CITY OF CHARLES TOWN
PLANNING COMMISSION
AGENDA • JANUARY 30, 2024

Commission/Board Meeting | **CITY HALL** | **6:00 PM**

101 E Washington Street, Charles Town, WV 25414

1. CALL TO ORDER

2. NEW BUSINESS

2.1 : TXA2023-01: Mobile Food Vendors
1. Report.pdf

2.2 : TXA2023-06: Minor Subdivision Requirements
1. Report.pdf

2.3 : TXA2023-09: Neighborhood Residential Uses
1. Report.pdf

2.4 : TXA2023-13: Lighting Requirements
1. Report.pdf

3. ADJOURNMENT

4. NOTICE: The Public May View the Meeting Live by Clicking on the Event Link at:

https://www.charlestownwv.us/government/agendas-and-minutes/

Planning Commission
101 East Washington Street
Charles Town, WV 25414

SCHEDULED

Meeting: 01/30/24
Department: Planning Commission
Category: Report
Initiator:

AGENDA ITEM (ID #)

TXA2023-01: Mobile Food Vendors

ATTACHMENTS:

- 1. Report.pdf

Text Amendment Staff Report
Mobile Food Vendors
TXA2023-01

Date: For the January 30, 2024 Planning Commission Special Work Session
Applicant: City of Charles Town
Report by: James Newman, City Planner, Zoning/Subdivision Administrator.
Proposal: Subdivision and Land Development Ordinance Text Amendment

OVERVIEW

Mobile food vendors are not listed in Zoning Ordinance *Table 1322.04 Zoning District Use Table* as a permitted use, and are not currently allowed in the City except by Special Event permit. This text amendment will add use standards for mobile food trucks to the City's Zoning Ordinance.

CITY COUNCIL

At their November 6, 2023 meeting, Council requested that this item be brought to the Planning Commission for review and set up for a future public hearing.

PROPOSED TEXT

The proposed language will be inserted into the Zoning Ordinance Article 1323 *Supplemental Regulations* as entry (L).

(L) Mobile Food Vendor

In addition to the other applicable requirements of the City of Charles Town, Mobile Food Vendors shall also be governed by the following provisions:

1. **General Guidelines**
   a. Mobile Food Vendors shall only operate during specified hours of 7am to 7pm, Monday-Sunday. Food trucks are permitted to operate at different hours from these, subject to approval of a Special Activity Permit.

   b. Only food and non-alcoholic drinks may be sold by the Mobile Food Vendor.

   c. In order to operate in the City of Charles Town, Mobile Food Vendors:
      (1) Shall obtain all applicable health department and State Fire Marshal permit(s) before applying for a City Business License and Mobile Food Vendor Application.
      (2) May not operate until all approvals are obtained through the City of Charles Town.
      (3) Shall keep their Health Permit and Business License in plain sight for the public to view.

   d. Food trucks are not permitted to set up seating, tents, or other items in such a manner as to negatively impact public safety. Sidewalks, handicap parking spaces, access ramps and stairs, and building entrances and exits, may not be blocked or have

access impaired by a mobile food vendor. Sidewalks shall be considered blocked if there are 4 feet or less of room for passage.

e. Any electricity generators required for a Mobile Food Vendors located in the public right-of-way shall be self-contained and self-provided. Vendors shall not draw on public utilities from a public source without written authorization from the City. No utility cable shall be extended on or across any City street or sidewalk.

2. Location

a. Mobile Food Vendors are only permitted to operate in the locations as designated by the Zoning Ordinance, City Council, or Special Activity Permit. Spaces are not reserved for specific vendors.

b. Within the public right-of-way, mobile food vendors may only locate in parking spaces along the 100 block of N. Charles Street, the 100 block of N. Samuel Street, and the 100 block of S. Samuel Street.

c. Parking a mobile vending unit on private commercially zoned property is permitted if notarized written permission is given from the property owner, and such authorization is included with the application.

d. Food trucks are permitted to operate at other locations beyond those specified in subsections b and c above, subject to approval of a Special Activity Permit.

e. A Mobile Food Vendor is not permitted to park:
   (1) Within 15 feet of any bus stop zone,
   (2) Within 15 feet of a pedestrian crosswalk or intersection,
   (3) Within 15 feet of a handicapped parking space.,
   (4) Within any loading zone or other area where vehicles are prohibited to park.
   (5) Within the public right-of-way in any residential zoning district in the City of Charles Town when not in use.
   (6) Additionally, it is not permitted to be parked on any street of Charles Town when not in use in accordance with these regulations.

3. Advertisement and Signage

a. Signage may be imprinted on the exterior body of a licensed mobile food establishment, and may additionally include the use of an attached or detached menu board. This is the only signage permitted.

b. No banners or balloons may be attached to a mobile food unit or otherwise located on the mobile food site. No flashing or blinking or strobe lights are allowed.

