign, Special Purpose. A sign advertising or announcing a special community wide event or activity conducted by, or sponsored by, or on behalf of a unit of local government, a charitable organization, or a nonprofit corporation. For purposes of this term, a special community wide event or activity is one that occurs not more than twice in any 12-month period and seeks to attract donations, participants, or customers throughout the Town.

Sign, Suspended. A sign that is suspended from the underside of a horizontal plane surface and supported by such surface.

Sign, Temporary Business. Any Business Identification Sign, Business Information Sign or Business Merchandise Sign not a Permanent Business Sign that is used only temporarily and is not permanently mounted for which a Sign Permit is required under Section 1725.05.

Sign, Traffic. A sign indicating federal, state, or municipal regulations for automobile, truck, bicycle or pedestrian movement.

Sign, V-Type. For purposes of computing surface area, is two separate signs if the angle between the two outer surfaces is less than 60 degrees; otherwise the wings shall be considered one sign.

Sign, Wall. Any sign painted on or attached to and extending not more than six inches from an exterior wall in a parallel manner.

Sign, Window. Any sign that is visible to the public right of way through the glassed areas of a building including numbering, lettering, or writing, pictorial representation, emblem, flag, or any other figure of similar character. The window area covered by signage shall not exceed 25 percent of the total window square footage, but may be increased to 50 percent of the total window square footage if there are no wall signs on the premises.

Signplate, Building. A sign indicating the name and address of a building, or the name of an occupant thereof, and the practice of a permitted occupation therein.

Site. A lot, tract or parcel of land considered as one land-unit for purposes of the Zoning Ordinance. For a single family residence, the site shall be the subdivided lot on which it is located. For multi-family projects, the site shall be all land occupied by the buildings in the project and adjoining such property and under common ownership with it. For vacant land, the site shall be all of the adjoining vacant land under single ownership. For single-occupancy, non-residential properties, the site shall be the subdivided lot that is occupied. For multiple-occupancy properties, the site shall be all land included under the original "site plan" or "subdivision plan" approval.

Site Plan. A plan depicting the proposed development of a property, in terms of the location, scale and configuration of buildings and other features containing all the required information under the site plan review section of the Zoning Ordinance.

Specified Anatomical Areas. (1) Less than completely and opaquely covered human genitals, pubic region, buttocks, or female breast below a point immediately above the top of the areola; or (2) human male genitals in a discernable turgid state, even if completely or opaquely covered.

Specified Sexual Activities. (1) Human genitals in a state of sexual stimulation or arousal; (2) acts of human masturbation, sexual intercourse or sodomy; or (3) fondling, erotic display or erotic touching of human genitals, pubic region, buttocks or breasts, even if completely and opaquely covered.

Speech, Commercial. Speech or graphics advertising a business, profession, commodity, service or entertainment

Stacking Lane. An area for temporary queuing of motor vehicles.

Standards for Project Sites. Rules or regulations pertaining to the proposed construction, alteration, renovation, rehabilitation, demolition, or reconstruction of a new or existing Building or Structure, as adopted by the Town Council and amended from time to time.

Standards and Guidelines, Historic District. Rules or regulations pertaining to the proposed construction, alteration, renovation, rehabilitation, demolition, or reconstruction of a new or existing Building or Structure within an Historic District in order to preserve or harmonize with the Historic Sites or Historic Structures within the Historic District.

Standards and Guidelines, Outdoor Lighting. Rules or regulations pertaining to exterior lighting.

State Historic Preservation Office (SHPO). The subdivision of the West Virginia Division of Culture and History charged with the administration of federal and state laws, rules and regulations applicable to historic sites or properties, historic landmarks and historic districts or real properties, structures, buildings and other improvements that are eligible to become historic sites, historic landmarks and historic designations based on the Secretary of the Interior's Standards.

Storage Building, Detached. An accessory structure used for the storage of materials or equipment outside of a principal structure on a lot.

Storage, Enclosed. Storage that is completely screened from view by walls and a roof.

Storage Facility, Indoor Self. A structure containing separate, individual and private storage spaces of varying sizes that are leased or rented by individual lease for varying periods of time, with the use contained within one building and the storage bays accessed primarily from the interior of the building.

Storage, Facility, Mini. One or more structures containing separate, individual and private storage spaces of varying sizes leased or rented by individual leases for varying periods of time, with the use contained in one or more buildings with the storage bays accessed primarily from the exterior of the building or buildings.

Stormwater Detention. Any storm drainage technique that retards or detains runoff, such as a detention or retention basin, parking lot storage, rooftop storage, porous pavement, dry wells or any combination thereof.

Stormwater Management. The use of any technique, apparatus, or facility that control or manages the path, storage, or rate of release of storm water runoff. Such facilities may include storm sewers, retention or detention basins, drainage channels, drainage swales, inlet or outlet structures, or other similar facilities.

Story. That portion of a building above ground level at the building line that is between the floors, except that the top story shall be that portion of a building included between the upper surface of the top floor and the ceiling or roof above.

Street. A way designated or intended for general public use, open to vehicular and pedestrian travel.

Street, Arterial. A street designated for large volumes of traffic movement. Certain arterial streets may be classed as limited access highways to which entrances and exits are provided only at controlled intersections and access is denied to abutting properties.

Street, Collector. A street which primarily collects traffic from local streets and feeds it to the arterial network. Collector streets provide circulation within neighborhood areas.

Street, Cul-de-sac. A street with a single common ingress and egress and with a turnaround at the end.

Street, Dead-end. A local street open at one end only and without a special provision for vehicles turning around.

Street Frontage. The distance for which a lot line adjoins a public or private street from one lot line intersecting said street to the furthest lot line intersecting the same street.

Street, Frontage Road. A minor street, parallel to and adjacent to an arterial street, whose primary purpose is providing access to properties that abut it.

Street, half: A street where the full cross section, curb to curb, is constructed in more than one phase.

Street, local: A minor street which collects and distributes traffic between parcels of land and collector or arterial streets, with the principal purpose to provide access to abutting property.

Street, major: A primary or secondary arterial roadway as designated on the official community plan or as designated by the Town of Harpers Ferry.

Street, Paper. A public right-of-way platted as a street on the Howell Brown map of Harpers Ferry dated 26 April 1869 which has not been subsequently improved by the Town for vehicular access and which has not been ceded to the US Government as part of the National Park.

Street, public: Any pre-existing county roadway heretofore annexed by the Town of Harpers Ferry, and which forms a part of the Town by reason of such annexation, or any street or road granted to and accepted by the Town Council of the Town of Harpers Ferry.

Street Private. Any road or street that is not publicly owned and maintained and used for access by the occupants of the development, their guests, and the general public.

Street, Residential. A street used primarily for access to properties that abut it, usually residential.

Structure. Anything constructed or erected for use, occupancy or ornamentation whether installed on, above or below the surface of land or water that requires the location on the ground or that is attached to something having location on the ground, excluding vehicles designed and used only for the transportation of people or goods, and excluding utility poles and towers constructed by a public utility and surface treatments such as

parking lots, patios and driveways. A Structure does not include such things as garden ornaments or other non-permanent objects. Structure shall include a Building.

Structure, Accessory. A subordinate structure, such as a garage, a shed, a storage building, a swimming pool or any other structure detached from but located on the same lot as a principal structure and ordinarily used only by the owner or occupant of the principal structure and not as a residence. The use of a subordinate structure must be accessory or complimentary to the use of the principal structure. An accessory structure having any part of a wall in common with a Dwelling Unit is considered part of the main building.

Structure, Detached. A structure with no vertical common or party wall with another structure.

Structure, Nonconforming. A structure that legally existed before the adoption date of the Zoning Ordinance, but which is not in compliance with the requirements of the Zoning Ordinance for the district in which the structure is located.

Structure, Principal. A building in which is conducted the principal use of the lot on which it is located.

Subdivision. The division of a lot, tract or parcel of land into two or more lots, tracts or parcels, or the recombination of existing lots, tracts or parcels of land.

Subdivider (developer): Any person, firm, corporation partnership or any other entity acting as a unit, subdividing or proposing to subdivide land.

Subdivision Regulations. The Subdivision Regulations of the Town, if any, when adopted by the Town, and as amended from time to time.

Substantial Damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the fair market value of the structure before the damage occurred.

Substantial Improvement. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. Includes structures that have incurred "substantial damage" regardless of the actual repair work performed. The term does not, however, include either: (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and that are the minimum necessary to assure safe living conditions, or (2) any alteration of a Historic Structure, provided that the alteration will not preclude the Historic Structure's continued designation as a Historic Structure.

Telecommunications Antenna. Any structure or device used to collect or radiate electromagnetic waves, including both directional antennas, such as panels, microwave dishes and satellite dishes and omnidirectional antennas, such as whips, at frequencies on the electromagnetic spectrum as the Federal Communications Commission from time to time may designate, used for cellular telecommunications service and/or personal communications service, but not

including such structures or devices when used for the broadcast of television or AM/FM radio stations or for citizen's band or amateur radio use. Examples of cellular telecommunications or personal communications service include, but are not limited to, cellular telephone, paging, public safety, data transmission, Specialized Mobile Radio, Enhanced Specialized Mobile Radio, and other commercial private radio services.

Telecommunications Facility, Class I. Class I telecommunications facilities shall include but are not limited to such facilities as television antennas, ham radio antennas, AM/FM reception. No Class I facility may be utilized for cell phone reception.

Telecommunications Facility, Class II. Class II telecommunications facilities shall include but are not limited to such facilities as antennae and associated electronic equipment designed expressly for use by cell phone companies, as regulated under the Federal Telecommunication Act of 1996, that is not intended to be supported by or attached to a new telecommunications tower, as defined.

Telecommunications Facility, Class III. Class III telecommunications facilities shall include but are not limited to such facilities as antennae and associated electronic equipment that is supported by or attached to a new telecommunications tower, as defined herein, and is designed expressly for use by cell phone companies, as regulated under the Federal Telecommunications Act of 1996.

Telecommunications Facility. A lot, tract, or parcel of land or a portion thereof that contains a telecommunications antenna, its support structure, any accessory buildings, and parking, and may include other uses associated with and ancillary to telecommunications transmission.

Telecommunications, Satellite Dish Antenna. Any privately-owned, round, parabolic antenna measuring less than 30 inches in diameter intended to receive signals from orbiting satellites and other sources.

Telecommunications Tower. Any structure that is designated and constructed primarily for the purpose of supporting one or more telecommunication antennas. This includes guyed towers, lattice towers, monopoles, alternative cellular antenna tower structures, and towers taller than 15 feet constructed on the top of another building, along with any separate building on the lot used to house any supporting electronic equipment.

Telecommunications Tower, Alternative Structure. Towers designed with alternative design structures such as clock towers, artificial trees and similar non-traditional structures that are compatible with the surroundings and camouflage or partially conceal the presence of telecommunications towers. Antennae erected on alternative structures such as ball field light poles, electric utility poles, water towers and similar existing structures.

Telecommunications Towers, Co-location of. Locating one or more telecommunication antennas for more than one provider on a single telecommunication tower or alternative tower structure on a single lot.

Town. The municipal Corporation of Harpers Ferry.

Traffic Impact Analysis. A formal analysis prepared by a certified traffic engineer or transportation planner, on the effect of traffic generated by a

development on the capacity, operations, and safety of the public street and highway system.

Tree. A plant having at least one well-defined stem or trunk and normally attaining a mature height of at least 15 feet, with an average mature spread of 15 feet, and having a trunk that shall be kept clear of leaves and branches at least 6 feet above grade at maturity

Tree, Public. Any tree located on Town-owned or controlled property including parks, street right-of-ways, parkways, etc.

Use. Any purpose for which a building or other structure of a tract of land may be maintained or occupied; or any activity, occupation, business, or operation carried on in a building or other structure or on a tract of land.

Use, Accessory. A land use that is (1) customary and incidental to the principal use located on the same lot or parcel; (2) subordinate in area, extent and purpose to the principal use; (3) contributes to the comfort, convenience, or necessity of the principal use; and (4) is located on the same lot or parcel and in the same zoning district as the principal use.

Use, Conditional. A land use which because of special requirements or characteristics may be permitted in a particular zoning district only upon showing that such use in a specified location will comply with and conform to all the conditions and standards for the location or operation of such use as specified in the Zoning Ordinance and authorized by the Board of Zoning Appeals.

Use, Existing. The use of a lot or structure at the time the Zoning Ordinance was enacted.

Use, Nonconforming. Any existing use of a property, Building or Structure that does not conform with the current Zoning Ordinance that lawfully existed before the effective date of the current Zoning Ordinance and that has not been abandoned.

Use, Permitted. A use permitted in a district "by right", upon satisfaction of the standards and requirements of the Zoning Ordinance.

Use, Principal. The primary use of any lot under the Zoning Ordinance.

Use, Public. A use by an agency or department of the Town, county, state, or federal government. This shall also include public utilities or uses by any organization that receives funding either all or in part from any agency or department of the Town, county, state, or federal government. This shall also include buildings and premises used in the operation of the public use.

Variance. Upon a finding of Unnecessary Hardship, a deviation from the minimum standards of the Zoning Ordinance, the Land Development Ordinance or the Subdivision Ordinance, as the case may be, that does not involve permitting land uses that, in the instance of the Zoning Ordinance, are otherwise prohibited in the zoning district, or involve changing the zoning classification of a Lot or parcel, or, in the instance of the Land Development Ordinance or the Subdivision Ordinance, involve changing those ordinances.

Viewshed. The area within view from a defined observation point.

Wall, Exterior. A vertical, structural component of a Building or Structure that encloses habitable or usable space; a parapet extending not more than 12 inches above a flat roof shall be considered part of the exterior wall for purposes of determining signage.

Warehouse. Facilities characterized by extensive warehousing, frequent heavy trucking activity, open storage of material, or nuisances such as dust, noise and odors, but not involved in manufacturing or production.

Warehousing and Distribution. Establishments involved in storing, stocking or distributing of merchandise or commodities.

Wholesale Establishment. A Structure, Building or Site for the sale of commodities to retailers or jobbers and which shall include the sale of commodities for the purpose of carrying on any trade or business even if the said trade or business is the consumer or end user of the commodity.

Yard Sale: See Garage Sale

Zoning Map. The map of the Town on which is depicted one or more classifications or zones under the Zoning Ordinance, including overlays, enacted August 8, 1977, as amended by the Town Council from time to time.

Zoning Ordinance. The zoning ordinance of the Town, enacted August 8, 1977, as amended by the Town Council from time to time.

ARTICLE 1303

Establishment of Zoning Districts and Zoning Map

1303.01 Zoning Districts.

1303.02 Zoning Map.

1303.01 Zoning Districts.

For the purpose of carrying out the provisions of this Part 13 Zoning and Subdivision Code, the incorporated area of the Town of Harpers Ferry is hereby divided into two underlying (or base) zoning classifications as set forth in this Article, and as marked on the official zoning map certified by Town Council and consistent with the Comprehensive Plan. The rights-of-way, both used and unused, are publically owned and carry the least intensive zoning of the abutting properties along each block.

1303.02 Zoning Map.

The zoning classification for all lots is established on a map entitled "The Zoning Map of the Corporation of Harpers Ferry" certified by Town Council, dated and on display in Town Hall. The Zoning Map, including all explanatory matter thereon, is made a part of the Zoning Ordinance.

ARTICLE 1304
Residential District; Uses

1304.01 Designation of Residential District.

1304.02 Uses allowed.

1304.01 Designation of Residential District.

Residential zoning classification (R) is intended to provide neighborhoods and living accommodations to residents, businesses and visitors in a manner consistent with the goals of the Comprehensive Plan. All of the incorporated areas of the Corporation not otherwise designated are hereby declared to be included in a Residential District.

1304.02 Uses allowed.

- (a) Permitted uses:
- (1) One single-family dwelling unit per lot but excluding tents, cabins and trailers or mobile homes, except that not more than one trailer or mobile home may be temporarily used as a residence on a lot while a dwelling is being constructed thereon, but such excluded use shall not be continued for more than one year; provided, that if an existing lot is later subdivided after the effective date of this section, this section shall continue to apply to such lot without regard to such subdivisions and for purposes of applying this section, the permitted use allowed herein shall apply to the entire existing lot as though such lot was never subdivided.
 - (2) Bed and Breakfast, provided it is owner-occupied, with (a) no more than four bedrooms for use by guests of which one bedroom may be in an accessory structure, (b) no more than 8 guests at one time, and (c) no more than 3 guests to a bedroom also provided that at least one off-street parking space is available for every 2 occupied bedrooms.
 - (3) Any Home-Based Business, provided it is: (a) maintained by the resident and having no more than one non-resident employee or daily worker on site, (b) does not require any extension or external modification of the dwelling, or accessory building(s), and (c) does not involve any outward evidence of such use other than one sign that otherwise complies with Article 1725 Signs, Billboards and Advertising.
- (b) Conditional uses when authorized as a special exception by the Board of Zoning Appeals and under such conditions as it may determine will not be detrimental to other permitted uses in the District or to abutting lots in a Residential District:
- (1) Religious Institution, Education Facility, public Library, public Museum, Community Center, fire station, Association hall, publicly-owned Park, or publicly-owned playground provided that such use is consistent with the residential nature of the neighborhood.
 - (2) Residential Care Facility, provided it is owner-occupied, with (a) no more than 4 bedrooms for use by residents of which one bedroom may be in an accessory structure, (b) no more than 8 residents at one time, and (c) no more than two resident guests to a bedroom, provided that such use is consistent with the residential nature of the neighborhood and follows the constraints of a Home-Based Business and provided that at least

one off-street parking space is available for every 2 occupied bedrooms.

- (3) Hostel, provided it is owner-occupied, with (a) no more than four bedrooms for use by guests of which one bedroom may be in an accessory structure, (b) no more than eight guests at one time, and (c) no more than three guests to a bedroom provided that at least one off-street parking space is available for every 2 occupied bedrooms. Temporary outdoor facilities (e.g., tents, trailers, etc.) are not allowed.

ARTICLE 1305
Business District; Uses

1305.01 Designation of Business District.

1305.02 Uses allowed.

1305.01 Designation of Business District.

Business zoning classification (B) is intended to provide goods and services to residents, businesses and visitors in a manner consistent with the goals of the Comprehensive Plan. All lots designated as business zoning on the official zoning map certified by Town Council are hereby declared to be included in a Business District.

1305.02 Uses allowed.

(a) Permitted uses:

- (1) Any Residential District permitted use.
- (2) Restaurant, provided any such structure shall be at least 25 feet from any abutting lot in a Residential District.
- (3) Retail Sales Establishment Personal Services Establishment or other Professional Services Establishment.
- (4) Dwelling Unit or Units over a permitted business establishment.

(b) Conditional uses when authorized as a special exception by the Board of Zoning Appeals and under such conditions as it may determine will not be detrimental to other permitted uses in the Business District or to abutting lots in a Residential District:

- (1) Any Residential District conditional use.
- (2) Apartment house, Hotel, Office Building, Association hall, Parking Lot (Commercial, Restricted Accessory, and Public) or Public Garage.
- (3) Small Recreational Facilities provided any such facility shall be at least 25 feet from any abutting lot in a Residential District.

ARTICLE 1306
Overlay Districts

1306.01 Purpose; Relation to Base Zoning

1306.02 Creation of Historic Districts

1306.03 Historic Overlay District

1306.01 Purpose; Relation to Base Zoning.

- (a) Purpose. The purpose of overlay zoning districts is to allow the Town to establish special land use regulations, standards, or procedures in areas with unique land use, site planning, building design, or environmental resource issues. Overlay zoning districts are also an appropriate mechanism to implement long-term goals and land use requirements of the Town for a specific property, location, or to coordinate land use and design requirements unique to a large tract of land. Overlay zoning districts are intended to be applied only where special circumstances justify the modification of base zoning district regulations to achieve specific land use and design objectives.
- (b) Overlay zoning districts are established through rezoning, and only in conjunction with base zoning districts. Letters, numbers, or a combination thereof, shall be combined with other applicable district designations to the property or properties on which an overlay district is established. Except as modified by the overlay zoning district, the provisions of the applicable base zoning district shall apply to all development within the boundary of the designated area. If regulations conflict, the applicable overlay zoning district regulations shall prevail.
- (c) Whenever an overlay zoning district is established, any subsequent application to change the base zoning district shall not be construed to be an application to eliminate the overlay zoning district for the parcel covered by the application. An intent to eliminate the overlay zoning district on a given parcel shall be expressly stated to be part of the application.
- (d) In addition to the conventional zoning districts established by this ordinance, the following overlay zones or districts are hereby established:
 - 1. Historic District Overlay (HD)
 - 2. Promontory Overlay (PO) [reserved]

1306.02 Creation of Historic Districts.

- (a) Power to Designate Districts. For the purposes of this Section 1306.01 the Town Council, upon the recommendation of the Planning Commission, or the Historic Landmarks Commission, as the case may be, may establish, change, lay out, and define historic districts that are of local, state or national historic or architectural significance. Such Historic Districts may include structures, archaeological sites, lots, tracts of land, as well as portions thereof.

- (b) Local Register Historic Districts. In furtherance of its powers under Section 131.08, the Historic Landmarks Commission is granted the power to designate and maintain a register of historic districts. The local register may list buildings, districts or sites in three ways. Properties may be listed to honor their significance, to be subject to a temporary stay of demolition, or to be subject to design review. All such districts are recorded on the official Zoning Map and applications for new construction, alteration, reconstruction, relocation or demolition may be subject to design review by the Board of Zoning Appeals.

1306.03 Historic Overlay District (HD)

- (a) Purpose. In harmony with the Comprehensive Plan, the Town recognizes that the preservation of historic character and architecture is primary to the safeguarding of the cultural, social, religious and economic heritage of the Harpers Ferry Historic District.

In 1979, the Town was designated as a Historic District in the National Register of Historic Places as the Harpers Ferry Historic District. In 2010, the Harpers Ferry Historic District was supplemented. The registration recognizes those resources that contribute to the cultural, social, economic, political and architectural history of the town.

It is the purpose of the Historic Overlay District (HD) to achieve the preservation of historic buildings, structures and sites throughout the Town by providing additional safeguards and land use regulations in addition to the requirements of the base zoning district and the design review powers of the Board of Zoning Appeals upon the advice or recommendations of the Historic Landmarks Commission and to regulate the construction of non-historic buildings, structures and sites throughout the Town in order to:

1. Protect the heritage of the historic sites by preserving the cultural, social, economic, political, architectural or archaeological history;
2. Foster urban and civic beauty;
3. Promote the preservation, and where permitted and appropriate, the use of historic districts for the education, welfare, and pleasure of the residents of the Town and the region; and
4. Strengthen the local economy.

The Standards and Guidelines (incorporated in these ordinances as Appendix A of this Part) for the Historic District Overlay are largely based on the United States Secretary of the Interior's Standards for Rehabilitation and Guidelines for rehabilitating historic Buildings. The Standards and Guidelines also apply to new construction, additions and the alteration of any contributing or non-contributing building or structure.

The Historic District is architecturally diverse within an overall pattern of harmony and continuity. It is not the intent of historic preservation efforts to discourage or stifle creative modern design,

but to encourage construction to be compatible with the Town's overall development pattern. The standards and guidelines for new construction, additions and renovations and rehabilitations within Harpers Ferry encourage architectural innovation and establish continuity within the existing character of development.

- (b) The Historic District Overlay is hereby established as a district that overlays all existing zoning districts or zones within the Town, the extent and boundaries of which are as indicated on the Zoning Map and are identical to those of the Historic District as listed in the National Register of Historic Places.
- (c) Construction, Alteration etc. in the Historic District Overlay. Before the construction, alteration, reconstruction, relocation or demolition of any building or structure within the Historic District Overlay and before any changes take place that would affect either the exterior appearance of a structure or a building or the character of its related environment within the Historic District Overlay, the person proposing to make the changes shall file with the Planning Commission an application for permission to build, alter, reconstruct, relocate or demolish in accordance with the Historic District Standards and Guidelines. Every such application for an authorization or a permit shall be referred to and considered by the Ordinance Compliance Officer or the Mayor's designee, the Planning Commission or the Board of Zoning Appeals as set forth in the Historic District Standards and Guidelines.
- (d) Conflict. The Overlay and the Standards and Guidelines are intended to identify, study, preserve and protect historic buildings, structures, sites and districts within the boundaries of the Historic District Overlay. Such buildings, structures, sites and districts also are subject to the regulations for the base zoning district in which they are located as shown on the Zoning Map. If there is a conflict between the requirements of the base zoning district and the requirements of the Historic District Overlay, the requirements of the Historic District Overlay shall prevail.

ARTICLE 1307
General Zoning Regulations

1307.01 General performance standards.

1307.02 Temporary use regulations.

1307.01 General performance standards.

All uses allowed in this Ordinance must not be noxious, dangerous or offensive by reason of emission of dust, odor, smoke, gas, noise, heat, fumes, flame or vibration, excessive skyglow or light pollution, or otherwise constitute a nuisance to the occupants of nearby properties as described in Part Five and Article 1109 of these ordinances.

1307.02 Temporary use regulations.

Use of a construction office may be requested in the Project Permit Application for the construction, reconstruction, alteration, enlargement, demolition, or relocation of a Building, with the duration of the use to be set by the Planning Commission.

ARTICLE 1311
Site Development Standards

- 1311.01 Purpose.
- 1311.02 Setback, height limit, footprint, lot coverage and building orientation.
- 1311.03 Off-street parking.
- 1311.04 RESERVED
- 1311.05 Stormwater management.
- 1311.06 Undergrounding of utilities for new construction.

1311.01 Purpose.

The purpose of this Article is to establish standards for land uses, and for providing standards for certain appurtenances including parking and stormwater management.

1311.02 Setback, height limit, footprint, lot coverage and building orientation.

- (a) Setbacks. Buildings, structures, and other improvements shall be placed or erected upon a lot as follows:
 - (1) The front setback from an abutting street, as measured from the property line abutting the street, shall be:
 - A. Consistent with the setbacks of a majority of historic buildings on the block and across the street.
 - B. On a transitional site between distinctive areas of setback, such as between buildings that are Contributing Resources and those buildings which are not, the setback should defer to that of the Contributing Resource.
 - C. In all other cases, the minimum front setback shall be 15 feet.
 - (2) Rear setback shall be a minimum of 15 feet.
 - (3) Side setback shall be a minimum of 10 feet.
- (b) Footprint and lot coverage.
 - (1) Provided that the total lot coverage of all structures is within the Buildable Area and does not exceed 50% of the lot, the maximum footprints in residential areas are as follows:
 - A. A main dwelling unit may not have a footprint exceeding 1600 square feet plus up to 500 square feet for a single story attached garage;
 - B. The total footprint of all accessory buildings may not exceed 250 square feet unless these include a detached single story garage where a total of 550 square feet is allowed;
 - C. The total coverage of all parking and driveway areas on the lot may not exceed 1000 square feet.
 - (2) Greater lot coverage within the Buildable Area, not to exceed 60% of the lot, may be approved by the Board of Zoning Appeals after application for a Conditional Use but footprints shall not exceed the following:
 - A. A main dwelling unit may not have a footprint exceeding 2300 square feet;
 - B. The total footprint of all accessory buildings may not exceed 750 square feet;
 - C. The total coverage of all parking and driveway areas on the lot may not exceed 1400 square feet.
- (c) Height limit. Except as otherwise specified in this Part 13, the

maximum building height shall be 35 feet or within 10 percent of the average building height of abutting residences that are clearly visible from the street or public way directly in front of the building in question.

- (d) Building orientation. The preferred orientation of primary structures is with the front entrance facing the street. In the case of a corner lot, the preferred orientation of primary structure is with the front entrance facing the primary street.

1311.03 Off-street parking.

Single family dwelling units, where feasible and in accordance with historic preservation goals, shall provide 2 off-street parking spaces located on a Buildable Area of the lot.

1311.04 Reserved

1311.05 Stormwater management.

The requirements and approval process for stormwater management are set forth in Article 1723.

1311.06 Undergrounding of utilities for new construction.

New construction must comply with undergrounding of utilities in accordance with Part Nine, Article 911.

ARTICLE 1312
Signs

The requirements and approval process for all signs, billboards and advertising are set forth in Article 1725.

ARTICLE 1313
Nonconforming Provisions

- 1313.01 Nonconformities.**
- 1313.02 General regulations.**
- 1313.03 Mitigation of Nonconforming Uses.**

1313.01 Nonconformities.

- (a) *Types.* There are four types of nonconformities within this Ordinance.
 - (1) *Nonconforming Uses.* As defined.
 - (2) *Nonconforming buildings or structures.* Buildings or Structures that fail to meet the setback, height, parking, or other measurable requirements of this Zoning Ordinance are nonconforming.
 - (3) *Nonconforming lots.* A Lot is Nonconforming if it has:
 - A. Less than 5,000 square feet of Buildable Area within the lot lines, or
 - B. Less than 30 feet of street frontage as measured along the front setback line between the two side setback lines, or
 - C. Less than 60 feet along the shortest side setback line between the front and rear setback lines.Lots which do not meet lot area or dimensional standards may be curable nonconformities if a land owner owns one or more unimproved adjoining lots. Upon a Resubdivision or conditional Resubdivision, a building project may span two or more lots to achieve the conforming conditions of this subsection.
 - (4) *Nonconforming signs.* Signs that do not comply with the applicable standards of Article 1725, are nonconforming.
- (b) *Legal nonconformity and illegality distinguished.* A use, building, structure, sign or lot that was in conformance with all laws in place at that time it was built or created is a legal nonconformity. Any other Nonconforming Use, structure, sign, or lot is an illegal nonconformity subject to Article 1320.04. All nonconformities in existence before 10 June 2010 are legal nonconformities. Other legal nonconformities may have been created since that date whenever the relevant element of this Part 13 - Zoning (Articles 1303 through 1307) of the ordinances has been amended.

1313.02 General regulations.

- (a) *Change or conversion of Nonconforming Use or signage.*
 - (1) *Land use.* A Nonconforming Use shall not be changed to any other Nonconforming Use unless mitigated in accordance with Section 1313.03 - Mitigation of Nonconforming Uses.
 - (2) *Signage.* No nonconforming sign may be replaced with another nonconforming sign.
- (b) *Abandonment or discontinuance of a nonconforming use.*
 - (1) *Presumption of Abandonment.* Abandonment will be presumed unless the owner of the property can show that the Use has not been abandoned. For Uses that require a business license and payment of Business and Occupation (B&O) or sales tax, the necessary proof of continued Use will be a valid license and a proper submission of an official business income tax return for the period in question.
 - (2) *Future Use.* If the property is Abandoned, then any future use of the land, buildings or structures must conform with the

provisions of the zoning ordinance regulating the use where the land, buildings or structures are located.

- (c) *Alteration, enlargement, or extension of a Nonconforming Use.*
 - (1) *Repairs and alterations.*
 - A. Normal maintenance of a nonconforming building or structure, or of a conforming building or structure containing a Nonconforming Use, including necessary repairs and incidental alterations which do not extend the Nonconforming Use is permitted.
 - B. No structural alteration shall be made in any structure containing a Nonconforming Use, except in the following situations:
 - 1. The alteration is required by law;
 - 2. The alteration will result in eliminating the Nonconforming Use or nonconforming structure; or
 - 3. A building that is located in a Residential District and which contains residential Nonconforming Uses may be altered to improve livability, provided no structural alteration shall be made which would enlarge the building or change its external appearance visible from a public way.
 - (2) *Enlargement or extension of a Nonconforming Use.*
 - A. No structure containing any Nonconforming Use shall be enlarged.
 - B. No Nonconforming Use may be enlarged or extended in such a way as to occupy any conforming uses in the same building or on the same parcel, or to occupy any required usable open space or any land beyond the boundaries of the property or lot as it existed on the effective date of this Ordinance.
- (d) *Nonconforming lot.* A lot which is nonconforming under Section 1313.01(a)(3) with respect to area, lot width, or frontage may be built upon if:
 - (1) The lot has street frontage adequate for access; and
 - (2) All setback or height standards can be complied with, except that the Ordinance Compliance Officer or Mayor's designee may authorize a reduction in setbacks of up to a 10 percent reduction of the minimum. Less than 10 percent may be ordered if the Ordinance Compliance Officer or Mayor's designee finds that the building would be larger than could be built on a conforming lot; and;
 - (3) The owner of the nonconforming lot does not own an adjoining lot that, if combined in part or in whole, would render the lot conforming.
- (e) *Nonconforming building or structure.* Buildings or structures that have a nonconformity shall not be altered or expanded in a manner which increases the degree of nonconformity. For example, if an existing building is within a setback area, the building may not be expanded further into the required setback area.

1313.03 Mitigation of Nonconforming Uses.

- (a) *Purpose.* Many Nonconforming Uses that have existed for a long period of time have become an integral part of a neighborhood's character and function. It is possible that, with appropriate mitigation, a long time Nonconforming Use may be made conforming to meet an important purpose of the zoning ordinance to preserve the overall historical

integrity of neighborhoods. The provisions of this section establish procedures for bringing a nonconformity into conformance.

- (b) *Procedure.* An owner of a Nonconforming Use may apply to the Board of Zoning Appeals for a Conditional Use Permit for mitigation.
- (c) *Board of Zoning Appeals criteria for removing nonconforming status of an existing use.* In addition to the criteria for approval of a Conditional Use Permit in Article 1317, the Board of Zoning Appeals shall find that the applicant meets the following requirements:
 - (1) *Integration into neighborhood.* The use, as conducted and managed, has minimal nonconformities and is integrated into the neighborhood's function. Evaluation criteria may include:
 - A. Regular patronage by neighborhood residents or employment of neighborhood residents in performing the use.
 - B. Screening of equipment and material not normally found in a residential neighborhood.
 - C. Elimination of nuisances such as noise, light, waste materials, congested on-street parking, or similar conflicts (including any previously registered complaints about the use) through appropriate management practices.
 - (2) *Conditions.* The Board of Zoning Appeals shall review the Conditional Use Permit application and recommend, in writing, any conditions relative to the expansion of setbacks, landscaping, or other site design provisions. The review may also contain use limitations necessary to address any concerns that, as a Conforming Use, the Use may become a nuisance.
 - (3) *Incorporation of nonconformities.* The Board of Zoning Appeals shall list all the property's nonconforming conditions and incorporate them into the Conditional Use Permit as permitted conditions.
 - (4) *Findings.* The Board of Zoning Appeals shall determine that the use is generally integrated into the neighborhood and has minimal adverse impacts. Upon that finding, the Board may attach conditions, as it deems necessary, to protect the health, safety, and general welfare of the public and surrounding property owners. Such conditions may relate to the lot, buildings, structures, or operation of the use.
- (d) *Effect.* Upon granting a Conditional Use Permit and compliance with any conditions placed on it, the Board of Zoning Appeals shall have a notation placed on the Zoning Map stating that the property has a Conditional Use Permit and the application case number and date thereof. Granting a Conditional Use Permit makes the use, building, or structure conform to the specifics of the conditional approval, thereby eliminating the nonconformity.

ARTICLE 1314
Administrative Actions

- 1314.01 Authority for Administrative Approvals**
- 1314.02 Administrative Interpretations**
- 1314.03 Application and Appeal Procedure**
- 1314.04 Parties Entitled to Seek Interpretations**

1314.01 Authority for Administrative Approvals

The Ordinance Compliance Officer or Mayor's designee may be authorized by the Mayor and the relevant Commission or Board to grant permits under this Ordinance as well as minor deviations to adopted standards only provided that such powers are authorized by this ordinance or in writing by the relevant review body and approved by Town Council by resolution. Such authorization shall contain clear guidelines on the scope of such authorities.

1314.02 Administrative Interpretations

- (a) Powers. The **Ordinance Compliance Officer or Mayor's designee**, subject to the procedures, standards, and limitations of this Article, may
 - (1) render written interpretations, including use interpretations, of the provisions of the Zoning Ordinance, and of any rule or regulations issued pursuant to it, including the Historic District Standards and Guidelines of Appendix A, and of any rule or regulations issued pursuant to it.
 - (2) forward requests for interpretations to the Board of Zoning Appeals, when the proposed use is not sufficiently similar to a use explicitly listed as a permitted or conditional use under the Zoning Ordinance, including the Historic District Standards and Guidelines explicitly listed in Appendix A.
- (b) Purpose. The interpretation authority established by this article recognizes that the provisions of this ordinance, though detailed and extensive, cannot, as a practical matter, address every specific situation to which they may have to be applied. In particular, certain categories of uses are listed as either Permitted or Conditional Uses, but certain specific proposed uses may not clearly fall within the common meaning of any of the listed uses. Many such situations can be readily addressed by an interpretation of the specific provisions of this ordinance in light of the general and specific purposes for which those provisions have been enacted. Because the interpretation authority established is an administrative rather than a legislative authority, an interpretation shall not have the effect of adding to or changing the essential content of this ordinance, but is intended only to allow authoritative application of that content to specific cases.
- (c) Standards for Use Interpretations. The following standards shall govern the Ordinance Compliance Officer or Mayor's designee and the Board of Zoning Appeals in issuing use interpretations:
 - (1) Any listed use defined in Section 1302, Words, Terms and Phrases or terms defined in the Historic District Standards and Guidelines shall be interpreted as therein defined;

- (2) No use interpretation shall authorize any use in any district unless evidence is presented demonstrating that it will comply with the general district regulations established for that particular district.
- (3) No use interpretation shall authorize any use in a particular district unless such use is substantially similar to other uses specifically listed as permitted or accessory in such district and is more similar to such uses than to other uses listed as permitted or accessory in another zoning district.
- (4) If the proposed use is most similar to a use allowed only as a conditional use in the district in which it is proposed to be located, then any use interpretation authorizing such use shall be subject to the issuance of a conditional use permit pursuant to Article 1317 of the Zoning Ordinance.
- (5) No use interpretation shall allow the establishment of any use that would be inconsistent with the statement of purpose of the district in question, unless such use meets the standards of Subsections 3 and 4 above.
- (6) Use interpretations shall only authorize a use in a specific district and shall not allow the development, construction, reconstruction, alteration, demolition or relocation of any building or structure. Use interpretations shall merely authorize the preparation, filing, and processing of applications for any permits and approvals that may be required by the codes and ordinances of the Town, including, but not limited to, a Project Permit, a Certificate of Occupancy, Subdivision Approval, and Site Plan Approval.
- (7) Limitations on favorable use interpretation include:
 - (a) A use interpretation finding a particular use to be permitted, or allowed as a conditional use in a particular district, shall be deemed to authorize only the particular use for which it is issued, and such interpretation shall not be deemed to authorize any allegedly similar use for which a separate use interpretation has not been issued; and
 - (b) Once a use interpretation is made for a particular use in a particular district, that use interpretation shall be permitted as a use for the entire district and shall be available for other property owners in that district.

1314.03 Application and Appeal Procedure

- (a) Application Procedure
 - (1) Applications for interpretations of this ordinance shall be filed on a form provided by the Planning Commission and shall contain information describing the nature of the requested information.
 - (2) Action on Application. The Ordinance Compliance Officer or Mayor's designee shall inform the applicant in writing of his or her interpretation, stating any specific precedent, the reasons, and the analysis upon which the determination is based.
- (b) Appeals from the Ordinance Compliance Officer or Mayor's designee The Board of Zoning Appeals shall, pursuant to Article 1321 of the Zoning

Ordinance, hear and decide appeals from any administrative interpretations by the Ordinance Compliance Officer or Mayor's designee

1314.04 Parties Entitled to Seek Interpretations

Written requests for interpretations may be filed by any person having a legal or equitable interest in property that gives rise to the need for an interpretation, provided that interpretations shall not be sought by any person based solely on hypothetical circumstances or where the interpretation would have no effect other than as an advisory opinion.

ARTICLE 1316
Site Plan Approval Procedure

- 1316.01 Title and purpose.**
- 1316.02 Applicability.**
- 1316.03 Application for site plan approval - contents of plan.**
- 1316.04 Application for site plan approval - submittal deadline.**
- 1316.05 Fees.**
- 1316.06 Site plan review procedure.**
- 1316.07 Prohibitions.**
- 1316.08 Relation to Use Permit, Variance, and Zoning Ordinance Amendment.**

1316.01 Title and purpose.

The provisions of Sec. 1316.01 through Sec. 1316.08, inclusive, shall be known as the site plan approval procedure. The purpose of these provisions is to prescribe a review procedure for development proposals for construction, reconstruction, alteration, enlargement, demolition, or relocation of any Building or Structure that is concerned with physical design, siting, onsite vehicular and pedestrian access, and the interrelationship of these elements, which recognizes the interdependence of land values and aesthetics, and which provides a method by which the following goals can be achieved:

- (a) Promotion of sound land use development;
- (b) Protection of existing environmental resources on, and surrounding, the land to be developed; and
- (c) Attainment of zoning ordinance consistency with the 2007 Harpers Ferry Comprehensive Plan as amended by Town Council from time to time.

1316.02 Applicability.

Site plan approval shall be required as follows:

- (a) For all buildings, structures, and improvements requiring a project permit [See 1705.03(a)] except:
 - (1) For projects approved at the administrative level by the Ordinance Compliance Officer or the Mayor's designee,
 - (2) For the relocation of any residential accessory building or structure less than 500 square feet in area and when such building or structure is relocated within 100 feet of its then existing location and on the same lot and is within setbacks, or
 - (3) For projects where the existing footprint of the structure is not disturbed.
- (b) For all parking lots providing 10 or more parking spaces;

1316.03 Application for site plan approval - contents of plan.

- (a) Applicants shall file a complete application for site plan approval with the Planning Commission. Such application shall be in the form and furnished in the number of copies as required by the Planning Commission on its application form and shall include at a minimum:
 - (1) Roof plan of building;
 - (2) Location of existing and proposed structures and permanent signs;
 - (3) Location of existing trees 6" or greater diameter at breast height, indicating which trees are proposed to be removed and the areas of disturbance (See Article 1104);
 - (4) Location of off-street parking and any loading facilities;

- (5) Location and dimensions of street and right of way dedications;
 - (6) Location of points of entry and exits for vehicles and pedestrians and internal vehicle circulation patterns upon the property;
 - (7) Location of any fences and walls, including retaining walls, and the indication of their height and material of construction;
 - (8) Location of exterior lighting devices; and
 - (9) Location of all paved surfaces and Landscaped Areas.
- (b) Depending on the size and scope of the project, the Planning Commission may also require:
- (1) A grading plan, prepared by a registered Engineer licensed to practice in the State of West Virginia, for grading intended to support a structure or grading that will divert a drainage course, showing:
 - A. Existing and proposed contours on the site plan in increments of 2 feet;
 - B. Proposed storm water drainage and erosion control measures; and
 - C. All trees greater than 6 inches in diameter at 4.5 feet above average ground level at the base of the tree.
 - (2) A professional survey by a registered Land Surveyor licensed to practice in the State of West Virginia to determine plat boundaries where a new or altered building or structure footprint is created.
 - (3) A Historic Resources Plan.
 - (4) In the case of a proposed removal, the site plan submittal shall include a Historic Structure Report for each historic resource to be removed.
 - (5) A construction plan for any project of which the total value exceeds \$100,000, in accordance with the Planning Commission Standards for Project Sites as included in Appendix B of this Part. These standards and best practices may also be applied - in whole or in part - to smaller projects as a condition of approval by the Ordinance Compliance Officer or the Mayor's designee, the Planning Commission, or the Board of Zoning Appeals.
 - (6) A preliminary Landscaping Plan, where required by this Ordinance.
 - (7) A scale model of the project or computer generated 3D views of the project from designated viewpoints may be required of larger projects, as determined by the Planning Commission in consultation with the Historic Landmarks Commission.
 - (8) Other information which is pertinent and which the Planning Commission or Town Council may, by general policy, require all applicants to furnish.

1316.04 Application for site plan approval - submittal deadline.

An application for site plan approval must be submitted no less than 15 days before the Planning Commission meeting at which it will be considered, except that where the Ordinance Compliance Officer or the Mayor's designee or the Planning Commission determines that consultant services will be needed to assist in plan review. The Planning Commission may extend the period of review up to 75 days to obtain the consultant services.

1316.05 Fees.

The Town Council shall, by resolution, adopt a fee schedule for site plan review.

- (a) **Fee Requirement and Payment** - The Schedule of Fees for zoning applications shall be maintained on file with the Town Clerk. The appropriate fee shall be paid by the applicant when the application is submitted for review. An application shall not be considered complete until the appropriate fee is paid in full to the Clerk. The Ordinance Compliance Officer or the Mayor's designee may waive fees in unusual or extreme circumstances.

Approvals shall not be granted nor zoning certificates of compliance issued until the appropriate fee is paid to the Town Clerk.

- (b) **Exemption from Fee Requirement** - Governmental agencies shall be exempt from paying fees for zoning permits, land use certificates or any other permit prescribed by these regulations.
- (c) **No part of any filing fee paid** pursuant to this section shall be returnable to the applicant or petitioner unless specifically provided for in the Fee schedule approved by Town Council.

1316.06 Site plan review procedure.

- (a) *Posting of application; notice requirement.*
- (1) The Planning Commission President shall cause one copy of the completed application to be made available for public scrutiny at the Town office during regular business hours for at least 5 business days before the application is considered for issuance at a properly scheduled meeting of the Planning Commission.
 - (2) No application for a permit shall be considered for issuance by the Planning Commission unless first announced on the agenda of the regularly scheduled or special meeting of the Commission, and published as a part of such agenda on the Town Office bulletin board not less than 5 business days before the meeting.
- (b) *Conditions.* The Planning Commission may, when appropriate, attach conditions to site plan approvals. Such conditions must be consistent with this Part as deemed reasonable and necessary under the circumstances to carry out the intent of this Part.
- (c) *Findings required.* Before granting a site plan approval, the Planning Commission shall find that the proposed development:
- (1) Meets the intent and specific standards and criteria prescribed in this Part;
 - (2) Is consistent with the Comprehensive Plan;
 - (3) Is consistent with Article 1104 Tree Conservation.
- (d) *Referral to Historic Landmarks Commission.* The Planning Commission may refer site plan approval applications to the Historic Landmarks Commission for review and comment if such referral seems appropriate. In the absence of a written response within 30 days, Historic Landmarks Commission concurrence with the proposed development will be assumed.
- (e) *Notification of approval or denial.* Upon making a determination, the Planning Commission shall prepare and send one copy of its decision to the applicant.
- (f) *Time limitation on approval.* Approval of site plans shall expire automatically 18 months after the date of issue, unless authorized construction has commenced before the expiration date. Upon written request before expiration, the Planning Commission may extend the approval for an additional 12 months. Only one extension may be granted.
- (g) *Modification.* Upon request by the applicant, minor modifications in the approved plan may be made by the Planning Commission President if

it is found that the proposed modification will meet the requirements of this chapter.

- (h) *Resubmittal of Application.* No application for approval or amendment of a site plan shall be accepted when application for the same plan has been previously denied until a period of 12 months has elapsed from the date of the final denial of the application by the properly constituted body having final jurisdiction in the matter.

1316.07 Prohibitions.

- (a) No project permit pertaining to the construction, enlargement, moving, remodeling, or reconstruction of a structure shall be issued by the Ordinance Compliance Officer or the Mayor's designee unless approval of the site plan has been granted by the Planning Commission or their designee. The Ordinance Compliance Officer or the Mayor's designee shall grant approvals only in conformance with the provisions of this ordinance except when he or she receives a written order from the Planning Commission, Town Council, Board of Zoning Appeals, or a court of law in the form of an administrative review, special exception, variance, or judgment as provided in this ordinance. When required, a change of land use permit must be acquired before issuance of a certificate of compliance with the zoning ordinance.
- (b) For projects that are reviewed administratively, the Ordinance Compliance Officer or the Mayor's designee shall make every reasonable effort to review the application and report to the applicant by the end of thirty (30) working days following the day on which a completed application is received.

1316.08 Relation to Use Permit, Variance, and Zoning Ordinance Amendment.

When a development proposal subject to site plan approval additionally requires a conditional use permit, a Historical Standards and Guidelines review by the Board of Zoning Appeals, a variance, an amendment of the zoning ordinance or any other review proscribed by these ordinances; site plan approval may be conducted concurrently with any review required by the conditional use permit, historical review, variance, amendment or other applications.

ARTICLE 1317
Conditional Use Permit Approval Procedure

- 1317.01 General.**
- 1317.02 Application.**
- 1317.03 Required findings.**
- 1317.04 Conditions of approval.**
- 1317.05 Expiration date.**

1317.01 General.

Conditional use applications may only be considered after a public hearing by the Board of Zoning Appeals. The hearing is intended to determine whether the conditional use complies with all applicable provisions of the Zoning Ordinance and its proposed location and design are such that it meets the needs of the community for such use without creating significant adverse conditions or a nuisance in the neighborhood.

1317.02 Application.

An application for a conditional use permit shall be filed in a form and manner as approved by the Board of Zoning Appeals. Notice and hearing timelines for a Conditional Use Permit hearing shall conform to:

- (a) Within 10 days of receipt of an application for a Conditional Use Permit to the Board of Zoning Appeals, the Board shall set a time for the hearing of the application and give notice. The hearing must be held within 45 days of receipt of the application by the Board unless the Board requires expert advice in which case the limit is 75 days.
- (b) At least 15 days before the date set for the hearing on the application, the Board of Zoning Appeals shall publish a notice of the date, time and place of the hearing on the application as a Class I legal advertisement in compliance with the provisions of Article Three, Chapter 59 of West Virginia State Code and written notice shall be given to the interested parties as determined by the Board of Zoning Appeals. The written notice shall be in the area directly affected by the application.
- (c) The applicant shall be required to pay for the cost of public notice and written notice to interested parties in accordance with a fee schedule approved by the Town Council. The costs of expert studies will be borne by the applicant.
- (d) At the hearing, any party may appear in person, by agent or by an attorney licensed to practice in this state.
- (e) Every decision by the Board must be in writing and state findings of fact and conclusions of law on which the Board based its decision.

The written decision by the Board shall be rendered within thirty (30) days after the hearing. If the board fails to render a written decision within thirty (30) days after the hearing, then any party may pursue additional legal remedies to obtain a decision, including, but not limited to, seeking a *writ of mandamus*.

1317.03 Required findings.

The Board of Zoning Appeals shall grant a conditional use permit only if from the facts presented with the application or at the public hearing, or as determined by investigation, the following conditions have been found:

- (a) That the location, size, design and operating characteristics of the proposed conditional use will be compatible with the abutting uses and abutting buildings or structures, with consideration given to harmony in scale, bulk, lot coverage, and building density; to the availability of civic facilities and utilities, to the harmful effect, if any, upon desirable neighborhood character; to the generation of traffic and the capacity and physical character of surrounding streets; and to any other relevant impact of the proposed use;
- (b) The impacts, as described in (a) of this section, and the location of the proposed conditional use are consistent with the Comprehensive Plan.

1317.04 Conditions of approval.

In order to make the required findings listed above, the Board of Zoning Appeals may establish any reasonable conditions of approval as determined appropriate or necessary to remain consistent with the Comprehensive Plan and with these zoning ordinances including assignment of a conditional use permit to the current owner such that the use would expire upon transfer of ownership.

1317.05 Expiration date.

- (a) Approval of a use permit shall expire automatically 30 months after its approval unless authorized implementation has commenced before the expiration date.
- (b) Any resubmission constitutes a new application.
- (c) Every use permit shall automatically expire and be of no further force and effect when any of the conditions attached to such use are no longer fulfilled or become nonexistent.

ARTICLE 1318
Variances

- 1318.01 Purpose.**
- 1318.02 Application.**
- 1318.03 Required findings.**
- 1318.04 Conditions of approval.**

1318.01 General.

The purpose of the variance procedure is to provide relief from the enforcement of the requirements of the zoning ordinance when appropriate. A variance shall not involve permitting land uses that are otherwise prohibited in the zoning district nor shall it involve changing the zoning classifications of a parcel of land.