4. Noise

a. No Mobile Food Vendors shall make or cause to be made any unreasonable or excessive noise. No amplified music or announcements are permitted.

b. All generators must operate at a level of sixty-five (65) decibels or lower when measured from a distance of fifteen (15) feet.

5. **Waste Material Disposal**
   a. All waste shall be removed and disposed of daily by the Mobile Food Vendor.
   b. No liquid or solid waste may be discharged from the Mobile Food Unit.
   c. Public trash receptacles shall not be used for disposal of waste that is directly generated by the Mobile Food Unit, such as grease, food scraps, food packaging material, and other waste products.
   d. Receptacles for the disposal of waste materials or other litter must be provided for customers.

6. **Approval Process:**
   a. The Zoning Administrator shall approve the issuance of a Mobile Food Vending License only if the application is complete, complies with the requirements of this Ordinance, including applicable Health Department approvals, City Business License and provided the application is accompanied by the required fee.

7. **Fees**:
   a. An application fee shall accompany each application. See the City of Charles Town Fee Schedule for the amount.

DEFINITION

Proposed amendment to Zoning Ordinance Article 1325 *Definitions*, would define the use as:

MOBILE FOOD VENDOR – A food service establishment that is self-propelled or otherwise designated to be movable from place to place, including but not limited to a licensed, motorized vehicle, mobile kitchen, cart, stand, or tent, and which operates temporarily on a premise where food items are sold to the general public.

ZONING USE TABLE

The Zoning Use Table would be modified to read:

CHARLES TOWN ZONING ORDINANCE DISTRICT USE TABLE Key: P – Permitted Use S – Special Exception Use PA – Permitted Accessory Use SA – Special Exception Accessory Use		ZONING DISTRICTS						
		Residential Low Density	Residential Medium-High Density	Neighborhood Residential	Neighborhood Commercial	General Commercial	Old Town Mixed Use Commercials	Old Town Residential
ITE Code	**Land Use**	**R-3**	**R-15**	**NR**	**NC**	**GC**	**OT-MUC**	**OT-R**
RETAIL USES (ITE CODES 800 – 899)								
	Mobile Food Vendor			P	P	P	P	

Recall that parking a mobile vending unit on private commercially zoned property is permitted if notarized written permission is given from the property owner, and such authorization is included with the application. The use of a food truck is only permitted on select City streets and on commercial zoned property with owner authorization. Neighborhood Residential requires that 10% of its development include commercial spaces, and those commercial lots would be allowed to have a food truck.

Planning Commission
101 East Washington Street
Charles Town, WV 25414

Meeting: 01/30/24
Department: Planning Commission
Category: Report
Initiator:

SCHEDULED

AGENDA ITEM (ID #)

TXA2023-06: Minor Subdivision Requirements

ATTACHMENTS:

- 1. Report.pdf

Minor Subdivision Review

Date: For the January 30, 2024 Planning Commission Special Work Session
Report by: James Newman, City Planner, Zoning/Subdivision Administrator.

ISSUE
Current regulations regarding boundary line adjustment and property mergers create a burden on applicants by requiring that they either obtain Planning Commission approval or a waiver. Additionally, the language about constructing a single-family residential home not located within a platted subdivision is unclear and could be construed to require Planning Commission review. These processes can be handled via administrative review by City staff. The addition of duplexes to administrative review may allow for additional development opportunities that would not need to go through a full subdivision process, which takes additional time and funds.

COUNCIL
This item has not been brought to Council.

PLANNING COMMISSION – October 2023
The Commission discussed this item at their October 23, 2023 work session. The Commission requested:

-Remove lot width language

-Look into easement requirements and ability to enforce

-Any potential negative for allowing mergers by multiple owners?

-Do research into zoning boundary adjustments when boundary lines are moved.

PLANNING COMMISSION – November 2023
The Commission reviewed this at their November 27 meeting. Following discussion, this item was sent to the City Attorney for final review. The Attorney provided comments to staff, which have bene incorporated into these changes.

CURRENT LANGUAGE - 1332.02.A.1. Minor Subdivision/Land Development.
A Minor Subdivision/Land Development is a Subdivision or Land Development that will not require the development or extension of off-tract infrastructure or Improvements, municipal or other governmental facilities or Improvements, or Public Streets or Roads. Only the following shall be considered Minor Subdivisions/Land Developments:

a. **Division of One Parcel into Two Parcels.** The division of one (1) new parcel from an existing parent tract if, and only if, the new parcel and the residue parent tract will each:

(i) adjoin an existing Public Street or Road, and

(ii) satisfy the minimum lot size requirements for the Zoning District in which the land is located.