1318.02 Application.

An application for a variance shall be filed with the Board of Zoning Appeals only for a purpose for which a variance is authorized by the Zoning Ordinance. The grounds on which the variance is requested shall be submitted with the application along with a statement regarding how the proposed variance meets the standards set out in this Article. Notice and hearing timelines for a variance determination shall conform to:

- (a) Within 10 days of receipt of an application for a zoning variance to the Board of Zoning Appeals, the Board shall set a time for the hearing of the application and give notice. The hearing must be held within 45 days of receipt of the application by the Board unless the Board requires expert advice in which case the limit is 75 days.
- (b) At least 15 days prior to the date set for the hearing on the application, the Board of Zoning Appeals shall publish a notice of the date, time and place of the hearing on the application as a Class I legal advertisement in compliance with the provisions of Article Three, Chapter 59 of West Virginia State Code and written notice shall be given to the interested parties as determined by the Board of Zoning Appeals. The written notice shall be in the area directly affected by the application.
- (c) The applicant shall be required to pay for the cost of public notice and written notice to interested parties in accordance with a fee schedule approved by the Town Council.
- (d) At the hearing, any party may appear in person, by agent or by an attorney licensed to practice in this state.
- (e) Every decision by the Board must be in writing and state findings of fact and conclusions of law on which the Board based its decision.

The written decision by the Board shall be rendered within thirty (30) days after the hearing. If the board fails to render a written decision within thirty (30) days after the hearing, then any party may pursue additional legal remedies to obtain a decision, including, but not limited to, seeking a *writ of mandamus*.

1318.03 Required findings.

- (a) The Board of Zoning Appeals may grant the requested variance in whole or in part, conditionally or unconditionally. In granting a variance, the Board of Zoning Appeals may only consider the facts presented with the application or at the public hearing, or determined by

investigation. The Board of Zoning Appeals shall grant a variance if it finds that the variance:

- (1) Will not adversely affect the public health, safety or welfare, or the rights of the abutting property owners or residents;
- (2) Arises from special conditions or attributes which pertain to the property which were not created by the person seeking the variance;
- (3) Would eliminate an Unnecessary Hardship and permit a reasonable use of the land; and
- (4) Will allow the intent of the zoning ordinance to be observed and substantial justice done.

(b) Among the aspects of the variance request that the Board of Zoning Appeals may wish to investigate are:

- (1) Whether relief from a literal interpretation of the provisions of existing ordinances which would alter the historic character of the Historic District or a contributing resource to such an extent that it would not be feasible to preserve the historic character of the Historic District or contributing resource;
- (2) Whether it would not significantly diminish the historic character of the Historic District or a contributing resource.

1318.04 Conditions of approval.

In order to make the required findings listed above, the Board of Zoning Appeals may establish any reasonable conditions of approval as determined appropriate or necessary.

ARTICLE 1319
Amendments

- 1319.01 Purpose.**
- 1319.02 Initiation.**
- 1319.03 Application; fee.**
- 1319.04 Text amendments.**
- 1319.05 Zoning map amendments.**
- 1319.06 Planning Commission hearing and report.**
- 1319.07 Town Council hearing and action.**

1319.01 Purpose.

The purpose of these provisions is to prescribe the procedure by which changes may be made in the text of this Part 13 and to application of zoning on land within the Town.

1319.02 Initiation.

Any amendment to the Zoning Ordinance may be initiated by the Planning Commission or Town Council, and, if it is an amendment to the zoning map, it may also be initiated by an owner of land within the Town by submission to the Planning Commission.

1319.03 Application; fee.

The Town Council must adopt by resolution an approved application form and set the fee schedule for zoning map amendments.

1319.04 Text amendments.

If the request is for an amendment of the text of this Ordinance, the Planning Commission shall consider the following matters:

- (a) Whether the proposed text amendment is consistent with the Comprehensive Plan.
- (b) Whether the proposed text amendment is consistent with the intent and purpose of the Zoning Ordinance.

1319.05 Zoning map amendments.

If the application is for a reclassification of property to a different zoning district classification on the Zoning Map, the applicant shall address all the following in its statement of justification unless not applicable, as determined by the Planning Commission. The Planning Commission shall give reasonable consideration to the following matters, as appropriate:

- (a) Whether the proposed zoning district classification is consistent with the Comprehensive Plan.
- (b) Whether there are any changed or changing conditions in the area affected that make the proposed rezoning appropriate.
- (c) Whether the range and intensity of uses in the proposed zoning district classification are compatible with the uses permitted on other property in the immediate vicinity.
- (d) Whether adequate utility, sewer and water, transportation, and other facilities exist or can be provided to serve the uses that would be permitted on the property if it were rezoned.
- (e) The impact of the proposed rezoning on storm water runoff.
- (f) The effect of uses allowed by the proposed rezoning on the structural capacity of the soil.

- (g) The effect of uses allowed by the proposed rezoning on the volume of vehicular (including construction) traffic and on traffic and pedestrian safety.
- (h) Whether a reasonably viable economic use of the subject property exists under the current zoning.
- (i) The effect of the proposed rezoning on the environment or natural features, wildlife habitat, vegetation, water quality and air quality.
- (j) Whether the proposed rezoning encourages economic development activities in areas designated by the Comprehensive Plan and provides desirable employment and enlarges the tax base.
- (k) Whether the proposed rezoning considers the current and future requirements of the community as to the use of the land.
- (l) Whether the proposed rezoning encourages the conservation of existing properties, particularly contributing resources, and their values.
- (m) Whether the proposed rezoning considers trends of growth or changes, employment, and economic factors, the need for housing, probable future economic and population growth of the town.
- (n) The effect of the rezoning on natural, scenic, archaeological, or historic features of significant importance.

1319.06 Planning Commission hearing and report.

- (a) *Public hearing.* No later than 75 days after an application for a zoning map amendment has been accepted as complete, or a text amendment has been submitted, the Planning Commission shall hold a duly noticed public hearing on the proposed amendment.
- (b) *Report to Council.* No later than 60 days after its first public hearing meeting on an amendment, the Planning Commission shall report to the Town Council its recommendation with respect to the proposed amendment. Failure to meet this deadline, or such shorter period as the Council may direct, shall be deemed a recommendation of approval by the Commission.
- (c) *Recommendation.* The Planning Commission may recommend approval or denial of a zoning map amendment. The Planning Commission may also recommend approval with changes provided that, if the change includes either a larger extent of land or a rezoning to a more intensive classification than that requested, the Commission shall hold an additional duly noticed public hearing on the matter.
- (d) *Text amendments.* If the proposed amendment is to the text of the zoning ordinance, the Planning Commission, after consideration of the amendment, must forward a recommendation of the proposed change to the Town Council.

1319.07 Town Council hearing and action.

- (a) *Hearing.* Upon receipt of a Planning Commission report with recommendations as in 1319.06, the Town Council shall hold a public hearing in accordance with W. Va. code §8A-7-8 on a zoning map amendment or text amendment. A hearing on an application for a zoning map amendment shall occur no later than 195 days after an application has been accepted as complete.
- (b) *Action.* After the conclusion of its public hearing, the Town Council shall act on the proposed amendment.
- (c) *Changes to proposed zoning map amendment.* The Council may reduce or enlarge the extent of land that it rezones or it may rezone the land to a different zoning district classification than that requested if, in either case, it is of the opinion that such revision is in accordance with sound zoning practice and the adopted Comprehensive Plan and is in furtherance of the purposes of this Ordinance; however, before rezoning

a larger extent of land or rezoning the land to a more intensive classification than was set forth in the application, the Town Council shall hold a further duly noticed public hearing on the matter.

- (d) *Text amendments.* Upon receipt of a recommendation on a change to the text of the zoning ordinance from the Planning Commission, the Town Council may approve, deny, or approve with changes, the proposed amendment.
- (e) *Enactment.* An enacted amendment to the zoning map shall be dated and certified by the Town Council and filed with the Town Recorder, the Planning Commission and Clerk of the Jefferson County Commission. An enacted amendment to the text of the zoning ordinance shall be filed with the Clerk of the Jefferson County Commission.

ARTICLE 1320
Enforcement

- 1320.01 General Provisions.**
- 1320.02 Responsibility for Administration and Enforcement.**
- 1320.03 Enforcement agent.**
- 1320.04 Public nuisance declared.**
- 1320.05 Injunction; costs.**
- 1320.06 Penalty; fines.**
- 1320.07 Notice.**

1320.01 General Provisions

- (a) No commission, board, agency, officer, or employee of the Town shall issue, grant, or approve any permit, license, certificate, or other authorization for any construction, reconstruction, alteration, enlargement, demolition or relocation of any building or structure, or for any use of land or building, that would not be in compliance with the provisions of this ordinance.
- (b) In administering the provisions of this ordinance, the standard rule of rounding numbers to the nearest whole shall apply. When the unit of measurement results in a fraction less than one-half, the fraction shall be disregarded; fractions of one-half or more shall require the addition of one (1) unit of measure.

1320.02 Responsibility for Administration and Enforcement

- (a) It shall be the duty of the Ordinance Compliance Officer or the Mayor's designee or the Planning Commission or the Commission's designee to:
 - (1) Perform zoning reviews of project permit applications as necessary to determine compliance with the provisions of this ordinance.
 - (2) Maintain permanent and current records of applications for all variances, conditional uses, amendments, and other zoning related records required by this ordinance and of the hearings and actions thereon.
 - (3) Conduct investigations as necessary to determine compliance with or violation of this ordinance.
 - (4) Participate in the abatement of violations of this ordinance and aid in the prosecution of such violations.
 - (5) Maintain in current status the official zoning map.
 - (6) Provide information on zoning upon request by citizens and public agencies.
- (b) The Mayor or any Officer of the Planning Commission may request the Ordinance Compliance Officer or the Mayor's designee to conduct field investigations of buildings, structures, or uses of land as necessary to determine compliance with this ordinance.

1320.03 Enforcement agent.

The Mayor, the Code Enforcement Official or the Mayor's designee shall be delegated the responsibility to enforce the Zoning Ordinance. The Mayor, the Code Enforcement Official or the Mayor's designee shall cause to have promptly investigated every written complaint reasonably alleging a violation of the Zoning Ordinance to determine if a violation has occurred.

1320.04 Public nuisance declared.

Any building erected, raised or converted, or land or premises used in violation of any provision of the Zoning Ordinance is a public nuisance and the owner of the building, land or premises shall be liable for maintaining a public nuisance.

1320.05 Injunction; costs.

The Mayor or the Mayor's designee may seek an injunction in the circuit court of Jefferson County to restrain a person from violating the provisions of the Zoning Ordinance, or a mandatory injunction in the circuit court of Jefferson County, directing a person to remove a structure erected in violation of the provisions of the Zoning Ordinance. If the Mayor or the Mayor's designee is successful in any such suit, the respondent shall bear the costs of the action.

1320.06 Penalty; fines.

As provided in Sec. 8A-1-1 *et seq.* of the West Virginia Code, as amended, any person who violates any provision of this Ordinance shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than \$50.00 or more than \$500.00 per day. Each day during which any violation of the Zoning Ordinance continues shall constitute a separate offense.

1320.07 Notice.

When it appears to the designated enforcement agent that a violation has occurred, the Town shall notify the responsible person by means of a written Violation Notice. The Violation Notice shall specify the nature of the violation and shall request that the violation be terminated within 30 days from the date appearing on the Notice. Failure to terminate the violation within the requested time shall be cause for the enforcement agent, pursuant to W. Va. Code 8A-10-1, 2 and 3, as amended, to:

- (a) Seek an injunction in the Circuit Court of Jefferson County to restrain the responsible person from continuing the violation cited or seek an injunction requiring the removal of structures or land uses from the property involved, or
- (b) Issue a warrant for the arrest of the person responsible for the violation and seek a conviction in the Circuit Court of Jefferson County.

ARTICLE 1321

Board of Zoning Appeals; Appeals Process

- 1321.01 Establishment of Board of Zoning Appeals.
- 1321.02 Alternate members.
- 1321.03 Board of Zoning Appeals meetings.
- 1321.04 Quorum.
- 1321.05 Officers.
- 1321.06 Town Council duties.
- 1321.07 Powers and duties of Board of Zoning Appeals.
- 1321.08 Appeal to Board of Zoning Appeals.
- 1321.09 Notice and hearing of appeal.
- 1321.10 Stays; exception.
- 1321.11 Conditional Use Permit process.
- 1321.12 Interpretation of Historic Standards and Guidelines.

1321.01 Establishment of Board of Zoning Appeals.

- (a) For the purpose of hearing and determining appeals and reviewing any order, requirements, decisions or determination made by an administrative official or board charged with the enforcement of any Ordinance or Rule and Regulation regarding the use of land or premises within the incorporated areas of the Town, a Board of Zoning Appeals is hereby created, consisting of 5 members appointed by the Town Council.
- (b) The members of the Board shall be residents of the Town for at least three years preceding his or her appointment; cannot be a member of the Planning Commission; cannot hold any other elective or appointive office in the Town government. Members of the Board and alternates shall serve without compensation, but shall be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their official duties.
- (c) Upon creation of the Board, its members shall be appointed for the following terms: two for a term of one year, two for a term of 2 years, and one for a term of 3 years. The terms shall expire on the first day of January of the first, second and third year, respectively, following their appointment. Thereafter, as their terms expire, each new appointment shall be a term of 3 years.
- (d) If a vacancy occurs, by resignation or otherwise among the members of the board, the Town Council shall appoint a member for the unexpired term.
- (e) The Town Council may remove a member of the Board to meet the requirements of Article 1321.01(a) above or when the scope of Board responsibilities changes substantially or for cause such as inactivity, neglect of duty, or malfeasance. The reasons for removal must be provided to the person being removed in a written statement of the reasons for removal and the person must be given an opportunity to be heard on the matter.

1321.02 Alternate members.

- (a) The Town Council may appoint up to 3 additional members to serve as alternate members of the Board of Zoning Appeals.
- (b) The alternate members must meet the same eligibility requirements as regular members and will serve a 3 year term, although the Town Council may appoint alternate members on a staggered term schedule.
- (c) An alternate member shall serve on the board when one of the regular members is unable to serve and shall serve until a final determination

is made in the matter to which the alternate member was initially called to serve.

- (d) An alternate member shall have the same powers and duties of a regular board member.
- (e) The Town Council may remove an alternate member of the Board to meet the requirements of Article 1321.01(a) above or when the scope of Board responsibilities changes substantially or for cause such as inactivity, neglect of duty, or malfeasance. The reason(s) for removal must be provided to the person being removed in a written statement of the reason(s) for removal and the person must be given an opportunity to be heard on the matter.

1321.03 Board of Zoning Appeals meetings.

- (a) A Board of Zoning Appeals shall meet quarterly and may meet more frequently at the written request of the chairperson or by two or more members.
- (b) Notice for a special meeting must be in writing, include the date, time and place of the special meeting, and be sent to all members at least 2 days before the special meeting.
- (c) Written notice of a special meeting is not required if the date, time and place of the special meeting were set in a regular meeting.

1321.04 Quorum.

A Board of Zoning Appeals must have a quorum to conduct a meeting. Three members is a quorum. No action of a Board is official unless authorized by a majority of the members present at a regular or properly called special meeting.

1321.05 Officers.

At its first regular meeting each year, a Board of Zoning Appeals shall elect a chairperson and vice chairperson from its membership. The vice chairperson shall have the power and authority to act as chairperson during the absence or disability of the chairperson.

1321.06 Town Council duties.

The Town Council shall provide the Board of Zoning Appeals with:

- (a) Suitable offices for the holding of meetings and the preservation of plans, maps, documents and accounts; and
- (b) Appropriate money to defray the reasonable expenses of the board.

1321.07 Powers and duties of Board of Zoning Appeals.

The Board of Zoning Appeals has the following powers and duties:

- (a) Hear, review and determine appeals from an order, requirement, decision or determination made by an administrative official or the Planning Commission or rule and regulation adopted pursuant thereto;
- (b) Authorize exceptions to the district rules and regulations only in the classes of cases or in particular situations, as specified in the zoning ordinance;
- (c) Hear and decide conditional uses of the zoning ordinance upon which the Board is required to act under the zoning ordinance;
- (d) Authorize, upon appeal in specific cases, a variance to the zoning ordinance;
- (e) Reverse, affirm or modify the order, requirement, decision or determination appealed from and have all the powers and authority of

the official or the Planning Commission from which the appeal was taken;

- (f) Adopt rules and regulations concerning:
 - (1) The filing of appeals, including the process and forms for the appeal;
 - (2) Applications for variances and conditional uses;
 - (3) The giving of notice; and
 - (4) The conduct of hearings necessary to carry out the Board's duties under the terms of this article.
- (g) Keep minutes of its proceedings;
- (h) Keep an accurate and complete audio record of all the Board's proceedings and official actions and keep the audio record in a safe manner, which audio record is accessible within 24 hours of demand, for 3 years;
- (i) Record the vote on all actions taken;
- (j) Take responsibility for the custody and preservation of all papers and documents of the board. All minutes and records shall be filed in the office of the Board and shall be public records;
- (k) With consent from the Town Council, hire employees and consultants necessary to carry out the duties and responsibilities of the Board provided that the Town Council sets the compensation; and
- (l) Supervise the fiscal affairs and responsibilities of the board.

1321.08 Appeal to Board of Zoning Appeals.

- (a) An appeal from any order, requirement, decision or determination made by an administrative official or the Planning Commission, or rule and regulation adopted pursuant to the Zoning Ordinance, shall be filed with the Board of Zoning Appeals.
- (b) The appeal shall:
 - (1) Specify the grounds of the appeal;
 - (2) Be filed within 30 days of the original order, requirement, decision or determination made by an administrative official or the Planning Commission; and
 - (3) Be on a form prescribed by the Board.
- (c) Upon request of the Board of Zoning Appeals, the administrative official or the Planning Commission shall transmit all documents, plans and papers constituting the record of the action from which the appeal originated.

1321.09 Notice and hearing of appeal.

- (a) Within 10 days of receipt of the appeal by the Board of Zoning Appeals, the board shall set a time for the hearing of the appeal and give notice. The hearing on the appeal must be held within 45 days of receipt of the appeal by the Board.
- (b) At least 15 days before the date set for the hearing on the appeal, the Board of Zoning Appeals shall publish a notice of the date, time and place of the hearing on the appeal as a Class I legal advertisement in compliance with the provisions of Article Three, Chapter 59 of West Virginia Code and written notice shall be given to the interested parties. The publication area shall be the area covered in the appeal.
- (c) The Board of Zoning Appeals may require the party taking the appeal to pay for the cost of public notice and written notice to interested parties.
- (d) At the hearing, any party may appear in person, by agent or by an attorney licensed to practice in this state.
- (e) Every decision by the Board must be in writing and state findings of fact and conclusions of law on which the board based its decision. If

the Board fails to provide findings of fact and conclusions of law adequate for decision by the circuit court and as a result of the failure, the circuit court returns an appealed matter to the board and dismisses jurisdiction over an applicant's appeal without deciding the matter, whether the court returns the matter with or without restrictions, the board shall pay any additional costs for court filing fees, service of process and reasonable attorneys' fees required to permit the person appealing the Board's decision to return the matter to the circuit court for completion of the appeal.

- (f) The written decision by the Board shall be rendered within thirty (30) days after the hearing. If the board fails to render a written decision within thirty (30) days after the hearing, then any party may pursue additional legal remedies to obtain a decision, including, but not limited to, seeking a writ of mandamus.

1321.10 Stays; exception.

- (a) When an appeal has been filed with the Board of Zoning Appeals, all proceedings and work on the premises in question shall be stayed, except as provided in subsection (b) of this section.
- (b) A stay may not be had:
 - (1) If the Ordinance Compliance Officer or the Mayor's designee or the Planning Commission certifies in writing to the Board of Zoning Appeals that a stay would cause imminent peril to life or property;
 - (2) Upon further administrative proceedings, including, but not limited to, submissions to and reviews by the staff or any administrative body; or
 - (3) Upon engineering or architectural work that does not disturb the real estate beyond what is necessary to complete engineering, survey work or other tests.
- (c) If the written certification is filed pursuant to subdivision (1), subsection (b) above of this section, then proceedings or work on the premises shall not be stayed.
- (d) Nothing in this section prevents a party from obtaining a restraining order.

1321.11 Conditional Use Permit process.

The consideration of conditional use permits shall conform to the process in Article 1317.

1321.12 Interpretation of Historic Standards and Guidelines.

The interpretation of these standards and guidelines under the Zoning Ordinance shall conform to the process described in Appendix A of this Part 13. Notice and hearing timelines for an interpretation of the Historic District Standards and Guidelines shall conform to:

- (a) Within 10 days of referral of a Project Permit application by the Historic Landmarks Commission to the Board of Zoning Appeals, the Board shall set a time for the hearing of the application and give notice. The hearing must be held within 45 days of receipt of the application by the Board.
- (b) At least 15 days prior to the date set for the hearing on the application, the Board of Zoning Appeals shall publish a notice of the date, time and place of the hearing on the application as a Class I legal advertisement in compliance with the provisions of Article Three, Chapter 59 of West Virginia State Code and written notice shall be given to the interested parties as determined by the Board of Zoning

Appeals. The written notice shall be in the area directly affected by the application.

- (c) The applicant shall be required to pay for the cost of public notice and written notice to interested parties in accordance with a fee schedule approved by the Town Council.
- (d) At the hearing, any party may appear in person, by agent or by an attorney licensed to practice in this state.
- (e) Every decision by the Board must be in writing and state findings of fact and conclusions of law on which the Board based its decision.

The written decision by the Board shall be rendered within thirty (30) days after the hearing. If the board fails to render a written decision within thirty (30) days after the hearing, then any party may pursue additional legal remedies to obtain a decision, including, but not limited to, seeking a *writ of mandamus*.

ARTICLE 1322
General Provisions

- 1322.01 Title.**
- 1322.02 Policy and Purpose.**
- 1322.03 Authority.**
- 1322.04 Jurisdiction.**

1322.01 Title.

These regulations shall officially be known, cited and referred to as the Subdivision Regulations of the Town of Harpers Ferry, West Virginia, (hereinafter "these Regulations"). For the purposes of this article and the Zoning Ordinance, the term Subdivision shall conform to Chapter 8A of the Code of West Virginia where a major subdivision requires development and improvement of infrastructure and a minor subdivision (See 1327.02) generally entails only changes in lot and/or boundary lines. The initial subdivision of the Town is shown on the 1869 S. Howell Brown sale map, posted in the Town Hall and in the office of the County Clerk of Jefferson County. Adjustments between or among those original lots are regulated via Article 1327.

1322.02 Policy and Purpose.

- (a) It is declared to be the policy of the Town of Harpers Ferry to consider the subdivision of land and the subsequent development of the subdivided plat as subject to control of the Corporation of Harpers Ferry pursuant to the Comprehensive Plan for the orderly, planned, efficient and economical development of the Town.
- (b) In accordance with the Comprehensive Plan adopted in June, 2007 and amended by Council from time to time, the overall residential density for the Town shall not exceed a housing density greater than one residential structure per original lot as shown on the S. Howell Brown sale map of 1869.
- (c) Land to be subdivided shall be of a character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace, and land shall not be subdivided until adequate public facilities and improvements exist and proper provision has been made for drainage, water, sewerage, and other public improvements such as parks, recreational facilities and transportation facilities as provided for in these Regulations.
- (d) These Regulations are adopted for the following purposes:
 - (1) To protect and provide for the public health, safety and welfare of the Town.
 - (2) To guide the future growth and development of the Town in accordance with the official community plan.
 - (3) To provide for adequate light, air and privacy, and to secure from fire, flood and other danger, and to prevent overcrowding of the land and undue congestion of population.
 - (4) To protect and conserve the value of land throughout the Town and the value of buildings and improvements upon the land, and to minimize the conflicts among the uses of land and buildings.
 - (5) To guide public and private policy and action in order to provide adequate and efficient transportation, water, sewerage, parks, recreation and other public requirements and facilities.
 - (6) To ensure that public facilities and services are available

concurrent with development and will have a sufficient capacity to serve the proposed subdivision and that the cost of improvements that benefit the tract of land being developed will be borne by the owners or developers of the tract as provided in these Regulations.

- (7) To preserve the natural beauty and topography of the Town and to ensure appropriate development with regard to these natural features.
- (e) These Regulations require that all lands located within the Town be platted in conformance with these provisions except as provided in Article **1327**: Variations and Exceptions.

1322.03 Authority.

The Subdivision Regulations have been adopted pursuant to Chapter 8A, Article 5, Planning and Zoning, of the West Virginia Code.

1322.04 Jurisdiction.

These Regulations shall apply to the following forms of subdivision and/or the development of land within the corporate limits of the Town:

- (a) The dividing of land into two or more tracts, lots, sites or parcels, any part of which, when subdivided, shall contain less than five acres in area.
- (b) The redividing of previously platted land into tracts, lots, sites, or parcels, any part of which, when subdivided, shall contain less than five acres in area.
- (c) The development of land in a manner not in strict compliance with the plat filed of record.
- (d) The dedicating, vacating, or reserving of any public or private easement, public or private street or alley regardless of the area involved, including those for use by public and private utility companies.

ARTICLE 1323
Procedures and Administration

- 1323.01 Plat approval; Preliminary and Final.**
- 1323.02 Relation to zoning.**
- 1323.03 Filing fee.**
- 1323.04 Sale of property not abutting a public street.**
- 1323.05 Official recording.**
- 1323.06 Issuance of permits.**

1323.01 Plat approval; Preliminary and Final.

In all cases of subdividing and development within the scope of these Regulations, a preliminary and a final plat for the land in question shall be drawn and submitted to the Planning Commission and the Town Council for their approval or disapproval as provided for herein.

1323.02 Relation to zoning.

No final plat may be considered for acceptance by the Planning Commission or Town Council until the proper zoning in terms of density, lot size and land use is in enacted and in effect regarding the subject property. Furthermore, no plats may be approved by the Planning Commission and Town Council that are not in conformance with density and lot size requirements of the applicable zoning classification, except as specifically provided for in these Regulations.

1323.03 Filing fee.

- (a) To defray partially the costs of field and special studies, filing fees shall be paid to the Town Recorder at the time of submission in accordance with the following schedule:
 - (1) Preliminary plat: Fifty dollars (\$50.00), plus five dollars (\$5.00) per acre or portion thereof contained in the plat.
 - (2) Final plat: One hundred dollars (\$100.00), plus two dollars (\$2.00) per acre or portion thereof contained in the plat.
- (b) The filing fee shall be calculated upon the basis of the total acreage included within the property proposed to be platted.

1323.04 Sale of property not abutting a public street.

It shall be unlawful for any person, firm or corporation to sell to any other person, firm or corporation any lot, tract, parcel or block of land regardless of size or shape, unless such lot, tract, parcel or block of land abuts a public street or road for the distance required by the Zoning Ordinance in which lot, tract, parcel or block of land is situated, provided however for all deeds filed of record before the date of adoption of these Regulations it shall be lawful to convey title for the total area described in each said deed.

1323.05 Official recording.

No plat or description of land subdivision shall be filed in the office of the County Clerk, Jefferson County, until it has received written preliminary approval of the Planning Commission and the Town Council and final approval of the Planning Commission and the Town Council as required by these Regulations. All final plats shall be filed, if approved by the Town Council, within one year of date of consideration by the Planning Commission: and no lots shall be sold from any plat until it has been recorded as herein provided. Failure to record such approved plat within one year of consideration by the Planning Commission shall void all

approvals thereto.

1323.06 Issuance of permits.

No project permit shall be issued for any purpose with respect to any tract until a final plat has been duly processed as required by these Regulations and filed of record, except as provided in Article **1326**.

ARTICLE 1324
Design Principles

- 1324.01 Urban design principles.**
- 1324.02 Lots and Build-To Lines.**
- 1324.03 Easements.**
- 1324.04 Subdivision design standards: streets.**

1324.01 Urban design principles.

The design of each subdivision shall be prepared in accordance with the land use, community facilities, transportation, utility and related principles contained in these Regulations as follows:

- (a) The size of lots and blocks and other areas for residential and other developed land uses should be designed to provide adequate light, air, open space, landscaping with living plants and off street parking.
- (b) The arrangement of lots and blocks and the street system should be designed to make the most advantageous use of existing topography, natural views and scenic vistas and natural physical features. Tree masses and large individual trees should be preserved.
- (c) Circulation in subdivisions within the Town should be provided in accordance with the following design principles.
 - (1) Major streets should follow the historical street pattern of the 1869 Sale Map, insofar as practical.
 - (2) Minor streets should be designed to provide access to each parcel under separate ownership.

1324.02 Lots and setbacks.

- (a) Front yard setback lines and exterior side yard setback lines shall be provided in accordance with the front yards and exterior side yards established for the various districts in the Zoning Ordinance.
- (b) Restrictions on buildings to be located within the setback lines shown on the plat shall be set forth on the plat.
- (c) Residential lots for single family detached units shall conform to the General Zoning Regulations and Development Standards of the Zoning Ordinance.
- (d) Side lot lines shall be approximately at right angles to straight street lines or radial to curved street lines.
- (e) The area of residential lots shall not be less than that which is required by the Zoning Ordinance for a conforming lot.
- (f) Double frontage and reverse frontage lots should be avoided, except where they may be needed to provide separation of residential developments from major streets or to overcome specific disadvantages of topography or orientation including corner lots.

1324.03 Easements.

- (a) The subdivider shall dedicate to the public appropriate easements to the end that each and every lot, piece, or parcel of land within subdivision shall have access to all available essential public facilities.
- (b) Where a subdivision is traversed by a watercourse, natural spring, drainage channel or stream, there shall be provided a right of way and access thereto for drainage and public utility purposes.
- (c) Reserve strips as defined in these Regulations shall be prohibited.

1324.04 Subdivision design standards: streets.

Subdivision and resubdivision shall use the existing rights-of-way shown on the S. Howell Brown plat of 1869 insofar as possible. If variations to the existing right-of-way are proposed, the subdivider must provide justification that the result would provide better access to the properties or improve the overall environmental conditions such as stormwater management or other developmental considerations regarding the environment.

- (a) A tentative plan of the proposed future street system shall be shown on the preliminary plat.
- (b) When a tract is subdivided into larger than normal building lots or parcels, such lots or parcels shall be so arranged as to permit the logical extension of future streets and appropriate resubdivision, with provision for adequate utility easements and connections for such resubdivision.
- (c) Street right of way widths, pavement and sidewalk construction specifications and construction standards shall be in accordance with requirements of the Town of Harpers Ferry Planning Commission.
- (d) Half streets shall be prohibited.
- (e) No street names shall be used which will duplicate or be confused with existing streets. Street names and house numbers shall be subject to approval of the Planning Commission.

ARTICLE 1325
Improvements

- 1325.01 Purpose.
- 1325.02 Improvements to be logical extension or expansion.
- 1325.03 Required plans and their approval.
- 1325.04 Accomplishment of improvements; general procedure.
- 1325.05 Improvements constructed before filing; procedure.
- 1325.06 Completion and Town acceptance of public improvements.
- 1325.07 Project permits.
- 1325.08 Permanent markers.
- 1325.09 Sanitary sewers.
- 1325.10 Streets.
- 1325.11 Water lines and fire hydrants.
- 1325.12 Storm drainage.

1325.01 Purpose.

- (a) It is the purpose of this section to specify the nature of improvements which shall be required in conjunction with the subdividing and development of land; to identify the methods which will assure the Town of Harpers Ferry and the public that said required improvements will be constructed; and further to prohibit the issuance of a project permit for construction within a recorded, platted subdivision before the completion and Town acceptance of all required off-site improvements within the subdivision.
- (b) Unless specifically excluded or excepted elsewhere in these Regulations, a subdivider shall install and construct the following specified off-site improvements in conformance with the standards and specifications of these Regulations:
 - (1) Streets;
 - (2) Sanitary sewers, including manhole covers, (in association with or on behalf of the applicable Public Service District or other approved sanitary sewer provider);
 - (3) Water mains;
 - (4) Fire hydrants;
 - (5) Storm sewers;
 - (6) Sidewalks;
 - (7) Permanent markers. (See Section 1325.08)
- (c) Hereinafter in these Regulations, the phrase "required off-site improvements" shall refer to and mean these seven enumerated required improvements.

1325.02 Improvements to be logical extension or expansion.

The development plan for required off-site improvements shall be approved by the Town only after it has been found that a proposed development, when considered in conjunction with the entire subdivision and the areas surrounding to or abutting to it, will contain public improvements and utilities which will be consistent and compatible in structure, quality, construction, performance and appearance and will constitute logical and orderly expansions of existing public improvements, as well as future improvements to be installed within and without the boundaries of the subdivision.

1325.03 Required plans and their approval.

- (a) At the time of submission of the final plat to the Planning Commission and before the installation and construction of required off-site

improvements within any subdivision, plans and specifications therefore shall be prepared by a registered Professional Engineer and submitted to the Planning Commission or its designee. The Commission shall, if warranted after the inspection and review of submitted plans and specifications, submit to the Town Council a report that, in its opinion, the plans and specifications comply with all current standards and requirements applicable thereto. No installation or construction of any public utility or required off-site improvement shall be commenced without approved plans and specifications and approval of the Town Council.

- (b) Plans for off-site improvements shall be submitted as follows:
 - (1) Before the submission of the final plat to the Planning Commission, two sets of "check" prints of the plans and specifications for all proposed and required off-site improvements shall be filed with the Town through the Ordinance Compliance Officer or the Mayor's designee.
 - (2) Five sets of plans and specifications for all required off-site improvements shall be filed with the Town through the Ordinance Compliance Officer or the Mayor's designee for final approval at the time of request for consideration of the final plat by the Planning Commission.
- (c) Town approval of off-site improvement plans for any required off-site improvements or any part thereof shall be null and void two years from the date of approval unless said off-site improvements are under construction and will be completed within ninety days.
- (d) Plans for which approval has expired shall be resubmitted for review and current approval before any work is undertaken on the project.

1325.04 Accomplishment of improvements; general procedure.

- (a) The accomplishment of improvements required herein shall be by developer construction and approval by the Town.
- (b) No subdivider shall consummate the sale of property within the subdivision by lot and block reference to the plat until such time as the final plat shall be accepted.
- (c) No building permit shall be issued for any lot before the construction of off-site improvements as are required by these Regulations and which have been accepted by the Town.

1325.05 Improvements constructed before filing; procedure.

The procedure for approval of off-site improvements required herein before the filing of a final plat approved by the Town Council shall be as follows:

- (a) At the time of consideration of approval of the final plat by the Town Council, the subdivider shall submit a written application to the Ordinance Compliance Officer or the Mayor's designee indicating in specific detail the required off-site improvements intended to be installed and constructed before filing of the final plat.
- (b) The Ordinance Compliance Officer or the Mayor's designee shall review the request and submit a written report to the Mayor noting specific problems, if any.
- (c) Subsequent to the decision of the Town Council that the final plat is in order and that the program for accomplishing the required off-site improvements is feasible and not contrary to the public interest, the Town Council may approve the installation and construction of any or all required off-site improvements by the subdivider before the filing of the final plat and as a condition for approving the final plat.

- (d) In all cases where the Town Council approves a program of construction that requires construction of required off-site improvements before the filing of the final plat, the final plat, without benefit of required signatures of Town officials, shall be held in escrow for the Town by the Town Recorder. It shall not be released for any purpose until the approved program of construction is completed and all off-site improvements are accepted by action of the Town Council. Following acceptance of all required improvements included in the construction program and the completion of all other commitments, if any, by the subdivider, the final plat shall be executed by the Town and recorded at the Jefferson County Courthouse.
- (e) An approved program of construction under this method shall be completed within a period of one year. One year from the date of approval, the approval of any construction program which has not yet begun shall become null and void. One year from the date of approval, the approval of any construction program which is still in process shall be reviewed by the Town Council and they shall take action as deemed necessary.
- (f) Any approved program of construction may be amended; however, such amendment shall require approval of the Town Council.

1325.06 Completion and Town acceptance of public improvements.

- (a) At such time as the subdivider has completed the installation and construction of all public utilities and improvements required within the subdivision, the subdivider may seek acceptance for all such improvements by the Town.
- (b) The procedure for consideration of acceptance of public improvements shall be as follows:
 - (1) The individual or legal entity responsible for causing a public improvement to be constructed shall make a written request through the Ordinance Compliance Officer or the Mayor's designee that such public improvements be accepted by the Town.
 - (2) One set of reproducible "as built" plans shall be submitted in conjunction with said written request.
 - (3) The registered professional Engineer of the project shall submit a written statement indicating that the off-site improvements have been constructed in accordance with the approved plans, that the as built plans are a true and accurate representation of said off-site improvements, and that the engineer is satisfied with off-site improvements and the engineer recommends acceptance by the Town.
 - (4) The Ordinance Compliance Officer or the Mayor's designee shall submit a written report to the Mayor indicating the following:
 - A. That said improvements either have or have not been constructed in compliance with approved plans and specifications and all requirements of the Town of Harpers Ferry.
 - B. That the as built plans either provide or do not provide a true and accurate representation of the public improvements.
 - (5) Upon the Mayor's receipt of the report, such report shall be submitted to the Town Council for their acceptance of the improvements.
 - (6) If the Town Council finds the public improvements and all associated requirements to be in compliance with these Regulations, the improvements shall be accepted for maintenance.

1325.07 Project permits.

No project permit shall be issued for any lot before the construction of off-site improvements as required by these Regulations, nor shall a project permit be issued for any structure on any tract of land which has not been, when required, subdivided or platted in accordance with these Regulations.

1325.08 Permanent markers.

Subdivision and specific points therein shall be marked as follows:

- (a) Concrete monuments as approved by the Town shall be placed at all corners and changes in direction of the boundary of the subdivision. Where boundaries are comprised of curves, the point of curvature (P.C.), point of intersection (P.I.), and point of tangency (P.T.) shall be monuments. All monuments shall be placed flush with the ground and have at least two reference points established with tie distances.
- (b) Iron pins at least three quarters inch in diameter and at least eighteen inches in length shall be placed on all block corners, P.C.'s, P.I.'s and P.T.'s along the dedicated street right of way.
- (c) Iron pins at least one half inch in diameter and at least twelve inches in length shall be placed at all lot corners.
- (d) All required monuments and iron pins shall be in place before acceptance of street improvements.

1325.09 Sanitary sewers.

- (a) All subdivisions shall install or cause to be installed sanitary sewer lines in accord with these Regulations and the Public Service District rules and requirements for new sanitary sewer lines and shall submit an approved certificate from the State Health Department.
- (b) No project permit shall be issued for any structure to be located on a lot within a platted subdivision filed of record until the required sanitary sewer improvements for that lot have been installed in accordance with these Regulations and the subdivider shall submit evidence of approval at the time of project permit application.

1325.10 Streets.

The subdivider of any subdivision shall lay out, grade, and otherwise improve all streets that are designated on the approved plat in compliance with the following provisions:

- (a) Streets shall be laid out, graded and otherwise improved according to standard specifications prepared by the Ordinance Compliance Officer or the Mayor's designee and approved by the Town Council, and shall be subject to inspection and approval requirements as contained in said standard specifications.
- (b) Street right of way and pavement widths and required cross sections shall comply with said standard specifications prepared by the Ordinance Compliance Officer or the Mayor's designee.

1325.11 Water lines and fire hydrants.

In all subdivisions, the subdivider shall install water lines and fire hydrants in compliance with standard specifications prepared by the Ordinance Compliance Officer or the Mayor's designee in consultation with the Harpers Ferry Water Department and approved by the Town Council, and they shall be subject to inspection and approval requirements as contained in said standard specifications.

1325.12 Storm drainage.

Storm drainage facilities shall be provided and constructed as determined necessary by the Ordinance Compliance Officer or the Mayor's designee and approved by the Town Council.

ARTICLE 1326

Plat Preparation and Approval Procedure

- 1326.01 Preliminary plat; general.
- 1326.02 Preliminary plat; procedures to file applications.
- 1326.03 Preliminary plat; contents.
- 1326.04 Preliminary plat; Planning Commission action.
- 1326.05 Preliminary plat; Town Council action.
- 1326.06 Preliminary plat; duration of approval.
- 1326.07 Preliminary plat; changes from approved plat.
- 1326.08 The final plat; general.
- 1326.09 Final plat; procedures for filing application.
- 1326.10 Final plat; contents.
- 1326.11 Final plat; Planning Commission action, appeals.
- 1326.12 Final plat; Town Council action.
- 1326.13 Final plat; recording.

1326.01 Preliminary plat; general.

The subdivider shall prepare a preliminary plat for presentation to the Planning Commission. It shall conform to the minimum requirements of these Regulations and shall include the land in question and any other abutting land partially or fully owned or under option to the applicant, notwithstanding that all of said land may never be platted.

1326.02 Preliminary plat; procedures to file applications.

In order to be included on the agenda for the Planning Commission, an application shall be in compliance with all the following:

- (a) Five copies of the Preliminary Plat shall be submitted to the office of the Mayor not less than twenty-one calendar days before the next Planning Commission meeting.
- (b) When submitted, material must be in complete and final form as required by these Regulations. Plats failing to meet these requirements by the filing deadline shall not be placed on the Planning Commission agenda.

1326.03 Preliminary plat; contents.

The preliminary plat shall be drawn at a scale of not more than fifty feet to the inch, except where impractical, and shall show:

- (a) The scale, north arrow and date.
- (b) The proposed name of the subdivision.
- (c) The name and address of the owner of record, the subdivider, and the registered Land surveyor preparing the plat.
- (d) A key map showing the location of the proposed subdivision referencing existing or proposed major streets and governmental boundaries, if any.
- (e) The name and location of adjoining subdivisions and owners of record of adjoining properties where unplatted.
- (f) The land contours with vertical intervals of two feet referenced to a United States Geological Survey or Coast and Geodetic Survey bench mark or monument.
- (g) The location of dedicated and private streets at the point where they adjoin or are abutting the proposed subdivision.
- (h) The location of all existing easements of record, sanitary and storm sewers, water mains, culverts, power lines and other surface or subsurface structures within the tract or abutting thereto, and the proposed location, layout, type and approximate size of the following

structures and utilities:

- (1) Water mains,
 - (2) Sanitary sewer mains and sub mains,
 - (3) Storm drainage facilities,
 - (4) Street and sidewalk improvements,
 - (5) Electric lines and,
 - (6) Cable television and telephone lines.
- (i) The location of all drainage channels, if any, and the proposed method of disposing of all runoff from the proposed subdivision, as approved by the Department of Natural Resources.
 - (j) The length of the boundaries of the tract, measured to the nearest foot, and the proposed location and width of streets, easements and outer limits of street right-of-ways, and approximate lot dimensions.
 - (k) The existing zoning of the tract and of the property abutting thereto.

1326.04 Preliminary plat; Planning Commission action.

- (a) The Planning Commission shall approve or disapprove of the preliminary plat.
- (b) If the preliminary plat is disapproved, the reasons for such action shall be stated in the official minutes of the Planning Commission meetings, and a copy transmitted to the applicant, and such disapproval shall reference those portions of these Regulations, the Zoning Ordinance, or policies of the Town of Harpers Ferry with which the plat does not conform.

1326.05 Preliminary plat; Town Council action.

- (a) After its consideration, the Planning Commission shall forward a copy of the preliminary plat to the Town Council together with a report of any conditions of approval or reasons for disapproval.
- (b) The Town Council within thirty days of receipt of the report and plat from the Planning Commission shall concur with the actions of the Planning Commission or shall return the preliminary plat to the Planning Commission for reconsideration stating the reasons for such request for reconsideration.
- (c) Approval of the preliminary plat shall not in all cases entitle the subdivider to approval of the final plat. After preliminary plat approval, if any conditions arise which would cause the preliminary plat to become unsatisfactory relative to the health, safety and welfare of the community, the Planning Commission shall recommend that the final plat be disapproved.

1326.06 Preliminary plat; duration of approval.

- (a) Approval of a preliminary plat by the Town Council shall be valid for a period of two years from the date of approval provided that the final plat is substantially in compliance with the preliminary plat and provided that no change in land use or street configuration is proposed.
- (b) After a period of two years from the date of approval of the preliminary plat, the Planning Commission may review the approved preliminary plat to consider changed conditions or circumstances.

1326.07 Preliminary plat; changes from approved plat.

If any instance where a final plat includes a change in relationship between the uses of land, a rerouting of a collector street or a request for a change in a specific element of the preliminary plat, then the preliminary plat shall be reevaluated by the Planning Commission and Town

Council.

1326.08 The final plat; general.

The subdivider shall prepare a final plat for presentation to the Planning Commission. It shall conform with the minimum requirements of these Regulations and with the preliminary plat approved by the Town Council.

1326.09 Final plat; procedures for filing application.

In order to be included on the agenda of the Planning Commission, an application shall be in compliance with all of the following:

- (a) A final plat, neatly drawn on mylar and ten dark line copies shall be submitted to the office of the Mayor not less than twenty-one days before the next Planning Commission meeting.
- (b) At the same time, there shall be submitted five sets of the proposed plans and specifications in final form for all required off-site improvements.
- (c) In the case of a plat proposing the reserving or dedication of land to be used in common by owners of the lots within the subdivision, there shall be submitted by the subdivider evidence acceptable to the Town Council that all necessary steps have been taken for:
 - (1) The establishment of a property owner association for adequately maintaining the common property, and;
 - (2) Disposition of the common property in the event of dissolution of the association.
- (d) The final plat shall conform to the preliminary plat as approved by the Planning Commission, and shall not include the rerouting of a collector street, change in the relationship between uses of land or a change of specific elements of the preliminary plat. Plats failing to meet these requirements or other requirements of these Regulations shall not be placed on the Planning Commission agenda.

1326.10 Final plat; contents.

- (a) The final plat shall be drawn on a scale of 100 feet to the inch from an accurate survey and on sheets whose dimension do not exceed 22 inches by 32 inches on a standard 24 by 36 inch sheet. However, in the instance of platting a small area, the scale of the drawing may be changed such that one inch will equal less than 100 feet in order to allow larger representation of the tract. On the first sheet of every plat there shall be a key map showing the location of the subdivision referenced to established survey points.
- (b) The final plat shall show:
 - (1) The location and description of all permanent survey monuments in or near the tract, to at least one of which the subdivision shall be referenced.
 - (2) The length of all required lines dimensioned in feet and fractions thereof, and the values of all required true angles and bearings dimensioned in degrees and minutes.
 - (3) The boundary lines of the lands being subdivided fully dimensioned by length and bearings, and the location of boundary lines of adjoining lands, with adjacent subdivisions fully identified by official names and the legal description of the land being platted.
 - (4) The lines of all proposed streets fully dimensioned by lengths and bearings or angles.
 - (5) The widths, and names where appropriate, of all proposed streets, and all proposed easements and all easements of record, which shall be properly located and identified.

- (6) The lines of all proposed lots fully dimensioned by lengths and bearings or angles, except that where a lot line meets a street line at right angles, the angle or bearing value may be omitted.
- (7) The outline of any property which is offered for dedication by the public, or private use fully dimensioned by lengths and bearings, with the area marked "public" or "private" as the case may be.
- (8) The location of all Build-To Lines, outer limits of street rights-of-ways, easements and easements of record being dedicated for public services or utilities.
- (9) The location of any land that has been determined to be prone to flooding or periodic inundation.
- (10) The radii, arcs, points of tangency, points of intersections, and central angles for all curvilinear streets.
- (11) The following shall be made and shown on the submitted original mylar:
 - A. Owner's certificate and dedications, executed and acknowledged.
 - B. Certificate of survey, executed, and with Land surveyor's seal.
 - C. Certificate of bonded abstractor, executed.
 - D. Certificate for release of mortgage for any portion dedicated to the public, executed and acknowledged.
 - E. County Treasurer's certificate, executed, certifying that all outstanding taxes on property proposed for sale have been paid.
 - F. Reference to any separate instruments, including restrictive covenants or easements filed in the Office of the County Clerk which directly affect the land being subdivided.
 - G. Certificate of Planning Commission approval.
 - H. Certificate of Town Council acceptance of public streets, easements and public lands dedications.
 - I. All signatures affixed in black ink.
- (12) A title which shall include:
 - A. Name of the subdivision/
 - B. Name of the Town, County and State.

1326.11 Final plat; Planning Commission action, appeals.

- (a) The Planning Commission shall approve or disapprove the final plat. Approval shall be shown on the plat with the date of approval and over the signature of the Commission President.
- (b) If the final plat be disapproved, the reasons for such action shall be stated in writing and made a part of the official Planning Commission minutes.
- (c) If the plan be disapproved by the Planning Commission, the applicant may request reconsideration or take the plat to the Town Council for consideration, where by a majority vote it may be approved for filing. However, no plat shall be approved that does not comply with these Regulations for land subdivision.

1326.12 Final plat; Town Council action.

- (a) Before recording the final plat, it shall be submitted to the Town Council for approval or disapproval.
- (b) Approval of the Town Council shall be shown over the signature of the Mayor and attested by the Town Recorder.
- (c) The disapproval of any such plat shall be deemed a refusal of the proposed dedications shown thereon, and the reasons for any

disapproval shall be submitted in writing to the subdivider.

1326.13 Final plat; recording.

The owner or the owner's engineer shall submit the original mylar of any plat and the recording fee for filing of the plat to the Ordinance Compliance Officer or the Mayor's designee at the time approval of the Town Council is requested. All required signatures shall be properly affixed. The Town will retain possession of the original mylar, securing Planning Commission and Town Council signatures upon approval. The Ordinance Compliance Officer or the Mayor's designee will make sepias and prints for record keeping purposes, and will record the plat at the owner's expense within ten days after approval of the final plat, or in the instance where off-site improvements are constructed before the official filing of the final plat, within ten days after acceptance of the said improvements by the Town Council.

ARTICLE 1327
Variations and Exceptions

- 1327.01 Variations and exceptions.**
- 1327.02 Partial exception for Minor Subdivision.**
- 1327.03 Final plat; Town Council action.**
- 1327.04 Final plat; recording.**

1327.01 Variations and exceptions.

Whenever the tract to be subdivided is of such unusual size, or shape or it is surrounded by such development or unusual conditions that the strict application of the requirements contained in this article would result in Unnecessary Hardship or inequity, the Planning Commission with the approval of the Town Council may modify or vary requirements of design, but not procedure or offsite improvements, so that the subdivider may develop the property in a reasonable manner, provided that the public welfare and interests of the Town are protected and the purpose and intent of these Regulations are preserved. Provided, however, that no variance shall be allowed for prohibited land uses and a variation based upon unique conditions shall not be granted when any unique condition was created or contributed to by the subdivider.

1327.02 Partial exception for Minor Subdivisions.

Whenever a tract or parcel of land under a single ownership and is to be subdivided into three or fewer lots, where all required off-site improvements are in place and accepted by the Town, the proposed subdivision may be exempted from the procedural requirements of this article, but this shall not constitute an exemption from any of the design or off-site improvements requirements contained herein. Exemptions may be permitted for minor subdivisions under the following procedures:

- (a) The adjustment of lot lines for one or more lots or record shall not result in an increase of housing density greater than one residential structure per original lot as shown on the S. Howell Brown sale map of 1869.
- (b) The proposed subdivision is located along an existing public road, and involves no opening, widening or extension of a public roadway.
- (c) An accurate survey of the tract, prepared by a registered land surveyor, has been submitted to the Mayor or his/her appointed designee.
- (d) The Mayor or the appointed designee shall review the proposed minor subdivision to insure compliance with all design and off-site improvement requirements of these Regulations and submit a written report to the Planning Commission for consideration at the next regular Planning Commission meeting.
- (e) The applicant shall provide "Certified Mail/Restricted Delivery/ with return receipt" notice to all abutting landowners, as per current tax records, at least seven (7) days before the hearing. The applicant will provide a copy of the certified mail deliveries to the Town.

1327.03 Final plat; Town Council action.

- (a) Before recording the final plat, it shall be submitted to the Town Council for approval or disapproval.
- (b) Approval of the Town Council shall be shown over the signature of the Mayor and attested by the Town Recorder.
- (c) The disapproval of any such plat shall be deemed a refusal of the proposed dedications shown thereon, and the reasons for any

disapproval shall be submitted in writing to the subdivider.

1327.04 Final plat; recording.

The owner or the owner's engineer shall submit the original mylar of any plat and the recording fee for filing of the plat to the Ordinance Compliance Officer or the Mayor's designee at the time approval of the Town Council is requested. All required signatures shall be properly affixed. The Town will retain possession of the original mylar, securing Planning Commission and Town Council signatures upon approval. The Ordinance Compliance Officer or the Mayor's designee will make sepias and prints for record keeping purposes, and will record the plat at the owner's expense within ten days after approval of the final plat, or in the instance where off-site improvements are constructed before the official filing of the final plat, within ten days after acceptance of the said improvements by the Town Council.

PART THIRTEEN – PLANNING AND ZONING CODE

Appendix A

Historic District Standards and Guidelines

Harpers Ferry

Historic District Standards and Guidelines

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INTRODUCTION TO THE GUIDELINES

A. Background

In 2011 and 2012, the Town of Harpers Ferry engaged in a visioning process followed by amendments to the Comprehensive Plan. The town Vision Statement, adopted August 13, 2012, names the preservation of the historic character and ambiance of a 19th century village as a community value. The Comprehensive Plan, adopted June 9, 2007 and amended on August 30, 2013, lists, in Section IV, the goal to preserve and protect the town's historically diverse character and historic integrity for present and future generations.

Harpers Ferry's character is architecturally modest but sophisticated, in keeping with its origins as a prosperous early 19th century town. Many, if not most, of the original homes, shops, and outbuildings remain and have been lovingly maintained. The Lower Town is characterized by buildings that front directly onto the street and sit side by side on narrow lots. Their walkways are perpendicular to the street and in line with their front doors. As one travels up the hill, the architectural styles vary, and lot sizes and setbacks increase. Many walkways lead to gracious porches. Each element of historic structures including, but not limited to, chimneys, porches, windows, and doors, is a significant and character-defining feature of a moment in history.

Over the years, shade trees have been planted in the rights-of-way along the streets, and these soften the appearance of 21st century parking areas and utility poles. This canopy of mature trees is an important characteristic of the town and a natural frame for historic views of the surrounding mountains and rivers.

For all of these reasons, care must be taken when structures are built, altered, or removed. New construction and additions to existing buildings must be done with sensitivity for the architectural style of the structure and the overall harmony of the neighborhood. Demolition of historic structures is always a last resort; and relocation, which removes a structure from its historic context, should only be considered after all other avenues to preservation have been exhausted.

B. Harpers Ferry Historic District

The entire town of Harpers Ferry was nominated and certified as a Historic District in the National Register of Historic Places (1979; amended 2010). The town is historically significant for its architecture, archaeology, and associations with the historic themes of manufacturing and labor, the Civil War, Storer College, the African American community, and tourism. Harpers Ferry attracts tourists who share an interest in learning about our nation's history and who enjoy our unparalleled scenic beauty.

The certification of the town on the National Register recognizes the importance of structures built from the 1790s to 1958. Our designation of the town as a federally recognized Historic District culminated in the Town Council's enactment of a local Historic District zoning overlay in 2014 to be administered by the Board of Zoning Appeals. The Board of Zoning Appeals evaluates projects within the Historic District zoning overlay for compliance with the Standards and Guidelines.

*Harpers Ferry Historic District
Standards and Guidelines*

The Standards and Guidelines govern the manner in which all properties in the Historic District are constructed, expanded, and maintained to ensure compatibility with surrounding historic structures and the original 19th and early 20th century village. The Historic Landmarks Commission is responsible for the development of and revisions to the Standards and Guidelines. The Town Council is responsible for the legislative act of designating the boundaries of the Historic District, enacting the zoning amendments, and formally adopting the Standards and Guidelines. By implementing the provisions of the historic district overlay, the Board of Zoning Appeals provides oversight of the Historic District with the advice and counsel of the Historic Landmarks Commission.

While the designation as a local Historic District includes all properties within the Town of Harpers Ferry, nomination to the National Register of Historic Places relies on the presence of historically significant structures. A list of those structures which were identified in 2010, officially called *contributing structures*, is available at Town Hall and on the town website. As additional information becomes available, the list is updated. The contributing structures are of varied architectural styles, but each retains significant elements of its origins and each is a historic treasure that speaks to the life of this community during the formation and development of our country.

HOW TO USE THE STANDARDS AND GUIDELINES DOCUMENT

A. Purpose of this document

Preserving historic resources makes good economic sense. Vital and attractive neighborhoods promote the town's overall quality of life and illustrate its commitment to its heritage and identity. Design review maintains and enhances this character. The Standards and Guidelines are intended for property owners who are planning changes to the exterior of either a contributing or a non-contributing structure and for those who plan new construction in the Historic District. This document explains the process and conditions for rehabilitation or additions to existing structures and for new construction. The Standards and Guidelines have been written to govern, direct or guide property owners, the Ordinance Compliance Officer or the Mayor's designee, the Historic Landmarks Commission, and the Board of Zoning Appeals to maintain and enhance the harmony of the Historic District.

The goal of the Standards and Guidelines in the Historic District is to ensure that the distinctive characteristics of the historic structures prevail. In general, *The Secretary of the Interior's Standards for Rehabilitating Historic Buildings* (see Appendix A[1]) form the basis for the Standards and Guidelines document. The Board of Zoning Appeals, with recommendations of the Historic Landmarks Commission, determines whether an application or proposal is harmonious with these characteristics by considering the following:

- Exterior architectural features including, but not limited to, doors, windows, chimneys, roofing, siding, foundations, entrances, fences and porches.
- General design and arrangement including, but not limited to, the design, appearance, placement, scale and proportions of architectural features to one another and to the whole building or structure, and the general proportions of the building or structure itself.
- Materials of all exterior architectural features and of the building or structure itself including, but not limited to, the following categories: roofs, fences, porches, windows, doors (including screen and storm doors), siding and foundations.
- The visual compatibility of the proposed work with those features of buildings or structures that can be viewed from the same vantage point.
- The extent to which the proposed work will be harmonious with the historic surroundings.
- The extent to which the proposed work and its siting will preserve or protect historic viewsheds, historic places, and the historic character of the Town of Harpers Ferry.
- The extent to which the proposed work will preserve the historic character of Harpers Ferry.
- The extent to which the proposed work will promote the general welfare of the Town and all citizens by the preservation and protection of historic places and areas of historic interest in the Town.

- ❑ The extent to which the preservation and protection of the historic resource will promote the general welfare by maintaining and increasing real estate values; generating business; creating new jobs; attracting tourists, students, writers, historians, artists and artisans; attracting new residents; encouraging study and interest in American history; stimulating interest and study in architecture, design and town planning; educating citizens in American culture and heritage; and making the Town a more attractive and desirable place in which to live.

The Board of Zoning Appeals, with advice from the Historic Landmarks Commission evaluates the quality of five primary **design concepts** –concepts which were strictly regimented during the historic periods when the town’s contributing structures were built. They are scale, order, balance, rhythm and proportion:

1. **Scale.** Scale is the relationship between the size of spaces and masses and the size of the human body. Harpers Ferry is built on a comfortably human scale. Our buildings are formal and symmetrical in structure but modest and unpretentious. There are no mansions in Harpers Ferry.
2. **Order.** Order is the relationship of all elements of a building, its setting, and its neighbors as parts of a whole. Harpers Ferry gives a visual impression of unity of design. Individual buildings are all different but show an architectural kinship. The street grid of the village itself is orderly.
3. **Balance.** Harpers Ferry is primarily an early 19th century village. This was a time of balance in design. Balance is achieved if the shapes on one side of an imaginary centerline drawn through the principal façade appear to have the same weight as those shapes on the other side. Balance can be symmetrical or asymmetrical as long as the building expresses and maintains a sense of equilibrium.
4. **Rhythm.** Rhythm is the repetition of architectural elements such as windows or columns. It may also be a repetition of intervening spaces between buildings.
5. **Proportion.** Proportion is the relationship between two things of different size. Good proportion contributes to order, balance and rhythm. Harpers Ferry is a village of well-proportioned buildings where individual elements relate well to one another and contribute to an overall balance.

Harpers Ferry’s place in time has strongly influenced its successful adherence to these design concepts. Beyond the five concepts, however, are six *design elements* that are essential to consider in determining suitability of a design for Harpers Ferry.

1. **Compatibility.** Will the new construction look at home with the existing buildings? If additions or changes to an existing building are planned, will they blend with the

original design? These questions are crucial in considering construction in the Historic District. Adherence to the five concepts above and consideration of the elements that follow should help assure compatibility.

2. **Height.** Harpers Ferry's historic buildings are one and two stories at street level and occasionally three stories from behind because of the hillside terrain.
3. **Materials.** Harpers Ferry is a village of brick, stone, stucco or parging, and wood. The stone is native, with distinct color and texture. The brick is of local clay so differences in color are subtle. The overall character is of natural materials.
4. **Details.** The village's architectural sophistication is reflected in the attention that was paid to details. The 19th century houses often have decorative wooden or brick cornices, sophisticated doorway trim and many types of columns displayed on the distinctive porches and galleries. Contemporary details such as sliding glass doors or aluminum storm doors are not acceptable.
5. **Massing.** The exterior massing of a building is the enclosed volume or cluster of volumes which constitute the building's exterior form. Most of Harpers Ferry's buildings have a compact mass, suitable to the relatively small lots. A distinctive architectural feature of Harpers Ferry is the 19th century L-shape with a dominant mass on the principal façade and subordinate masses to the rear.
6. **Siting.** Siting is of primary importance in Harpers Ferry in order to maintain the order and balance of the streetscape. Many houses in the commercial area of High Street are very close to the street if not actually adjoining it. This is paramount in establishing and maintaining Harpers Ferry's urban character. On Camp Hill and on the edges of the village, houses are set back from the street, giving notice to viewers that they are leaving the urban area and approaching more open residential or agricultural areas.

B. How to plan and go forward with a building project

No project that affects the exterior of a structure may lawfully proceed without the approval of the Ordinance Compliance Officer or the Mayor's designee or the Board of Zoning Appeals. This includes alteration to existing structures and external site features visible from a public right-of-way (fences, walls, lamp posts, light fixtures, signs, signposts, driveways, walkways, and paving).

Please note that these Standards and Guidelines apply only to the exteriors that are visible from a public right-of-way in the Historic District. Interior alterations as well as routine maintenance and repair of exterior elements, including painting, do not require permits. Emergency permits for repairs necessary to limit or contain damage from storms or accidents can be obtained from Town Hall.

Because Harpers Ferry has been designated a Historic District in the National Register of Historic Places, owners of contributing structures in our town can take advantage of financial incentives –

grants and tax credits – as they rehabilitate and restore their homes and commercial buildings. Contact the West Virginia State Historic Preservation Office to learn of incentives available for your project.

1. Applying for a Project Permit

- Read the Standards and Guidelines.
- Complete a project permit application (available at Town Hall and on the town website).
- Submit the completed project permit application and required fee at Town Hall.
- If the project would occur within the Historic District and would affect exterior architectural features visible from a public right-of-way, the following items shall apply.
 - The project permit application shall be submitted to the Ordinance Compliance Officer or the Mayor’s designee for assessment. Projects that do not require subjective interpretation or deliberation may be administratively approved by the Ordinance Compliance Officer or the Mayor’s designee. A project that cannot be administratively approved shall be considered by the Board of Zoning Appeals upon a duly noticed hearing.
 - The Historic Landmarks Commission shall review the project permit for its potential impact on the Historic District and provide a recommendation based on the Standards and Guidelines to the Board of Zoning Appeals.
 - Within 45 days of the filing of a completed project permit application and payment of the fee, the application will be discussed in an open and noticed hearing of the Board of Zoning Appeals, and the project applicant is invited to attend and to speak on behalf of the project. The Board of Zoning Appeals shall approve, approve with conditions, or reject the project permit application.
- Approval of a project permit application by the Ordinance Compliance Officer or the Mayor’s designee or the Board of Zoning Appeals is required before work may commence. If work begins without a signed project permit, a stop work order will be issued by the Ordinance Compliance Officer and a daily fine may be assessed. Penalties may be appealed to the Town Council.
- The applicant may appeal the decision of the Board of Zoning Appeals to the Jefferson County Circuit Court within 30 days of the written decision.
- An approved permit is valid for two years. The Ordinance Compliance Officer or the Mayor’s designee may approve the extension of a permit for six months based on an application in accordance with Article 1705.

If the applicant or Historic Landmarks Commission believes that the decision of the Ordinance Compliance Officer or the Mayor’s designee is in error or contrary to law, then he may appeal the decision to the Board of Zoning Appeals.

If the applicant believes that the decision after review by the Board of Zoning Appeals is in error or contrary to law, then he may appeal the decision to the Jefferson County Circuit Court.

All applicants should review state and local laws for a better understanding of their rights.

2. Routine Maintenance

No application needs to be filed for routine maintenance and no project permit is required. The Town of Harpers Ferry considers the following items routine maintenance.

- Repair or in-kind replacement, in whole or in part, of architectural features or elements, including windows, doors, exterior siding, roofing, porches, cornices, balustrades, stairs, trim, ornament, and the like, that are deteriorated, damaged beyond restoration, or previously removed.
However, for contributing structures as much original historic material as possible shall be retained.
- Repair or in-kind replacement of site or landscape features that are deteriorated, damaged beyond restoration, or previously removed *provided the existing footprint remains unchanged.*
- Painting
- Repointing masonry with mortar of the same color, composition, and mortar joint profile.

If you are not sure whether your project is considered routine maintenance, contact the Ordinance Compliance Officer or the Mayor's designee or the Historic Landmarks Commission for guidance.

STANDARDS AND GUIDELINES in the Harpers Ferry Historic District

The Historic Landmarks Commission is responsible for establishing standards for the Historic District. The *standards* determine the appropriateness of proposed construction, rehabilitation or demolition within the Historic District. The standards are to be applied in a reasonable manner, taking into consideration economic and technical feasibility. The *guidelines* were developed to assist property owners during the project planning stage by providing general design and technical recommendations. Unlike standards, the guidelines are not codified as requirements.

For the purposes of this document, a *historic resource* is one that is listed as contributing by the Historic Landmarks Commission. The complete list of contributing structures can be found at Town Hall and on the [town website](#).

A. Fundamental Standards for Historic Resources

The following standards apply to any project undertaken on a historic resource.

1. A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces and spatial relationships. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.
2. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved. These features should be repaired rather than replaced and should not be covered or concealed with vinyl, aluminum or other artificial material. The removal of distinctive materials or alteration of features, spaces and spatial relationships that characterize a property will be avoided.
3. The existing condition of historic features will be evaluated to determine the appropriate level of intervention needed. Where the severity of deterioration requires repair or limited replacement of a distinctive feature, the new feature will match the old in composition, design, color, texture and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.
4. Each property will be honored as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic resources, will not be undertaken.
5. Architectural features may be added if there is physical, pictorial or historical evidence that the additions were original to the building. Any such addition must match the original in terms of materials, scale, location, proportions, form and detailing insofar as practical.
6. Changes to a property that have acquired historic significance in their own right over time will be retained and preserved. Very few historic districts or historic buildings survive into the present without any changes. How do you know if a change has acquired significance? You can start by asking the following questions.
 - Was the change made within the past 50 years (the baseline criteria for National Register listing)? If so, it will most likely not be seen as having acquired significance in its own right.
 - Does it reflect a significant change in the building's use, or historical development of the district?
 - Is it an alteration that can be associated with significant historic American architectural trends or styles?

- Was it constructed of quality material, representing a significant investment in the building?
7. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.

B. Standards and Guidelines for Specific Construction Elements

ADDITIONS

See also New Construction

Designing additions to a historic property or new construction within a Historic District is a balancing act between *differentiation* from the original and *compatibility* with the original. An addition may be a *literal replication* for unity of composition (strongly favoring compatibility), an *invention within a style* sustaining a sense of continuity in formal architectural language (slightly favoring compatibility), an *abstract reference* avoiding literal resemblance and reducing composite form to abstract shape (slightly favoring differentiation), or *intentional opposition* to the context and the determination to change its character through conspicuous contrast (strongly favoring differentiation).

In the Historic District, the fundamental interests of preservation are best served if compatibility is given greater weight, since it alone allows us to sustain valued historic character in the face of the many forces threatening it. Differentiation leads to the gradual erosion of historic character and condemns the district to change in ways alien to its historic patterns and typologies. Alterations or additions to historic settings that improve or strengthen the preexisting character should be welcomed, regardless of their style; changes that weaken or diminish the historic character should not be permitted, again regardless of style.

Additions or new construction *may* be in the same style as the historic buildings, provided that the new construction is consistent with the typology, composition, scale, proportion, ornament, materials, and craftsmanship typical of the setting. Violation of these attributes for the sake of a questionable principle of differentiation leads inevitably to the loss of historic character and, thereby, loss of the resource in its truest sense. When additions or new construction are appropriate at all, they should be added in such a way that the new is distinguishable from the historic fabric by informed observers or trained professionals. No differentiation should be made that would result in an incongruous appearance or a ruptured integrity.

What makes buildings from different eras and styles compatible is that they share the same design concepts and elements (see page 5). If these principles are consistent among the buildings along a street, they will be compatible, regardless of style. Compatibility is not uniformity; however, if the principles embodied by neighboring buildings are antithetical, no alignment of cornices or adjustments of massing will be sufficient to maintain a relationship of civility among them. New buildings in an historic setting should focus more on the “sense of place” than the “sense of time.”

Standards for all properties in the Historic District

1. The scale and related features of additions will respect classical proportions as exhibited on historic structures throughout the district.
2. The architectural composition and architectural integrity shall be consistent with the existing building.
3. Additions may reintroduce and reinterpret traditional decorative elements taken from historic structures of the same type in the Town.
4. The original orientation of the structure shall be maintained. If the primary entrance is located on a principal façade, it shall remain on that façade.

Additional Standards for Historic Resources

1. The historic character of a structure shall be retained and preserved.
2. New additions, exterior alterations, or related new construction shall not destroy the historic materials, features, and spatial relationships that characterize the property. Construction design shall minimize the removal of original walls and details from the original building by connecting to the original building through existing doors or enlarged window openings wherever possible.
3. New additions and adjacent or related new construction shall be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment will be unimpaired.
4. New additions shall be located on a non-principal façade except that the addition of a front porch may be considered on a principal façade when appropriate to the style and period of the structure.
5. The new work will be differentiated from the old and will be compatible with its historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.
6. The size of any addition shall not visually overpower the existing building. Rear additions shall not be substantially visible from a public right-of-way.
7. Rooflines for new additions shall be secondary to those of the existing structure and shall be compatible in pitch and form with the original roof and the style of the building.
8. Additions such as rooftop penthouses or additional stories shall be substantially out of the public view.



Guidelines for Historic Resources

1. The original and the addition should be distinguished by using different wall planes, rooflines or cornice levels.

ALTERNATIVE MATERIALS

As maintenance is carried out, it may seem easier to use contemporary (alternative) materials to replace existing historic or traditional materials. Such incremental actions can result in the loss of the historic architectural appearance of the surviving fabric of the historic district. Taken cumulatively, individual changes to properties as part of on-going exterior maintenance work have the potential to substantially alter the overall historic and architectural character of the district.

In order to safeguard the visual and architectural quality of the district, the Historic Landmarks Commission encourages the use of appropriate materials when maintenance work requires the repair and replacement of exterior features of a building. However, with increasing concerns over sustainability and the expense and unavailability of traditional historic materials, these Standards and Guidelines reflect the Secretary of the Interior's recommendations for the appropriate use of alternative materials.

In the last few decades new materials have been developed and are being used in construction. In some instances these newer products show great promise and in other instances they are less than satisfactory. They are often difficult to integrate with historic materials. Traditional materials can be judged upon a proven performance track record¹ while the newer materials cannot.

As some historic materials become more difficult to acquire and replace in kind, technological efforts will persist to perfect acceptable alternatives to historic materials. One task of the Historic Landmarks Commission is to monitor these advancements and track the material performance to better evaluate their appropriateness for new, non-contributing and contributing structures. The Historic Landmarks Commission endeavors to track previously approved and installed alternative materials in the Harpers Ferry Historic District to gauge the performance in the local climate and with the local historic building materials.

The table below contains the list of approved alternative materials for the Historic District as of the date of this publication. New materials may be considered on a trial basis and added to the list after a period of evaluation.

Historic Material	Alternative Material	Criteria	Application
natural stone	manufactured stone	Must match the coloration and irregular sizing of traditional stone work of the area	May be used on new construction only
natural slate shingles	synthetic rubber slate shingles, composite slate shingles or architectural asphalt shingles	Must match the coloration and size of natural slate; shingles must also match the thickness of natural slate (or give the illusion of depth in the case of architectural asphalt shingles)	May be used to replace slate shingles on a contributing structure or on new construction
wooden lap siding	fiber cement lap siding	Must match the width, profile and thickness of	May be used to replace wooden lap siding on a

¹ http://www.nahb.org/fileUpload_details.aspx?contentID=99359

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		traditional siding; install smooth side out (without imitation wood grain)	contributing structure or on new construction
wooden sash windows	aluminum-clad wooden sash windows	Must have true or simulated divided lite with spacer bar; Must fit the style of the building and convey a traditional appearance consistent with the surrounding historic structures	May be used to replace a wooden sash window on a non-contributing structure or on new construction
wooden columns	fiberglass columns	On contributing structures, must match the dimensions and detailing of the original historic column	May be used to replace a wooden column on a contributing structure or on new construction
wooden decking	composite decking	On contributing structures, must match the dimensions of the original wooden decking	May be used to replace wooden decking on a contributing structure or on new construction
wooden storm windows	metal storm windows	Color must match that of the window trim	May be used throughout the Historic District

Standards for all properties in the Historic District

1. Alternative materials are acceptable for use in new construction, on non-contributing structures and on additions to contributing structures provided they are durable and convey the same appearance as traditional materials.

Additional Standards for Historic Resources

1. Alternative materials may be considered on contributing structures when original exterior features are damaged beyond repair or are missing and no other technical or economically feasible option is available.
2. Alternative materials shall not be considered as a viable replacement if the material does not convey the same appearance as the original or retained materials or if it is not physically or chemically compatible with the retained materials. If it can be demonstrated that traditional material details and profiles, textures and shadow lines can be replicated, substitute materials may be considered.

ANTENNAS

See Mechanical Systems and Utilities

ARCHITECTURAL DETAILS

Architectural details include, but are not limited to, gingerbread, verge boards, eaves, brackets, dentils, cornices, pilasters, clapboard, shingle, stucco surfaces, and any other decorative or character-defining features found on a building or structure.

Standards for Historic Resources

1. Original or historic architectural features that define the character of the building shall be retained. Original features shall not be concealed or covered. Repairs shall adhere to original design features, details, profiles, and, whenever possible, materials.
2. Missing cornices or trim shall be replaced using physical evidence, or barring that, local historic architectural precedent. The design shall be compatible with the architectural style of the building.
3. Elements that are part of the original or historic composition shall not be removed without being replaced in-kind.

AWNINGS

Standards for all properties in the Historic District

1. Awnings are appropriate for traditional locations such as over windows and doors or attached to porches.
2. Awnings shall not interfere with existing signs, street trees, street signs or other elements along the street.
3. An awning must fit the width and shape of any storefront or window opening that it covers. Rectangular window and door openings should have straight-across shed type awnings, and awnings over arched windows should be curved or rounded.
4. The bottom of the awning valance must meet any clearance standards in the Town Code.
5. Signage on awnings should be only on the valance and should be painted on or woven into the fabric.
6. Awnings may not be externally illuminated or backlit.

Additional Standards for Historic Resources

1. Awnings must not obscure distinctive architectural features or details such as transoms or decorative glass. Canvas or a canvas-like fabric should be used for new awnings. Metal, plastic, or shiny, plastic-like fabric awnings are not acceptable in the Historic District.
2. Awnings should be attached in a way that prevents unnecessary damage to original historic details and materials.

BALCONIES

See Decks

CHIMNEYS

See also Masonry, Roofs

Flue caps may be installed without a project permit. On historic chimneys, flue caps should be installed in a way that prevents unnecessary damage to original details and materials.

Standards for all properties in the Historic District

1. When added to an existing structure, to an addition, or to new construction, chimneys should be appropriate to the architectural style and design of the main structure. For example, brick chimneys are generally appropriate on 19th-century brick buildings while pre-fabricated 20th-century metal pipe style chimneys are not appropriate on 18th and 19th century structures.

Additional Standards for Historic Resources

1. If original to the building, chimneys shall not be removed, altered or covered with materials such as stucco (unless it is the historic coating). Chimneys shall be repaired and repointed to match the original chimney in material, coating, color, shape and brick pattern. (See caution about abrasive cleaning in *Appendix A[2] section D*)
2. Chimney coatings shall not be replaced with materials that are stronger than the historic material.
3. When rebuilding, in whole or in part, is the only option, the rebuilt chimney shall match the original in design and materials.
4. A chimney may be added if there is physical, pictorial or historical evidence that the addition to be added was original to the building. Any such addition shall match the original in terms of materials, scale, location, proportions, form and detailing. This does not prohibit the use of a direct-vent metal stovepipe on a non-principal façade.



Guidelines for Historic Resources

1. Secure loose flashing around chimneys to prevent water infiltration.

COLUMNS

See Porches

DECKS

Open decks are primarily a late-20th century occurrence and have had wide spread popularity since the 1970s. As a general rule, decks are suburban in character and not appropriate in the historic district. Nevertheless, the Historic Landmarks Commission is cognizant of the amenity that open air decks create and has approved the construction of decks in a number of instances in sections of the historic district that have a distinctly suburban feel or where there is minimal visibility of the deck from a public way.

Standards for all properties in the Historic District

1. Decks shall be located at the rear of buildings, on a non-principal façade or in other areas not substantially visible from a public right-of-way.
2. Inset a deck at least 6 inches from corners of the building to diminish its impact and differentiate it from the existing building.
3. The deck floor shall be no more than one story above ground level. When the deck floor is more than 30" above grade, the area below the deck must be screened from public view, such as with plantings or lattice work.
4. The size and scale of the deck or balcony shall be subordinate to and in proportion to the principal structure.

Additional Standards for Historic Resources

1. Deck or balcony design shall be simple, constructed of painted or solid-stained wood, with traditionally styled railings and balusters that complement the design of the building to which it is attached. Decks constructed of unfinished pressure treated wood are strongly discouraged.
2. Supports should reflect the dimensions of building materials available during the period of significance. For instance, a narrow metal support would not be an appropriate alternative to a 6x6 inch wooden post.

DEMOLITION

See Relocation and Demolition

DRIVEWAYS and PARKING AREAS

See also Sidewalks and Walkways

Driveway, walkway and parking area conditions vary within the Historic District neighborhoods and are largely defined by the lot size, building coverage, and location within a block. On smaller, traditionally residential lots on streets with no sidewalks, some parallel parking areas have been surfaced in gravel between the right-of-way and the front property line. These dwellings often retain a walkway perpendicular to the street and in line with the front door.

As lot sizes and setbacks increase, driveways and walkways become part of the rhythm of the historic residential areas. Walkways usually connect the public right-of-way to the front stoop or front porch of a residence while a driveway will often lead to the rear of a lot where it may terminate at a historic outbuilding.

Parking for commercial and institutional uses in the Historic District varies from on-street parking to off-street surface parking. Strategically placed landscape screening can help to reduce the strong visual impact that on-site parking areas can create.



Standards for all properties in the Historic District

1. Whenever possible, there shall be no off-street parking directly in front of residences. Off-street parking shall be to the side or rear of residential properties.
2. New paving materials shall be compatible with the character of the area.
3. The design of any new parking area or structure shall have the least impact on adjacent properties.
4. Commercial parking lots should be screened from public view with hedges, shrubs, trees or fences at their edges and employ appropriately planted medians and dividers within their boundaries.
5. Shielded lights that illuminate the road surface and historically appropriate pedestrian-scaled walkway lighting shall be used in parking areas. Fixtures shall reflect the character and period of significance of the district. (see Outdoor Lighting Standards in the zoning ordinance)

Additional Standards for Historic Resources

1. Widening or changing the configuration of existing driveways and parking areas is appropriate when the new design respects and retains historic materials and character.
2. Improvement of the existing paving materials of driveways and parking areas is appropriate when the new material respects and retains the historic character of the property.



Guidelines for all properties in the Historic District

1. Driveways situated in front or side yards should be constructed of gravel, asphalt, brick, cobblestone, narrow strip tracks of concrete, a permeable grass paving (such as Grasscrete), or pea gravel embedded in concrete.
2. Parking areas that will be in public view should be screened with hedges, shrubs, or appropriate fences where possible. Corner-lot parking areas should be edged with landscape screening along both primary and secondary streets.
3. Large expanses of bright white or gray concrete surfaces should be avoided in visible areas.

DOORS and ENTRANCES

See also Screen and Storm Doors

Doors and their surrounds are as much a character defining feature of architectural styles as are windows. For example, Federal and Georgian style residential structures from the late 18th and early 19th century usually have solid wood panel entrance doors. Late 19th century Victorian structures often have wood doors that incorporate glass panels. Main entrance doorways are generally more elaborate than doorways on secondary or rear entrances to a building.

Standards for Historic Resources

1. The location of the main entrance of a structure shall not be removed or changed.
2. Entrances and doors that are original shall be repaired as needed, adhering to historic design features and using original materials whenever possible. Entrances and doors that cannot be repaired shall be replaced with new doors appropriate to the architectural style and period of the building. Replacement doors shall convey the same visual appearance as the original or be compatible in style for the period of the structure.
3. Except for ADA compliance, the original size of the door opening shall not be enlarged, reduced or shortened in height. Door features such as surrounds, sidelights and transoms shall not be removed or altered.
4. Substitute materials for replacement parts shall convey the visual appearance of the surviving parts and shall be physically and chemically compatible.
5. Doors shall not be added to a principal façade where they did not originally exist. Placement of new doors to meet safety codes or to enhance the use of the property shall be at the rear or side of the dwelling or otherwise substantially out of the public view. New entrances shall be compatible in size and scale with the historic building. New entrances shall not obscure, damage, or destroy character-defining features.
6. Sliding glass doors are not permitted on façades that are visible from a public right-of-way.



Guidelines for Historic Resources

1. Utilitarian or service entrances should not be altered to appear to be formal entrances. Paneled doors, fanlights, and sidelights should not be used for utilitarian or service entrances.

FENCES and WALLS

See also Retaining Walls

Fences and free-standing walls of stone, iron, brick and wood contribute to the 19th and early 20th century streetscape of Harpers Ferry.

Standards for all properties in the Historic District

1. The design of new fences and walls shall complement materials and designs that are historically appropriate to the structure or are found in the neighborhood. Historically appropriate materials include wood, brick, iron,



stone, concrete and plantings. Chain link fences, concrete block fences, plastic or fiberglass fences are not appropriate.

2. The height of a fence in the front yard shall not exceed 4 feet. Other fences or walls in the property shall not exceed 6 feet.
3. Painted or stained fences of wood pickets, balusters or spindles are appropriate for front yards. Solid board fences that obstruct visibility of the premises are not appropriate for use in front yards and shall be avoided.

Additional Standards for Historic Resources

1. Existing historic fences and walls shall be retained and repaired. Where this is impossible or impractical, existing historic fences and walls shall be replaced with matching materials and shall replicate the original in height, and detail. Replacement of existing fences and walls must be approved before beginning work.
2. The historic materials of existing walls shall not be painted, parged, or stuccoed unless there is evidence that they were originally covered with these materials
3. Clear water-repellent or waterproofing treatments on masonry shall only be used with the approval of the Ordinance Compliance Officer or the Mayor's designee or the Historic Landmarks Commission.
4. Fences of iron or other historically appropriate material may be added to buildings if suitable to the architectural period and style of the construction.



Guidelines for all properties in the Historic District

1. Traditional plantings such as hedges and shrubs are acceptable alternatives for fences.

FIRE ESCAPES

Standards for Historic Resources

1. Unless required by fire or safety codes, fire escapes should be avoided.
2. So far as possible, fire escapes should be located out of public view.
3. Fire escapes placed on the exterior should be of wood construction with simple balusters and handrails of traditional design. Metal fire escapes may be employed if they are substantially out of the public view.

FOUNDATIONS

Standards for Historic Resources

1. The historic appearance of building and porch foundations shall be retained by preserving original or historic vents and openings.
2. The architectural character of original buildings shall be preserved by placing new openings in existing foundations on non-principal façades.
3. Deteriorated foundation materials, such as brick, stone and mortar, shall be repaired or replaced by matching existing historic materials as closely as possible.
4. Foundations shall not be covered or concealed with siding material, concrete block, plywood panels, corrugated metal, vinyl or plastic panels or other non-original material.
5. Masonry foundations that were not historically parged shall not be parged except where shown necessary to prevent water infiltration. Existing stucco or parging shall be repaired or replaced in kind.
6. Foundations shall be repaired as needed, adhering to the original design features and using original materials whenever possible. If removal of part of a foundation is required to accommodate mechanical unit installation, other upgrades, or repairs, the removal shall be made at the rear or at some other non-principal façade not in public view.

GARAGES, CARRIAGE HOUSES and OUTBUILDINGS

Harpers Ferry's houses, like those of most small 19th and early 20th century villages, often have accessory buildings. Some have garages as well as sheds and other small outbuildings. These small buildings give diversity to the streetscape. They are simple, functional, well-proportioned little buildings of natural materials.

Standards for all properties in the Historic District

1. New outbuildings and other site features shall be compatible with, but clearly subordinate to, the style and scale of the principal structure on the site, especially in materials and roof slope. The design and location of any new site feature shall complement the existing character of the property.
2. Garage doors shall be constructed of solid panels or solid panels with windows. Vinyl and aluminum are not suitable materials for garage doors in the Historic District.
3. Multiple garage doors are acceptable but each should be of single car width only.



4. Attached garages shall occupy no more than 50% of the principal façade.

Additional Standards for Historic Resources

1. Outbuildings that are original to the property or that contribute to its historic character shall be preserved, maintained and repaired as needed, adhering to the original design features and using original materials whenever possible.
2. Relocation of outbuildings to another part of the property shall be avoided except when demolition of the outbuilding is the only other alternative.
3. Original doors shall be preserved, maintained and repaired as needed, adhering to the original design features and using original materials to the greatest extent possible. In some instances, original doors may be retrofitted with appropriate hardware and custom garage door openers.



Guidelines for all properties in the Historic District

1. New outbuildings shall be located at the rear of lots, or, alternatively, to the side of the main dwelling without extending in front of the centerline of the house.

GLASS

See also Doors and Entrances, Windows

Standards for Historic Resources

1. Retain original or historic window glazing when possible.
2. Retain leaded, stained, prismatic and historic structural pigmented glass.
3. Repair leaded, stained and prismatic glass with in-kind materials or with glass that replicates the historic appearance.
4. Do not put storm windows over leaded glass windows as heat build-up can cause significant warping of the lead joints in the historic window.
5. Do not put tinted ultraviolet (UV) coatings on windows as it changes the historic appearance of the window.

GRADE CHANGES

Standards for all properties in the Historic District

1. Grade changes shall not change the character of the streetscape or the relationship of the buildings situated thereon and shall not result in obscuring or concealing an historic building.

GUTTERS and DOWNSPOUTS

See also Metal

Standards for Historic Resources

1. Gutters and downspouts shall not be removed if they can be repaired. Gutters and downspouts that are removed shall be replaced in kind with like materials and with the same historic profile. Replacement gutters and downspouts shall match the original in size, location and design unless new contributing factors dictate the need for a design change.
2. New gutter materials shall be physically and chemically compatible with the existing materials on the building. Copper, for example, reacts with uncoated and galvanized steel, and direct contact between those metals must be avoided.
3. Architectural features shall not be obscured, removed or damaged by the installation of gutters and downspouts.



Guidelines for all properties in the Historic District

1. To ensure that gutters drain properly, make certain they slope toward a downspout.
2. Ensure an adequate number of gutter support brackets.
3. Consider half-round replacement gutters rather than “K” or ogee. Downspouts round in cross-section were typical on historic properties and their use is highly encouraged.

HANDICAPPED ACCESSIBILITY

Access ramps and lifts are a necessity for many older historic buildings that were not built with at-grade entrances. The Americans with Disabilities Act requires that places of public accommodation be accessible to the disabled or provide alternative accommodations. Access ramps and lifts can usually be added to historic buildings without substantially altering their historic significance if designed carefully and sensitively.

Standards for Historic Resources

1. Access should be located at a well-defined entrance to the building and where providing that access will not cause permanent damage to character-defining features of the building.
2. Installation of access ramps and lifts shall not result in damage to or removal of original historic material. Installations of access ramps and lifts shall be readily reversible.
3. Wheelchair ramps shall be designed to have the least visual effect on the building and or setting.
4. Materials and design details used for ramps shall be compatible with existing material on the building.
5. Wooden ramps shall be of simple design and configuration or designed to match an existing porch railing that has historic merit in terms of materials, dimension and detailing.



Guidelines for Historic Resources

1. When possible, ramps should not be placed over the primary historic walkway or path or impede common pedestrian access to the building.
2. Ramps that are located substantially in the public view should be screened with landscaping when possible.

LANDSCAPING and TREES

See also Viewsheds

Canopies of mature trees lining the streets of the Historic District are an important and appreciated characteristic and should be protected. Likewise, landscaping should enhance the historic view rather than detract from it. Check with the Zoning Ordinance (Part 13) and the Harpers Ferry Tree Conservation Ordinance (Article 1104) for standards.



Guidelines for all properties in the Historic District

1. Mature trees in a healthy condition that contribute to the character of the Historic District and are unlikely to cause future damage to buildings should be maintained.
2. The site chosen for new plantings should enhance the appearance and character of the historic streetscape. The natural topography should be maintained in order to enhance drainage and soil stability.

3. Special care should be taken to preserve and enhance historic viewsheds by avoiding excess plantings that block the views and by providing landscape treatment that frames the viewsheds.

LIGHTING

Harpers Ferry's early 20th century streetlights are distinctive and crucial in preserving the historic streetscape. Exterior lights should be subtle and mimic the warmth, color and intensity of gas lamps.

All outdoor lighting in the Town of Harpers Ferry must comply with the *Outdoor Lighting Standards* as well as the Sign Ordinance Article 1725 if applicable to the lighting.

Standards for all properties in the Historic District

1. Lighting fixtures should be appropriate to the style, scale and period of the building.
2. Lighting for security purposes (such as flood lights) shall be mounted on the rear or sides of the building to avoid glare to neighboring properties and the public right-of-way and must be activated by motion sensors. When in public view, floodlights or walkway lights should be small, simple in design, aimed downward and their number kept to a minimum.

Additional Standards for Historic Resources

1. Lighting fixtures original to the building shall be retained and repaired whenever possible. If replacement of original fixtures is needed, a style similar to the original is preferred.



Guidelines for all properties in the Historic District

1. Down-lit fixtures are encouraged in all applications.

MASONRY

See also Chimneys, Stucco, Alternative Materials

This section applies to elements constructed from materials such as brick, stone, terra cotta, concrete, adobe, and mortar.

Standards for Historic Resources

1. Historic finishes shall not be removed to create a new appearance.
2. If original to the building and undamaged, historic masonry shall not be removed, altered or covered with other materials.
3. Masonry shall be repaired and repointed to match the historic masonry in detail, shape, size, patterns, textures and craftsmanship. Masonry that is damaged beyond repair shall be replaced with material in-kind that matches the visual character, strength, porosity, and coefficient of expansion as closely as possible. (See Appendix A[2] for information about finishes that are recommended for the preservation of historic materials.)

4. In most instances previously unpainted masonry or stone work shall be left unpainted. *See also Masonry. See Appendix A[2] for care and maintenance of painted exteriors.*
5. Spray-on coatings such as liquid vinyl or liquid ceramics shall not be used.



Guidelines for all properties in the Historic District

1. Removal of old mortar should be done in a way that does not widen the masonry joints or damage the face of the brick. Deteriorated mortar should be removed by hand using a tuckpointer's rake and not a power tool, such as an electric saw with masonry blade.
2. Repointing should never be done with portland cement or other hard mortar compounds unless they are original to the building. Most pre-1920 buildings require soft mortars to match the original composition, but if the original composition cannot be determined, an historic formula such as one part lime to two parts sand should be used.
3. Masonry should never be sandblasted or subjected to any kind of abrasive cleaning, including pressure cleaning with water at any pressure which exceeds 300 pounds per square inch.

MECHANICAL SYSTEMS and UTILITIES

Mechanical systems and utilities are site features that include overhead wires, fuel tanks, utility poles and meters, solar panels, satellite dishes, antennas, exterior mechanical units, and refuse storage areas. The placement of these items can either have a neutral impact on the character of the site and structure or detract from its historic appearance.

Site features fall into two categories; those features that can be controlled by the property owner such as antennae, satellite dishes, and mechanical units, and those that cannot such as utility poles. New and upgraded utility lines should be placed underground in accordance with Part Nine of the Harpers Ferry Ordinances. Standards and guidelines for measures to blend solar panels into the appearance of a roof follow The Secretary of the Interior's *Standards for Rehabilitation & Illustrated Guidelines on Sustainability for Rehabilitating Historic Buildings*.

Standards for all properties in the Historic District

1. Mechanical systems, including satellite dishes and antennas, shall not be installed in front yards, in side yards, or on roofs within the public view where less visible alternatives are possible.
2. Satellite dishes shall be of the smallest practical size and, if ground mounted, placed as close to the ground as possible and screened with landscaping, lattice panels or fencing.

3. All satellite dishes and antennas must comply with Article 1715 of the Harpers Ferry Ordinances.
4. Solar panels that are mounted on roofs shall be located on rear sections of the roof, behind dormers or gables, or in other areas not readily visible from a public right-of-way, insofar as possible. If the building orientation does not permit this, every effort shall be made to blend the solar panels and its supports and connections into the slope and appearance of the roof.
5. If freestanding, solar panels shall be located in rear yards or side yards and shall not be readily visible from a public right-of-way. Freestanding panels shall be effectively screened by landscaping, fencing or lattice panels.



Guidelines for all properties in the Historic District

1. Mechanical systems and utilities should generally be located at the rear or sides of buildings or otherwise out of the public view. If located on the sides of buildings, they should be screened with shrubbery, fencing, lattice panels or other acceptable means of screening.
2. Where possible, antennae and satellite dishes should be placed away from the principal façades.
3. Refuse storage areas should be situated at the rear of a building and screened from the public view by shrubbery or fencing.

METAL

See also Gutters and Downspouts, Roofs, Alternative Materials

Standards for Historic Resources

1. Metal shall be protected and preserved with the original finish or a close match to the original finish. Original finishes shall not be removed if they have not failed. Original finishes or patinas shall not be removed to create a new appearance or replaced with a finish that does not convey the same visual appearance or one that will damage the historic material.
2. If a protective finish must be removed, a matching replacement finish must be reapplied in a timely manner to protect the material from accelerated corrosion.
3. No finish shall be applied to a metal that was historically intended to remain unfinished.
4. Metal features shall not be removed if they are not damaged or can be repaired. When a metal feature is damaged beyond repair and is removed, it must be replaced in kind, ensuring that incompatible metals are adequately separated.

MOTHBALLING

Buildings can remain vacant for a variety of reasons including:

- a) Difficulty in renting or leasing due to lack of demand,
- b) Delay or difficulty in obtaining funds to refurbish the building to make it useable, or
- c) Where a development scheme is being prepared and there are delays due to the acquisition of adjoining land, resolution of legal issues or securing finance.

Vacant buildings are likely to be categorized by the town as being “at risk”, especially if they are in poor condition. An accepted plan for mothballing may allow the risk category to be reassessed.

Standards for Historic Resources

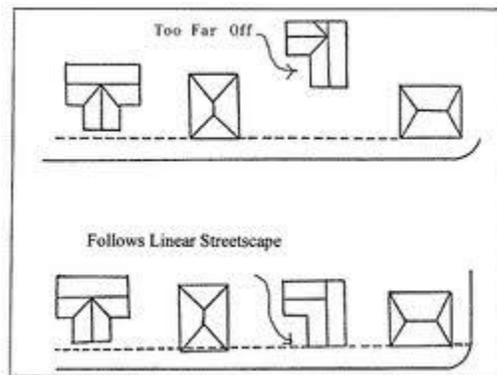
1. When renovation is not immediately viable, mothballing in accordance with *U.S. Department of the Interior, National Park Service, Preservation Brief 31, Mothballing Historic Buildings* is acceptable.

NEW CONSTRUCTION

See also Additions, Storefronts

Standards for all properties in the Historic District

1. The character of the Historic District shall be retained and preserved.
2. New construction shall be evaluated on a case by case basis for compatibility in form, scale, mass, setback, spacing, height, fenestration, width, materials, proportion and orientation with the context of the surrounding historic structures within the neighborhood. Less flexibility in design shall be permitted in areas where there are a greater number of contributing structures.
3. New construction may reintroduce and reinterpret traditional decorative elements taken from historic structures in the Town or the themes of the neighborhood.
4. Buildings shall align with the setback of the majority of historic buildings facing on the same street. Orientation shall be toward the primary street.



5. The roof slope for new construction shall be appropriate to its architectural style.
6. On a principal façade, foundation height shall be consistent with foundation heights in the area. However, foundation height on other façades may be altered as required to follow the slope of the lot.
7. New residential construction shall not vary more than one-half story from the predominant building height typical of historic dwellings along the block in which the property is situated. In many blocks this will limit new construction to two and one-half stories or less. In all instances, building height must comply with the Zoning Ordinance.
8. Design new residential buildings so that the mass appears similar to that of neighboring historic ones. Break up the principal façade of large new buildings into smaller visual units to reflect proportions similar to historic buildings.

PAINT



Guidelines for all properties in the Historic District

1. While the Historic Landmarks Commission does not regulate paint colors, it recommends that paint colors be selected to complement the building's architectural style and design. The Historic Landmarks Commission can assist in recommending colors appropriate to particular architectural styles. See Appendix B for recommendations about maintenance of painted structures.

PORCHES

See also Handicap Accessibility, Wood

Porches serve as a defining element of an architectural style. A porch provides a transition area between the public streetscape and the private interior of a building and traditionally provides a social space between the public and private zones. This topic includes all elements of a porch, stoop or landing such as columns, railings, flooring, skirting, and steps.

Standards for all properties in the Historic District

1. Porches, including porches on new construction, shall employ a design that is compatible with the architectural style and period of the particular building.
2. Existing porches on non-historic structures may be screened, provided that:
 - a. Screen panels shall be placed behind the original features such as columns or railings.
 - b. The screen panels shall not obscure decorative details or necessitate the removal of original porch materials.
 - c. The structural framework for the screen panels shall be designed to maintain the open appearance of the porch.

Additional Standards for Historic Resources

1. Porches that define the overall historic character of a building shall not be removed or radically changed. A porch which cannot be repaired shall be replaced with a new porch that conveys the same visual appearance. In some instances, alterations to existing porches may convey a sense of the development of the property over time.
2. Porches that are intact and totally or partially original shall be repaired as needed, adhering to original design features in scale and placement and using original materials, methods of construction, and details, whenever possible, to match the original. If the original design is unknown and cannot readily be determined, the owner shall employ a traditional design which is compatible with the architectural style of the building, using appropriate material and detailing.
3. When damaged elements are replaced, substitute materials may be used that convey the visual appearance of the surviving parts of the porch and that are physically or chemically compatible.
4. Porch floors, staircases, and steps original to a property should be retained in their original location and configuration. If these have been removed or replaced, the porch shall be restored to its original design, or if that is unknown and cannot readily be determined, the porch shall reflect a traditional design compatible with the architectural style of the building.
5. Porches on principal façades shall not be enclosed with wood, screen, glass or other materials which would alter the porch's open appearance. Porches on non-principal façades not visible from a prominent public right-of-way may be enclosed in a manner that does not radically change the historic appearance of the building.
6. When open areas in the foundation of porches are filled in, the design shall be appropriate to or compatible with the original design of the porch.

RAILINGS

See Porches

RELOCATION AND DEMOLITION

1. Because relocation of a structure from its original site is akin to demolition of the building in its historic context, relocation should be considered only after it is determined that to remain in its original location would result in the structure's complete demolition. All other avenues should be explored if the goal is preservation of the structure. Should there be no other option to save a building from demolition, careful plans should be undertaken to find a suitable site for the structure. For

purposes of this Section, a proposed relocation of a building shall be deemed the same as its proposed demolition.

2. A Demolition Review Permit is required for the removal of any contributing building or structure approved under Article 1705. The intent of the Demolition Review Permit is to establish a waiting period during which the Town and the Applicant can propose and consider alternatives to the demolition of a building that may have significant historical, architectural, cultural or urban design value. At the time of the passage of this ordinance, existing contributing buildings shall be subject to a Demolition Review Permit. Demolition Review Permits are subject to review by the Board of Zoning Appeals and shall be regulated as follows:
 - a. The Board of Zoning Appeals may temporarily stay the demolition of a significant building or structure for up to 90 days if the Board of Zoning Appeals finds the stay would be in the public's interest because of the building's significant historical, architectural, cultural or urban design value.
 - b. In considering a Demolition Review Permit, the Board of Zoning Appeals may require the applicant to divulge the proposed use of the property and submit photographic evidence of the existing conditions of the building or structure, structural reports by a certified engineer or architect, and any other information the Board of Zoning Appeals deems necessary.
 - c. A Demolition Review Permit shall be reviewed by the Board of Zoning Appeals at a public hearing, except as provided in subsection 3 below. The Board of Zoning Appeals shall consider a Demolition Review Permit within 45 days after the filing thereof by the owner or occupant. Notice of the time and place of the hearing shall be given by publication in a newspaper having general circulation in the Town at least 14 days before such hearing.
3. The Board of Zoning Appeals may approve an emergency Demolition Review Permit without a hearing, by way of an administrative review, if it determines an imminent hazard and the building or structure is well beyond rehabilitation or that the public's interest clearly outweighs its preservation or rehabilitation.

Standards for Historic Resources

1. Demolition or relocation of any original feature or portion of a historic structure shall be avoided.
2. No historic structure shall be demolished or relocated unless at least one of the following factors is present:
 - a. Public Emergency: An emergency condition exists in which the public safety and welfare requires the removal or relocation of the building.

- b. Loss of Structural Integrity: The building has deteriorated so that restoration poses an economic hardship or exceptional difficulty. In this event, the Board of Zoning Appeals may:
 - 1) Require a site visit by the Board of Zoning Appeals members to more closely inspect and evaluate the building.
 - 2) Require the applicant to submit an unbiased structural engineering report that documents the building's physical condition.
 - 3) Require the applicant to submit an economic and structural feasibility study for rehabilitating or reusing the structure.
 - 4) Require the applicant to submit a feasibility study for the relocation of the building as an alternative to demolition.
 - 5) Require the testimony of expert witnesses at the public hearing at which the demolition request is being considered.
 - 6) Require the preparation of a Historic Structure Report by an experienced preservation professional.
 - c. If strict application of any provision of this article will result in exceptional practical difficulty or undue economic hardship, the Board of Zoning Appeals may approve demolition.
3. Moving a building into the Historic District may be acceptable if the building is compatible with the District's architectural character in terms of style, period, height, scale, materials, setting and placement on the lot.
 4. Demolition of historic accessory buildings, such as sheds and garages, and structures such as fences and walls, shall be avoided. When substantially deteriorated, demolition of accessory buildings and structures may be permitted. (*See also Garages, Carriage Houses, and Outbuildings*)

RETAINING WALLS

See also Fences and Walls

Standards for all properties in the Historic District

1. Retaining walls of unparged concrete block shall not be constructed at the front of buildings.

2. Retaining walls shall be constructed of materials that are compatible with the associated building and its context in the neighborhood.

Additional Standards for Historic Resources

1. Retaining walls which are contributing structures in their own right or are associated with a contributing structure shall be preserved or maintained wherever possible.

ROOFS

See also Alternative Materials

Roofs of historic buildings are one of the dominant visual elements in the historic district. The choice of roofing materials is an important consideration in the design of any rehabilitation work on a historic structure as well as for new construction.

Standards for all properties in the Historic District

1. The roof slope ratio for new construction shall be appropriate to its architectural style.
2. Roof materials shall be consistent with the visual characteristics of traditional roof materials in Harpers Ferry such as slate, wood shingle and standing-seam metal.
3. Skylights shall have a low profile and skylight tops shall be flat, not convex or of a "bubble" design.
4. Small metal flues, plumbing vents in the roof, and attic exhaust vents required for 20th century functional requirements should be located on visually inconspicuous areas of the roof. Such metal flues and vents should be painted to match the existing color of the roof material in order to reduce visibility.
5. New dormers should align with the existing windows or be centered between the windows. The style of dormers should match existing dormers. All dormers should be appropriate to the architectural style of the existing structure.

Additional Standards for Historic Resources

1. Existing roofs shall be retained in their original configuration, form and pitch, with original features such as cresting, chimneys, finials, dormers, balconies and cupolas.
2. Original materials shall not be removed unless they have failed. Original materials and finishes shall not be removed to create a new appearance.
3. Alternative materials may be considered as a replacement option but shall be considered as the final option. Alternative materials shall convey the same visual appearance as the original and shall be physically and chemically compatible with any retained materials from the original.
4. New dormers, skylights, roof decks, balconies or other additions shall only be introduced on non-principal façades and additions of this type shall not be prominently in the public view.
5. Roofs requiring vents shall have ridge or gable vents rather than pot vents where practical.
6. Historic vents and skylights shall be preserved.
7. Standing-seam metal roofs shall use a narrow panel width consistent with historic convention.



Guidelines for all properties in the Historic District

1. Roof lines that replicate the more common styles and pitch in the Historic District are preferred.
2. Breaking up the roofline of a large building into smaller components, such as intersecting gables, may help reduce the perceived mass of large buildings.
3. New wood shingles are appropriate for most early 19th century buildings. Standing seam metal roofs are appropriate for later 19th century buildings.

SATELLITE DISHES

See Mechanical Systems and Utilities

SCREEN and STORM DOORS

See also Doors and Entrances

Standards for Historic Resources

1. Screen and storm doors shall be as inconspicuous as possible and shall reveal the door behind. Extraneous and distracting decoration such as cast aluminum or plastic foliage on screen and storm doors is strongly discouraged.
2. Screen and storm doors shall be correctly sized to fit the opening for which they are intended and, whenever possible, openings shall not be enlarged, reduced or shortened for new door installation.
3. In protected areas, new screen doors or storm doors shall be constructed of wood. Metal storm doors of full-view design with baked on enamel or anodized finishes may be acceptable. Raw metal finishes are not acceptable.



Guidelines for Historic Resources

1. Structural members of screen and storm doors should be aligned with those of the original door.

SHUTTERS

See Windows

Window and door shutters are an important visual detail of the overall composition of a building and serve both functional and decorative purposes. Inappropriate shutters can detract from the design integrity of a building and create a false impression of the architectural character of a structure.

Standards for Historic Resources

1. If original to the building, shutters shall be preserved, maintained and repaired as needed, adhering to original design features and using original materials whenever possible.
2. Shutters shall be added to a building only where there exists physical, photographic or other evidence that the building originally had shutters or where shutters are consistent with architectural style of the building. Missing shutters shall be replaced with wood shutters of identical or substantially similar size, material and design. Wood shutters shall be of louvered or paneled wood constructed to cover the respective window openings when completely closed.

3. Aluminum, vinyl or other plastic or metal shutters are incompatible with historic buildings and shall not be used.
4. Shutters shall be mounted using appropriate hardware, so as to appear operable. If shutters are used on paired windows, they must be double-hinged. Shutters shall not be used on grouped, picture or bay windows.
5. Shutters shall not be affixed directly to the wall surface.

SIDEWALKS and WALKWAYS

See also Driveways and Parking Areas

Standards for all properties in the Historic District

1. Sidewalks or walkways shall be of brick, stone pavers, or concrete, and compatible in details, dimensions and placement with original or early sidewalks. Asphalt or materials that replicate brick or stone pavers may be appropriate in some instances.

Additional Standards for Historic Resources

1. Widening or changing the configuration of existing walkways is appropriate when the new design respects and retains historic materials and character.
2. Sidewalks or walkways of stone, brick, or other materials original to buildings shall be preserved.
3. Repair or replacement of walkways is appropriate when the new material respects and retains the historic character of the property.

SIDING

See also Wood, Masonry, Alternative Materials

Siding is one of the principal character defining elements of a building. Brick, stone and wood are the predominant exterior wall materials in the historic district.

Standards for Historic Resources

1. Siding that is original to a building shall be repaired rather than replaced.
2. Historic siding shall not be concealed beneath synthetic materials such as vinyl, Masonite, aluminum, particle board, gypsum board or press board.
3. Where replacement is necessary, the new siding shall match the original siding in size, placement, texture, material and design. Synthetic siding such as aluminum or vinyl is not appropriate.



Guidelines for Historic Resources

1. Synthetic sidings such as aluminum, asbestos or vinyl should be removed from wood siding, and the wood siding repaired to original appearance, caulked and painted. If the “ghosts” or outlines of decorative missing features are revealed by the removal of the synthetic siding, the missing features should either be replicated and re-installed or recorded through photographs or drawings for future replication.

SIGNS

The provisions of the Harpers Ferry Sign Ordinance apply to all signs and graphic designs (see Article 1725).

SKYLIGHTS

See Roofs

SOLAR PANELS

See Mechanical Systems

STEPS

See Porches

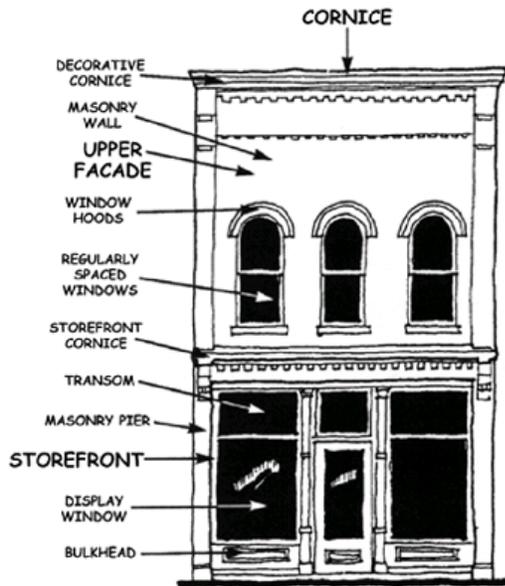
STOREFRONTS

Façades of commercial buildings include the exterior faces and any storefronts, bulkheads, and display windows that are visible from a public right-of-way. Historic buildings designed and built for commercial use in the lower town are generally two to three stories tall. These buildings are typically built up to the property line and may adjoin neighboring buildings.

The principal façade of most historic commercial buildings has a predictable appearance with three distinct parts that give it an overall unified appearance. These parts are the storefront, upper window areas, and the cornice which divide the storefront into smaller parts reflecting the pedestrian scale of the Historic District.

Storefronts are primarily transparent to allow for display of merchandise, allow natural light, and encourage street vitality. The smaller fenestration of the upper levels reflects its differentiated usage as office or living space above the retail first level.

Standards for all properties in the Historic District



1. When designing new storefronts, the design, scale, configuration and materials shall be compatible with those on traditional storefronts in the immediate vicinity. Components of traditional Harpers Ferry storefronts such as transom windows, cornices and bulkheads shall be used.
2. False historical appearances, such as "Colonial," or "Olde English," or other theme designs that include inappropriate elements such as mansard roofs, coach lanterns, metal awnings, plastic shutters, inoperable shutters, or shutters on windows where they never previously existed shall not be used.
3. Windows and storefronts shall be of a size and proportion consistent with adjacent and nearby historic commercial buildings.
4. Traditional separations between storefronts and upper façades shall be maintained and shall be consistent with those existing in adjacent or nearby historic commercial buildings.
5. Vertical divisions that express the rhythm of traditional building widths shall be maintained, especially where large buildings extend across several lots.
6. Where feasible, new commercial buildings shall be designed to fill the lot area to the extent that they form a continuous street façade.

Additional Standards for Historic Resources

1. Any portions of commercial or institutional façades that are original shall be repaired as needed, adhering to original design features, reinforcing historic materials, and using original materials wherever possible.
2. Repairs may include the limited replacement in-kind of extensively deteriorated or missing parts.
3. If replacement with the same material is not technically or economically feasible, then compatible substitute materials shall be considered. Substitute material for replacement parts shall convey the same visual appearance as the surviving parts of the storefront using materials that are physically and chemically compatible.
4. A storefront that is not repairable shall be replaced with a new storefront that conveys the same visual appearance.
5. If the original design is unknown and cannot readily be determined, new elements and alterations shall respect the historic character, materials, configuration, proportion and design of the building.
6. Bulkheads and display windows that are original shall be repaired as needed, adhering to original design features and using original materials wherever possible. If the original design is unknown and cannot be determined, the following provisions apply:
 - a. Missing bulkhead: If any original bulkhead is missing, it shall be replaced by a bulkhead of traditionally appropriate materials.
 - b. Missing display windows: If any display window is missing, it shall be replaced with traditionally scaled windows matching the historic original in divisions.
7. Bulkheads and display windows shall have window mullions or framing of wood, copper, or bronze metal and be similar in size and shape to the original design.



Guidelines for Historic Resources

1. The appearance of storefronts should remain commercial, rather than residential, in nature.

STREETS

The original street grid designed by arsenal managers is still in use in Harpers Ferry. The width of the streets, which predate the automobile, are often narrow. Many of the streets are arranged in a strict perpendicular fashion with apparent disregard for the natural terrain. The street grid includes many unimproved *paper streets*. The Harpers Ferry street grid is listed as a distinctive and contributing resource.

Standards for Historic Resources

1. The alignment of the existing street grid shall not be changed.
2. Paper streets shall not be paved, fenced, or developed for private use.



Guidelines for Historic Resources

1. The use of cobblestone is discouraged. A street surface of asphalt or macadam is preferred.

STUCCO

See also Masonry, Alternative Materials

Standards for Historic Resources

1. Historic finishes shall not be removed unless they have failed. Historic finishes shall not be removed to create a new appearance.
2. Historic stucco coatings that are original to buildings shall be repaired, retaining as much of the original as possible. Stucco coatings shall not be removed from brick, stone, or log structures. Repairs shall match the original in any new stucco application. (See Appendix A[2] for information about commercial materials that may damage stucco.)
3. Buildings that show no evidence of previous stucco applications shall not have stucco applied.

SWIMMING POOLS

Standards for all properties in the Historic District

1. Swimming pools shall be located in rear or side yards and screened from public view by fencing or landscaping.
2. Mechanical equipment related to the operation of swimming pools shall be located out of the public view and screened with shrubbery, low fencing, lattice panels or other acceptable means of screening.
3. Lighting for swimming pools shall be beneath the surface of the water or at ground level.

TEMPORARY STRUCTURES

Temporary structures in these guidelines include tents and shelters intended for seating or outdoor dining located at residences as well as commercial establishments when such structures remain in place longer than 30 days. Temporary structures do not include tents or sun shelters erected for single events, such as weddings, receptions, parties, Civil War reenactments or weekly farmers' markets.



Guidelines for all properties in the Historic District

1. Temporary structures shall complement the colors, sizes, and architectures of the buildings in near proximity.
2. In no case shall temporary structures obscure architectural details of historic buildings in the Historic District from public view.

VENTS

See Roofs

VIEWSHEDS

Views to natural and historic features abound in Harpers Ferry and contribute to its unique setting. These view corridors should be respected. Maintaining views of the rivers, the mountains, and the Blue Ridge Gap is especially important. These standards seek to preserve the natural contours of the landscape and vistas to and from natural and historic features.

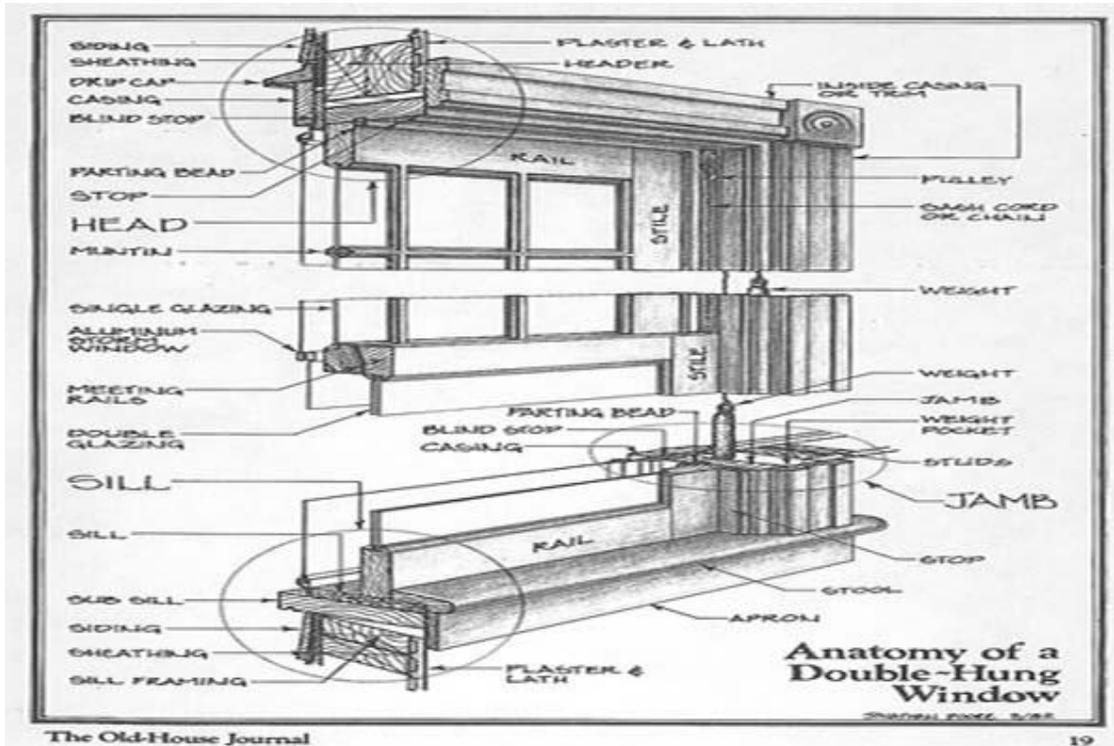
Standards for all properties in the Historic District

1. Views of natural and historic features shall be preserved and protected to the maximum extent practicable through site design, building location, and parking layout. Special consideration shall be given to the impact of projects on historic views as identified in the *Harpers Ferry Tree Plan and Standards*.

WINDOWS

See also Glass, Alternative Materials

The window sash, frame, and architectural details that surround the window are significant character-defining features of many buildings. Harpers Ferry's windows are simple and symmetrically balanced. Even Victorian houses have relatively simple windows. There are often jack arches or eyebrow cornices above six over six or two over two panes.



Standards for all properties in the Historic District

1. Vinyl windows may be used on buildings where vinyl was available at the time of the original construction.
2. Original windows may be repaired, or if repair is not feasible, replaced with new windows appropriate to the period, materials, and style of the building.
3. Horizontal, picture, round, octagonal, or bay windows and bow windows shall not be installed unless appropriate to the architectural style of house.

4. Storm windows with built-in lower screens are permitted.

Additional Standards for Historic Resources

Windows

1. Windows and their decorative features shall be preserved in their original location, size, design, and numbers of panes (glass lights).
2. Window openings that are not original shall not be added to the principal façade of a building or where visible from a public right-of-way.
3. Historic window openings shall not be eliminated from the principal façade of a building.
4. Windows shall be repaired rather than replaced.
5. Windows that are missing or beyond repair shall be replaced with windows that replicate materials, operation, and pane configuration. Only those elements of the window which are missing or beyond repair shall be replaced. Where an entire window is approved for replacement, the new window unit shall meet the criteria below:
 - a. Design, dimension, and operation of the original window:
 - 1) Maintain the original dimensions and shape of the window.
 - 2) Match the height and width of the original opening.
 - 3) Match the width and depth of the historic meeting rail.
 - 4) Maintain the existing glazed surface area.
 - 5) Retain associated details such as arched tops, hoods, and decorative elements.
 - b. Pane configuration
 - 1) Maintain the original or historic number and arrangement of panes.
 - 2) Use true divided lights, or three-part simulated divided lights with integral spacer bar and interior and exterior fixed muntins to give depth and profile to windows. Do not use clip-in/false muntins or removable internal grilles.
6. Historic decorative glass windows shall be preserved in their original location, size and design and with their original materials and glass pattern.
7. Dark tinted windows or windows with reflective glass and coatings shall not be used if they are in the public view.

Screens

8. Screens shall be correctly sized to fit window openings without overlap, including openings for arched windows. Screen shall be sized to fit without the need for a subframe or panning (a filler panel) around the perimeter.
9. Screens shall be constructed of painted wood or aluminum with a baked-on enamel or anodized finish. Raw metal screen frames are not acceptable. Screen window panels shall be of a full-view design or have meeting rails (or support bar) that match the windows behind them.

Storm Windows

10. Storm windows shall use only clear glass.
11. Storm windows shall be constructed of painted wood or aluminum with a baked-on enamel or anodized finish. Raw metal storm windows are not acceptable. Storm window panels shall be of a full-view design or have meeting rails (or support bar) that match the windows behind them.



Guidelines for Historic Resources

1. Interior functioning storm windows are recommended.
2. When interior alterations necessitate the removal of a window visible from a public right-of-way, design treatments should be used to maintain the appearance of the window on the exterior of the building.
3. When replacing a historic window on a principal façade and a matching window exists on a subordinate façade, consider moving the window to the principal façade and installing the replacement window on the subordinate façade.

WOOD

See also Alternative Materials

Standards for Historic Resources

1. Wood features shall not be removed if they are not damaged or can be repaired.
2. When wood material is damaged beyond repair and is removed, it shall be replaced in kind. Alternative materials shall not be considered as a viable replacement for wood if the material does not convey the same appearance as the original or retained materials or if it is not physically or chemically compatible with the retained materials.



Guidelines for Historic Resources

1. Wood shall be protected and preserved with the historic finish or a close match to the historic finish.

YARD FEATURES SUCH AS PERGOLAS, GAZEBOS and FOUNTAINS

Standards for all properties in the Historic District

1. Pergolas, gazebos, fountains and other large yard features shall be of materials and an architectural style that reflect the period of the main structure and surroundings.

APPENDIX A[1]: THE SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION

The Secretary of the Interior's Standards for Rehabilitation are general guidelines which were first developed in 1979 and have since been expanded and refined, most recently in 1995. The National Park Service uses these guidelines to determine if the rehabilitation of a historic building has been undertaken in a manner that is sensitive to its historic integrity. The guidelines, itemized below, are very broad in nature since they apply to the rehabilitation of any contributing building in any historic district in the United States.

A. Guidelines

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
8. Significant archaeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

10. New additions and adjacent or related new construction shall be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment will be unimpaired.

At the date of this publication, an interactive web class on the Secretary of Interior's Standards for Rehabilitation is available online at www.cr.nps.gov/hps/tps/e-rehab/index.htm. The National Park Service also publishes Preservation Briefs, technical bulletins which provide detailed information for all types of projects and which are written in accordance with the Secretary's Standards. Over forty subjects are covered in the briefs, which are available online at www.cr.nps.gov/hps/tps/briefs/presbhom.htm.

The Secretary of the Interior's Standards for the Treatment of Historic Properties with Illustrated Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings is a government publication and is available from the Government Printing Office (GPO) at www.cr.nps.gov/hps/tps/tpscat.htm or by calling the GPO at 866-512-1800 (toll-free).

B. Preservation Methods

These standards and guidelines express a basic rehabilitation credo of *retain, repair, and replace*. In other words, the integrity of historic elements shall be preserved unless there are no options for retaining and repairing them.

Terms such as preservation, restoration, and rehabilitation are often used interchangeably. However, by definition, they signify different approaches to the work to be performed on a historic structure.

The following definitions are based on the National Park Service's preservation terminology as used in *The Secretary of Interior's Standards for Rehabilitating Historic Buildings*.



Preservation focuses on the maintenance and repair of existing historic materials and retention of a property's form as it has evolved over time. For example, the repair of a window using an epoxy consolidant, thereby retaining its historic form, would be considered preservation.



Rehabilitation acknowledges the need to alter or add to a historic property to meet continuing or changing uses while retaining the property's historic character. Rehabilitation is the act of bringing an old building into use by adding modern amenities, meeting current building codes, and providing a use that is viable.

*Harpers Ferry Historic District
Standards and Guidelines*

For instance, in the case of the reuse of a historically residential building for a commercial use, the addition of an elevator or an accessible entry to the building would be considered rehabilitation. Rehabilitation assumes that at least some repair or alteration will be needed in order to provide for an efficient contemporary use. However, these repairs and alterations must not damage or destroy materials, features or finishes that are important in defining the building's historic character.

Restoration is the process of depicting a property at a particular period of time in its history, while removing evidence of other periods. Restoration projects are usually undertaken by museums and seek to capture a building at a particular time in its history.

Reconstruction re-creates vanished or non-surviving portions of a property that can be determined by physical evidence and by historic photographs, drawings, or by other research. For instance, reconstruction may be undertaken by a museum or other entity for interpretive purposes.

The Harpers Ferry National Historical Park provides an excellent local example of these last two approaches: restoration and reconstruction.



APPENDIX A[2]: MAINTENANCE

Proper maintenance of a building includes periodic inspections to identify problems before they cause significant damage. Regular maintenance will stop any deterioration already begun and provide an easy and less expensive way to maintain the physical condition of the building. It is a good idea to keep documentation of yearly maintenance for present and future homeowners.

As a general guideline, perform maintenance checks once each year, preferably after a moderate rainfall.

A. Foundations

a. General Maintenance

1. Ensure that land is graded so that water flows away from the foundation; and, if necessary, install drains around the foundation.
2. Remove any vegetation that may cause structural disturbances at the foundation.
3. Keep crawl space vents open so that air flows freely when above freezing.

b. Preventive and cyclical maintenance: What to look for...

- Masonry: Does water drain away from the foundation? Is masonry flaking, crumbling, spalling, cracking? Is masonry loose or missing? Is the mortar secure?
- Structure: Is a wall bulging or bowing?
- Vegetation: Are algae, moss, vines growing on the foundation?
- Water Control: Do downspouts have splash blocks?

B. Gutters and Downspouts

See also Metals, Paint

a. General Maintenance

1. Check gutters on a regular schedule to avoid clogging which can lead to moisture damage.
2. Correct sagging gutters with additional support hangers.

C. Landscaping

a. General Maintenance

1. Prune trees and shrubbery as often as necessary so as not to conceal, obscure, or damage historic resources. Maintain vines to prevent damage to both siding and trees.

2. Remove diseased or damaged trees or those causing structural damage to buildings.

D. Masonry

Properly maintained masonry should last indefinitely. Most major masonry problems can be avoided with monitoring and preventative maintenance. Prevent water from causing deterioration by ensuring proper drainage, removing vegetation too close to the building, repairing leaking roof and gutter systems, securing loose flashing around chimneys, and caulking joints between masonry and wood.

Waterproof coatings that act as vapor barriers should not be applied to masonry surfaces as they will cause, rather than prevent damage to the masonry surface. Water repellent coatings may sometimes be permitted. Caution should be used in choosing water repellent coatings so that they do not result in acting as a surface that collects and retains soil; adds color or obscures the original color of the surface to which they are applied; or degrades substantially when exposed to natural elements. In all instances such coatings should be applied in a test area away from public view and allowed to cure before being assessed for appropriateness in a large application.

a. General Maintenance

1. Monitor the effects of weather on the condition of mortar and masonry units and ensure that improper water drainage is not the cause of the deterioration.
2. Prevent water from gathering at the base of a wall by ensuring that the ground slopes away from the wall or by installing drain tiles.
3. Repair leaking roofs, gutters, and downspouts; and secure loose flashing.
4. Caulk the joints between masonry and door and window frames to prevent water penetration.
5. Identify disintegrating mortar, open joints, loose masonry units, or damaged interior plaster which may indicate the need for masonry repair.
6. Identify any cracks that may indicate structural issues (e.g., movement, differential settlement, arch failure). Consult with a preservation specialist to determine their causes and appropriate remedial treatments.
7. Repair cracks and unsound mortar according to the repointing guidelines in (d) below.
8. Clean masonry only when necessary to remove heavy paint buildup or soiling, or to halt deterioration. Refer to the guidelines in (b) and (c) below for cleaning masonry.
9. Repair any water damage to the underlying structure to provide a sound base for necessary stucco repairs.

10. Use appropriate patch materials to repair stucco. Because of the difference in consistency and texture, repairs made with inappropriate materials may be highly visible and may also cause more damage.
11. Do not use waterproof, water-repellent, or non-historic coatings on uncoated masonry. They often aggravate rather than solve moisture problems.
12. Provide adequate maintenance through the repair of cracked or open cement joints with tinted silicone compounds.

b. Preventive and cyclical maintenance: What to look for...

- Is the surface of masonry or stucco flaking, crumbling, spalling, or are units missing?
- Is the mortar loose or crumbling?

c. General Cleaning Methods for Masonry

Clean masonry only when necessary to halt deterioration or remove heavy soiling, using the gentlest method possible. Avoid sandblasting brick or stone with abrasives or applying high pressure water cleaning methods that will damage historic masonry and the mortar joints.

1. Water Cleaning

Generally the simplest, gentlest and least expensive cleaning method, water cleaning methods include hand scrubbing, spraying and pressure washing. For hand washing, use natural or nylon bristle brushes – never use metal brushes or scrapers. Intermittent water spraying, misting or dripping may be used to clean masonry surfaces. Soiling may be removed with pressurized water washing or rinsing at low (400-600 psi), moderate (600-800 psi) and high pressure (over 800 psi). When pressure washing, care must be taken to maintain a sufficient distance from the substrate (at least 9”), to use the appropriate pressure for the type of masonry and its condition and to use proper nozzle tips (15-45 degree fan tip).

2. Chemical Cleaning

Chemical cleaning is a generally acceptable method for removing soiling from masonry. However, if it is not properly utilized, chemical cleaning can cause damage (e.g. staining, efflorescence) to masonry. Proprietary chemical cleaning systems are generally based on acids, alkalis or organic compounds.

Use products which are specifically formulated for cleaning masonry.

- *Acidic Cleaners*

Acidic cleaners are typically appropriate for granites, sandstones, non-calcareous stones and unglazed brick. They are usually based on hydrofluoric acid.

Hydrochloric acid is generally not recommended for cleaning old masonry. Acidic cleaners are not appropriate for limestone, marble, sandstones containing calcium carbonate, and polished surfaces.

- *Alkaline Cleaners*

Alkaline cleaners are appropriate for limestone, marble, glazed brick and terra cotta. These cleaners are typically based on potassium or sodium hydroxide. Alkaline cleaning systems for masonry often require a neutralizing rinse with a mildly acidic solution to prevent efflorescence (salts).

- *Biocidal Cleaners*
Biocidal cleaners, which are generally based on quaternary ammoniums, may be utilized to remove biological growth (algae, lichens, moss) on masonry.
- *Detergents*
Non-ionic detergent solutions may be used to remove light general soiling on masonry.
- *Paint Removers*
Solvent-based (e.g. methylene chloride) and alkaline paint strippers may be used to remove paints, coatings and graffiti from masonry.

3. Mechanical/Abrasive Cleaning

Soiling and coatings may be removed from masonry by spraying, under pressure, substances which impact and abrade the masonry surface. While sandblasting is not recommended for cleaning masonry, the use of other blasting media, such as nut shells, pulverized corn cobs, glass beads, microballoons, rice hulls and baking soda, applied at an appropriate pressure for the type of masonry and its condition may be utilized to clean masonry. Abrasive cleaning should only be performed by qualified masonry restoration/cleaning contractors. Do not use metal brushes or scrapers, power sanders or grinders, or rotary drill attachments to clean masonry.

Refer to:

Preservation Brief 1: The Cleaning and Waterproof Coating of Masonry Buildings, by Robert C. Mack

Preservation Brief 6: Dangers of Abrasive Cleaning of Historic Buildings, by Anne E. Grimmer.

Preservation Brief 38: Removing Graffiti from Historic Masonry, by Martin E. Weaver

d. Masonry: Repointing

Repointing is the removal and replacement of deteriorated mortar in a masonry wall. An appropriately formulated and applied repointing mortar will maintain the strength, composition, color, texture, physical and visual integrity of the original masonry and will last more than 50 years. Improper formulation and application of repointing mortar, in addition to being unsightly, can cause irreparable damage to the masonry.

Professionals experienced in working with historic masonry can provide guidance for appropriate repointing methods and materials.

1. Before repointing, identify and rectify any conditions that may be causing deterioration of the mortar – such as leaking gutters and downspouts, rising damp or structural issues.
2. Carefully remove deteriorated mortar without damaging the adjacent masonry units or altering the original width of the joints. In some cases, hand-raking the joints may be the

best method for removing mortar. Remove deteriorated mortar to a minimum depth that is 2-1/2 times the width of the joint.

3. The general rule for formulating an appropriate repointing mortar is that its 'hardness' in regard to compressive strength should not exceed the compressive strength of the masonry units or historic mortar.

Excessively 'hard' or 'strong' mortars which contain a high percentage of portland cement may cause irreparable damage to the masonry units. Mortars must be formulated to accommodate stresses within a masonry wall caused by expansion, contraction, movement, settlement and moisture migration.

4. Traditional mortars generally consisted of hydrated lime and sand, although portland cement was widely used in mortars by the end of the 19th century. The American Society for Testing Materials (ASTM) Standards provides standards for modern materials that are recommended for repointing mortars.

As a minimum standard, replacement mortar should consist primarily of one part lime (ASTM C-207, Type S) and 2 parts sand (ASTM C-144). In some cases, portland cement (ASTM C-150, Type II) can be included to improve workability and control color. portland cement, however, should not exceed 20% of the combined volume of lime and cement.

5. Laboratory analyses may be performed by specialty providers or testing facilities to identify the historic mortar's constituents and their ratios within the mix in order to assist building owners in developing appropriate repointing mortars.
6. When matching the color of historic mortar, the new mortar should match the color of un-weathered, clean or interior portions of the mortar. Most early historic mortars were either white or a very light sand color. Late-nineteenth and early-twentieth century mortars were sometimes pigmented. If necessary, use alkali-proof mineral oxide pigments for masonry to achieve the proper color.
7. The use of anti-freeze compounds, bonding agents and air-entraining agents are generally discouraged in repointing mortars for historic masonry.

Refer to:

Preservation Brief 2: Repointing Mortar Joints in Historic Masonry Buildings, by Robert C. Mack, FAIA and John P. Speweik.

E. Metals

See also Gutters and Downspouts, Roofs

a. General Maintenance

1. Maintain a protective paint finish on steel and iron. Maintain a protective paint finish on sheet steel or iron roofing, where original tin, terne or galvanized coatings have deteriorated.

2. Prevent corrosion by galvanic action which occurs when dissimilar metals such as steel or iron and copper come into contact. Do not use these metals together or install plastic insulators where necessary.
 3. Severely corroded elements, structural failures, broken or failed joints and impact damage should be assessed by a preservation specialist to evaluate causes and determine appropriate remedial treatments.
- b. Preventive and cyclical maintenance: What to look for...
- Is cast iron or pressed metal rusting, pitted, or missing?
- c. Cleaning and Paint Removal on Iron
1. Remove paint finishes and corrosion from iron with hand-scraping, wire-brushing or low-pressure grit blasting. Appropriate chemical strippers may also be utilized to remove paint finishes. Remove any soiling, grease or oil before painting. The metal surfaces must be dry before painting.
 2. Prime iron with an alkyd rust-inhibitive or zinc-rich primer.
 3. Apply alkyd finish coats with a brush.

Refer to:

Preservation Brief 17: The Maintenance and Repair of Cast Iron, by John G. Waite, AIA.

F. Paint

See also Windows and Doors, Wood

- a. General Maintenance
1. Keep existing painted materials well painted.
 2. Use high-quality paint and follow the manufacturer's specifications for preparation and application.
 3. Annual cleaning of painted surfaces using a low-pressure spray will prolong the life of the paint job.
- b. Preventive and cyclical maintenance: What to look for...
- Paint: Is the paint cracked, faded, or peeling?
- c. Preparation for Painting
1. Remove loose and peeling paint down to the next sound layer using the gentlest means possible: hand-scraping and hand-sanding for wood and masonry, and wire brushing for metal.
 - Professional chemical removal of paint may be acceptable in certain situations and if performed by a contractor experienced in working on historic buildings.

- Do not use sandblasting, open flames, or high-pressure water to remove paint from masonry, wood, or soft metals. The use of a blow torch or open flame, which can permanently damage wood surfaces, presents a fire hazard and may also release toxic lead fumes.
 - Follow all local environmental regulations for the use and disposal of paints and paint residue.
2. Properly prepare all surfaces, so that they are free of dirt, grease or oil before painting.
 3. Prime surfaces, if wood or metal is exposed. Prime wood and metal surfaces to ensure compatibility between different types of paint and to enhance adhesion.
 - Do not apply latex or water-based paint directly over oil-based paint without proper surface preparation and a primer intended for such use as it will not properly adhere to the oil-based layer and will ultimately fail.
 - Use proper metal primers when painting metal.

Refer to:

Preservation Brief 10: Exterior Paint Problems on Historic Woodwork, by Kay D. Weeks and David W. Look, AIA.

G. Porches

See also Wood

Porch columns often deteriorate first at the bottom next to the porch floor, in which case the owner should consider removing and replacing the deteriorated area rather than replacing the entire column. Similarly, the deteriorated area may also be boxed in the case of square cross section porch columns or the deteriorated wood repaired with wood epoxy.

- a. Preventive and cyclical maintenance: What to look for...
 - Porch floors: Are there cracks, splits, loose boards, missing boards, rot?
 - Are porches, stairs, railings, cornices, brackets and other exterior features in good repair? Are elements missing?

H. Roofs

- a. Preventive and cyclical maintenance: What to look for...
 - Materials: Is there warping, severe wear, cracking, lumps, curling, decay, splitting, rusting, loose pieces, missing pieces, broken pieces, thin material?
 - Structure: Is the roof level, or does it sag?
 - Roof flashing, Gutters, Downspouts, Vents: Is there rusting, paint loss, sagging, missing, or torn pieces, blockages, poor drainage?
 - Decorative elements (finials, snow breaks, cresting, etc.): Are there loose pieces, rust, missing pieces, deteriorated cornice?

- Chimney or parapet: Is the chimney sagging, leaning, or bowing? Are the mortar joints tight? Is the chimney cap rusting or missing? Are bricks loose or missing?
- Inspect roofs periodically.
Repair and paint metal roofs as necessary.
Repair or replace other roof materials as necessary.

I. Structural Elements

See also Masonry, Paint, Wood

a. Preventive and cyclical maintenance: What to look for...

- Are the walls leaning, bowing, bulging? Are cracks evident? Are the door and window openings square?
- Inspect for insect and water damage.

J. Windows and Doors

See also Wood

a. General Maintenance

1. Ensure that all hardware is in good operating condition.
2. Ensure that caulk, glazing putty and finishes are intact and that water drains off the sills.
3. Ensure that storm window weep holes are kept open to drain moisture.
4. Heavy solid wood doors are good insulators if they fit tightly and are weatherized. Various concealed weatherstripping materials can be installed on the inside of exterior door frames to reduce air leakage.
5. Repair original windows by patching with consolidating material (such as wood epoxy) or by splicing in new material.

b. Preventive and cyclical maintenance: What to look for...

- Operation: Do windows and doors open and close smoothly?
- Glass: Is the glass broken? Is the glazing secure? Do the glass panes fit securely? Are the stops and putty secure?
- Frames, etc.: Do the frame, muntins, sash, and door show signs of rust, rot, or insect damage? Is the threshold rotted? Are there open joints around the frames and trim?
- Hardware: Is the hardware operational and in good repair?
- Weatherization: Is the weather stripping in good repair? Do storm windows fit tightly? Are the screens damaged?

Refer to:

Preservation Brief 9: The Repair of Historic Wooden Windows, by John H. Myers.

K. Wood

Wood requires regular maintenance. The main objective is to keep it free from water infiltration and wood-boring pests. Modern wood derived from tree farms grows fast. Fast-growing wood is less dense because the growth rings are far apart and has a higher percentage of sapwood attractive to insects. The slower and more naturally the tree is allowed to grow, the more dense the wood. This results in a stable, dense wood that mills well, holds paint and stains well, is not as attractive to insects, and has natural rot resistance. It is far more sustainable to repair existing old growth wood elements than to replace.

a. General Maintenance

1. Inspect wood surfaces for signs of water damage, rot, and pest infestation.
2. Even though wood may look deteriorated, it may be strong enough to repair with epoxy products specifically formulated for wood preservation. To test the condition of wood materials, insert an ice pick perpendicular to the wood grain. If it penetrates less than 1/8", the wood is solid; if it penetrates more than 1/2" it may have dry rot or other serious problems.
3. Keep all surfaces primed and painted in order to prevent water infiltration. Retain protective surface coatings.
4. Identify sources of moisture problems and take appropriate measures to remediate them including:
 - Remove vegetation that grows too closely to wood
 - Repair leaking roofs, gutters, downspouts, and flashing
 - Ensure proper ventilation
 - Maintain proper drainage around the foundation to prevent standing water and backsplash
 - Recaulk joints where moisture might penetrate a building.
Note: Do not caulk under individual siding boards or window sills as this action seals the building too tightly and can lead to moisture problems within the frame walls and paint failure
5. When cleaning or preparing surfaces for a new treatment, use the gentlest means possible.
6. Replace clapboards that are beyond repair (estimated life span 150 years with proper maintenance).

b. Preventive and cyclical maintenance: What to look for...

- Is the wood siding cracked, loose, rotted, or split? Do courses of siding appear straight or wavy? Are the walls stained? Is paint peeling, cracking, blistering, or chalking?
- Decorative elements: Is there peeling paint, cracks, or loose pieces?

APPENDIX A[3]: Words, Terms and Phrases

The following words, terms and phrases shall have the definitions or meanings ascribed to them. If not defined in Article 1302, this Appendix A[3], or within other Articles or Sections of any of the ordinances of the Town, any word, phrase or term shall have the meaning or meanings ascribed to it in that Article or Section, or, in the absence of a definition, in any standard or widely published dictionary or American Planning Association publication.

Addition. Any increase in the gross floor area of a structure or use, including those in which the building footprint is not enlarged.

Alteration, Incidental. A change or replacement in the parts of a building or other structure, such as:

- (a) Alteration of interior partitions to improve a nonconforming residential building, provided no additional dwelling units are created thereby.
- (b) Alteration of interior partitions in all other types of buildings or structures.
- (c) A minor addition on the exterior of a residential building to provide an uncovered porch or patio.
- (d) Making windows or doors in exterior walls.
- (e) Strengthening the load bearing capacity in not more than ten percent of the total floor area to permit the accommodation of a specialized unit of machinery or equipment.
- (f) Replacement of, or minor changes in the capacity of, utility pipes, ducts or conduits.

Alteration, Structural. A change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any complete rebuilding of the roof or exterior walls.

Americans With Disabilities Act (ADA). Federal law, enacted in 1990, that guarantees civil rights protections and equal opportunity in public accommodations, employment, transportation, state and local government services, and telecommunications for individuals with disabilities.

Ashlar. A hewn or squared stone cut on all faces adjacent to those of other stones so as to permit very thin mortar joints.

Balcony. A projecting platform on a building, sometimes supported from below, sometimes cantilevered; enclosed with a railing, parapet, or balustrade.

Baluster. The post or spindle that supports a hand railing of a balustrade.

Balustrade. The entire railing system, for example enclosing a balcony or porch, consisting of the top and bottom rails and balusters.

Bay. A part of a structure defined by vertical divisions such as adjacent columns or piers; a section of one or more stories that projects from the face of a building, usually defined by windows as in a bay window.

Bay Window. Fenestration projecting from an exterior wall surface and often forming a recess in the interior space.

Beam. A structural member whose major function is to carry transverse loads, as a joist, girder, rafter, or purlin.

Bulkhead. In commercial buildings, the structural supporting wall under the display windows of a storefront. Bulkheads are often paneled and are usually constructed of wood.

Bracket. A wooden or stone decorative support extending from the face of the wall, beneath a projecting floor, window, or cornice.

Capital. The uppermost portion of a column or pilaster, usually decorated.

Column. A vertical support, usually supporting a member above.

Compatible. The favorable relationship of a structure's elements and features (general design, arrangement, texture, and material) with similar elements and features of buildings and structures in the vicinity.

Composite Material. Any of a number of newer materials that may use wood, wood resins, fiber reinforced cement, urethane, and cellular PVC.

Contributing Resources. A Historic Site, Historic Structure or object that adds to the historic architectural qualities, historic associations, or archeological values of a Historic District because (1) it was present during the period of significance, and possesses historic integrity reflecting its character at that time or is capable of yielding information about the period, or (2) it independently meets the National Register criteria. Contributing Resources that are structures or buildings are identified as contributing in a Historic District nomination in the National Register of Historic Places or on file with the State Historic Preservation Office of West Virginia or the Harpers Ferry Historic Landmarks Commission.

Cornice. Any continuous, molded projecting cap to a wall, window or door opening. In Classical architecture it is the upper, projecting part of a classical entablature resting on the frieze. Often found as a decorative treatment under the eaves of a roof.

Cresting. A roof ornament, usually rhythmic, highly decorative and frequently perforated as in cast-iron fencing.

Cupola. A structure crowning a roof or tower.

Deck. A structure, without a roof, accessory to but not necessarily attached to a principal building, and which is elevated at least six inches above grade.

Demolition By Neglect. The destruction of a building or structure through abandonment or lack of maintenance.

Dormer. A small window with its own roof projecting from a sloping roof.

Double-Hung Sash. A type of window with lights (or windowpanes) on both upper and lower sashes, which move up and down in vertical grooves one in front of the other.

Downspout. A pipe for directing rain water from the roof to the ground.

Driveway. A private roadway providing access for vehicles to a parking space, garage, dwelling or other structure.

Dwelling Unit. A single unit providing complete, independent living facilities for a single housekeeping unit or family intended for occupancy by its owner or under a lease with the owner for a term of not less than 30 days. In no case shall a motor home, trailer, hotel or motel, lodging or Boarding House, automobile, tent, or portable building be considered a dwelling unit. Dwelling units are contained within single-family dwellings (in which case the definition is synonymous), garage and accessory apartments, duplex dwellings, mixed-use dwellings, and multifamily dwellings.

Eave. The lower edge of a sloping roof that extends past the wall face.

Elevation. (1) A vertical distance above or below a fixed reference level; or (2) a flat scale drawing of the front, rear or side of a building.

Entablature. In Classical architecture, the horizontal beam member carried by the columns, divided into three horizontal sections of architrave (below), frieze, and cornice. The proportions are different for each Classical order.

Exterior Architectural Feature. The architectural character and general composition of the exterior of a structure, including, but not limited to, the kind, color and texture of the building material, and the type, design and character of all windows, doors, massing and rhythm, light fixtures, signs, other appurtenant elements and natural features when they are integral to the significance of the site, all of which are subject to public view from a public street, way or place.

Facade. That portion of any exterior elevation on the building extending from grade to the top of the parapet, wall, or eaves and the entire width of the building elevation.

Facade, Principal. Exterior walls of a building which are adjacent to or front on a public street, park, or plaza. There may be more than one principal façade on a building.

Fanlight. A semicircular or elliptical shaped window with radiating muntins in the form of a fan, located above a door.

Fence. An artificially constructed barrier or wall of wood, masonry, stone, brick, wire, metal, or other manufactured material or combination of materials that is more than 18 inches in height, the purpose or effect of which is to provide enclosure, protection from intrusion (both physical and visual), to prevent escape, mark a boundary, enclose, screen, restrict access to, or decorate any Lot, Building or structure.

Fence Height. The vertical distance measured from the top of the fence to the lowest point of grade on the exterior side of the fence.

Fenestration. The arrangement of the openings of a building.

Finial. A top or finishing ornament that caps a gable, hip, pinnacle, or other architectural feature.

Flashing. Pieces of metal or other materials used to divert water.

Frieze. A horizontal band, sometimes decorated with sculpture relief or other ornamentation, located immediately below the cornice. The middle horizontal member of a Classical entablature.

Gable. The triangular portion of the end of a building created by the angle of a double-sloping roof.

Gallery. A wide, wrap-around covered porch lined with columns on one side.

Garage, Private. A detached accessory or portion of a main building housing the automobiles of the occupants of the premises.

Glazing. Another term for glass or other transparent material used in windows.

Grade Level. A reference plane representing the average ground level about a building or structure. Grade Level is the average of the finished ground level at the center of all walls of a Building. In case walls are parallel to and within five feet of sidewalks, the above-ground level shall be measured at the sidewalks.

Hipped Roof. A roof with slopes on all sides.

Historic District. A geographically definable area, designated as historic on a national, state or local register, possessing a significant concentration, linkage or continuity of sites, buildings, structures or objects united historically or aesthetically by plan or physical development.

Historic Landmark. A site, building, structure or object designated as historic on a national, state or local register.

Historic Landmarks Commission. The public body established by the Town by ordinance under section four, article twenty-six-a of chapter eight of the Code of West Virginia of 1931, as amended.

Historic Site. The location of a significant event, a prehistoric or historic occupation or activity, or a building or structure whether standing, ruined or vanished, where the location itself possesses historical, cultural or archaeological value regardless of the value of any existing structure and designated as historic on a national, state or local register.

Historic Structure. Any structure that is: (a) listed individually on the National Register of Historic Places or preliminarily determined by the United States Secretary of Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the United States Secretary of Interior as contributing to the historical significance of a registered historic district; (c) individually listed on the West Virginia inventory of historic places; (d) individually listed on a Town, City, County, or other local inventory of historic places that has been certified by an approved State program as determined by the United States Secretary of Interior.

Imminent Hazard. The existence of a condition that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur before a notice of investigation proceeding, or other administrative hearing or formal proceeding, to abate the risk of harm can be completed.

In-Kind Replacement. A feature that matches that being replaced in design, texture, and other visual qualities and, where possible, materials.

Integrity. Authenticity of a property's historic identity, evidenced by the survival of physical characteristics that existed during the property's historic period.

Joist. One of a series of parallel timber beams used to support floor and ceiling loads supported in turn by larger beams, girders, or bearing walls.

Leaded Glass. Glass set in pieces of lead.

Original. The design, form, scale, and material utilized on a historic resource during its period of significance.

Overlay District. A zoning district that extends on top of a base zoning district and is intended to protect certain critical features and resources. Overlay districts generally govern only development standards. The uses permitted in the underlying zoning district remain the same.

Parapet. A low wall that rises above a roof line, terrace, or porch.

Parging. Plasterwork that provides a smooth or textured surface.

Patina. (1) a greenish brown crust which forms on bronze (2) any thin oxide film which forms on a metal; often multi-colored (3) A film, similarly colored, which forms on a material other than metal.

Patio. A level surfaced area directly adjacent to a principal building, without walls or a roof. A patio may be constructed of any material or combination of materials, and is typically constructed at grade level or slightly higher.

Pergola. A garden structure with open sides and a latticed roof, usually wooden framed. Also a colonnade that has a lattice roof.

Period Of Significance. The period of time when a property was associated with important events, activities, or persons, or attained the characteristics which qualify it for National Register or local Historic District listing.

Pier. An upright vertical support structure, such as a column, constructed of masonry and designed to take a concentrated load.

Pilaster. A flat-faced or half-round pier attached to a wall with a shallow depth projecting from the wall plane and sometimes treated as a classical column with a base, shaft, and capital. These are decorative features, not support members.

Pitch. The degree of slope of a roof.

Pointing. In masonry, the troweling of mortar or other filler in masonry joints.

Porch. A covered but unenclosed projection from the main wall of a building that may or may not use columns or other ground supports for structural purposes. If a porch is uncovered it is considered to be a deck.

Portico. A small entrance porch.

Preservation. The sustaining of the existing form, integrity, and material of a building or structure and the existing form and vegetation of a site.

Proportion. Harmonious relation of parts to one another or to the whole.

Rehabilitation. The process of returning a property to a state of utility, through repair or alteration, which make possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural, and cultural significance.

Restoration. The act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period.

Repair Or Maintenance. An activity that restores the character, scope, size, or design of a serviceable area, structure, or land use to its previously existing, authorized, and undamaged condition. Activities that change the character, size or scope of a project beyond the original design and drain, dredge, fill, flood, or otherwise alter additional regulated wetlands are not included in this definition.

Repoint. To remove old mortar from courses of masonry and replace it with new mortar.

Rhythm. Regular occurrence of elements or features such as spacing between windows or buildings.

Riser. The vertical face of a stair step.

Rising Damp. A condition in which moisture from the ground rises into the walls of a building.

Sash. A frame, which may be fixed or moveable, holding the glass in a window. Sash may be single-, double-, or triple-hung, slide along a vertical plane, or pivot.

Sidelights. Narrow windows flanking a door.

Sill. The lowest horizontal member in a frame which sheds water at the bottom of a door or window.

Spalling. A condition in which pieces of masonry split off from the surface, usually caused by weather.

Standing-Seam Metal Roof. A roof where long narrow pieces of metal are joined with raised seams.

State Historic Preservation Office (SHPO) The subdivision of the West Virginia Division of Culture and History charged with the administration of federal and state laws, rules and regulations applicable to historic sites or properties, historic landmarks and historic districts or real properties, structures, buildings and other improvements that are eligible to become historic sites, historic landmarks and historic designations based on the Secretary of the Interior's Standards.

Stile. A vertical framing member of a paneled door.

Streetscape. Features such as streetlights, street trees, paving, street furniture, plantings and signage that contribute to, enhance, and help to define the unique character of a neighborhood.

Story. That portion of a building above ground level at the building line between floors, except that the top story shall be that portion of a building included between the upper surface of the top floor and the ceiling or roof above.

Structure. Anything constructed or erected for use, occupancy or ornamentation whether installed on, above or below the surface of land or water that requires the location on the ground or that is attached to something having location on the ground, excluding vehicles designed and used only for the transportation of people or goods, and excluding utility poles and towers constructed by a public utility and surface treatments such as parking lots, patios and driveways. A structure does not include such things as garden ornaments or other non-permanent objects. structure shall include a building.

Structure, Accessory. A subordinate structure detached from but located on the same lot as a principal structure. The use of an accessory structure must be accessory to the use of the principal structure. Accessory structures include garages, tool sheds, storage buildings, swimming pools or other similar structures. An accessory structure having any part of a wall in common with a dwelling unit is considered part of the main building.

Structure, Principal. A building in which is conducted the principal use of the lot on which it is located.

Stucco. A textured exterior finish consisting of sand, lime, and portland cement.

Threshold. At the floor of a doorway, a material covering the joint where two types of materials meet.

Transom Window. A small window above a doorway or window.

Tread. The horizontal surface of a step.

Vernacular. Indigenous architecture characteristic of a particular area.

Visible From The Public Right-Of-Way. Any portion of a structure that is visible with the unaided eye from a distance of not more than 120 feet as viewed from a public street or sidewalk. Any portion of a structure that is shielded by landscaping shall be considered visible from the public right-of-way.

Zoning Map. The map of the Town on which is depicted one or more classifications or zones under the Zoning Ordinance, including overlays, enacted August 8, 1977, as amended by the Town Council from time to time.

Zoning Ordinance. The zoning ordinance of the Town, enacted August 8, 1977, as amended by the Town Council from time to time.

BE IT FURTHER ENACTED that this Ordinance shall come into effect the 16th day of February, 2015.

Passed FIRST READING the 20th day of January, 2015.

Passed SECOND and FINAL READING the ___ day of _____, 2015.

Greg Vaughn, Mayor

Kevin Carden, Recorder