Only one (1) new parcel plus the residue parent tract may be created from a parent tract existing as of the effective date of this Ordinance pursuant to a Minor Subdivision/Land Development. Any further Subdivision or Development of the new parcel or the residue parent tract will not be a Minor Subdivision/Land Development and must be processed under the Major Subdivision/Land Development provisions of this Ordinance. Such division shall meet the standards of Section 1332.06.

b. **Minor Boundary Line Adjustments**. Minor boundary line adjustments, including transfer of parcels of land to achieve a boundary line settlement, where no new parcels are created. Adjustment of a boundary line in excess of twenty-five feet (25') will not be considered a Minor Subdivision/Land Development under this Subsection 1332.02(A)(1)(b) except upon waiver of such limit by the Planning Commission.

c. **Merger**. Merger or consolidation of the entirety of two or more contiguous parcels of land owned by the same Person. Once merged or consolidated, the new tract shall be a single parcel and any further Subdivision or Development of that tract must comply with this Ordinance.

d. **Residential Construction**. The construction, erection, installation or placement of one (1) single-family residence on a single parcel or Lot; provided that, such activity shall not be considered a Land Development subject to this Ordinance (excepting only the requirements herein for an Improvement Location/Land Disturbance Permit) if the subject Lot was specifically identified as a separate identical Lot on a Final Plat approved as part of a previously approved Final S/LD Application for a Subdivision/Land Development containing said Lot.

There are additional items classified as minor subdivisions but which I do not propose to change. Therefore, that language is not included in this report.

PROPOSED LANGUAGE

Proposed changes are in red.

a. **Division of One Parcel into Two Parcels**. The division of one (1) new parcel from an existing parent tract if, and only if, the new parcel and the residue parent tract will each:

(i) adjoin an existing Public Street or Road, and

(ii) satisfy the minimum lot size requirements for the Zoning District in which the land is located.

Only one (1) new parcel plus the residue parent tract may be created from a parent tract existing as of the effective date of this Ordinance pursuant to a Minor Subdivision/Land Development. Any further Subdivision or Development of the new parcel or the residue parent tract will not be a Minor Subdivision/Land Development and must be processed under the Major Subdivision/Land Development provisions of this Ordinance. Such division shall meet the standards of Section 1332.06.

b. ~~**Minor**~~ **Boundary Line Adjustments**. ~~Minor~~ boundary line adjustments, including transfer of parcels of land to achieve a boundary line settlement, where no new parcels are created. Boundary line adjustments which result in boundary lines crossing zoning districts must be approved by the Planning Commission. ~~Adjustment of a boundary line in excess of twenty-five~~

~~feet (25') will not be considered a Minor Subdivision/Land Development under this Subsection 1332.02(A)(1)(b) except upon waiver of such limit by the Planning Commission.~~

c. **Merger.** Merger or consolidation of the entirety of two or more contiguous parcels of land ~~owned by the same Person~~. Once merged or consolidated, the new tract shall be a single parcel and any further Subdivision or Development of that tract must comply with this Ordinance.

d. **Residential Construction.** The construction, erection, installation or placement of:

(i) one (1) single-family residence on a single parcel or Lot or
(ii) one (1) duplex upon two abutting Lots.~~; provided that,~~

Any such activity shall not be considered a Land Development subject to Sections 1332.03 through 1332.06, inclusive, of this Ordinance ~~(excepting only the requirements herein for an Improvement Location/Land Disturbance Permit)~~ if ~~the~~ each subject Lot was specifically identified as a separate identical Lot on a Final Plat approved as part of a previously approved Final S/LD Application for a Subdivision/Land Development containing said Lot or said or each Subject Lot was established as a separate identical Lot at the time of enactment of this Ordinance on June 12, 2012; however, the requirements for an Improvement Location/Land Disturbance Permit, driveway standards, access drive standards, sidewalk and on-street parking standards, and all other requirements and standards of this Ordinance shall apply to such activity.

JURISDICTIONAL COMPARISON

1. **Martinsburg:**

Minor Subdivision. A Minor Subdivision is a Subdivision that will not require the Development or extension of off-tract infrastructure or Improvements, municipal or other local governmental facilities or Improvements, or Public Streets or Roads. Only the following shall be considered Minor Subdivision:

A. Division of one parcel into a maximum of four (4) parcels. The division of one (1) existing parcel into a maximum of four (4) proposed parcels including the remaining parent tract if, and only if, the new parcels and the residue parent tract will each:

1. Adjoin an existing Public Street or Road, and

2. Satisfy the minimum Lot size requirements for the Zoning District in which the land is located.

B. Only three (3) new parcels plus the residue parent tract may be created from a parent tract existing as of the effective date of this Ordinance pursuant to a Minor Subdivision. Any further Subdivision or Development of the new parcel or the residue parent tract will not be a Minor Subdivision and must be processed under the Major Subdivision provisions of this Ordinance. Such division shall meet the standards of Section 1305.03 (c).

C. Minor Boundary Line Adjustments. Minor boundary line adjustments, including transfer of parcels of land to achieve a boundary line settlement, where no new parcels are created.

D. Merger. Merger or consolidation of the entirety of two or more contiguous parcels of land owned by the same Person. Once merged or consolidated, the new tract shall be a single parcel and any further Subdivision or Development of that tract must comply with this Ordinance.

E. Residential Construction. The construction, erection, installation or placement of one (1) single-family residence on a single parcel or Lot; provided that, such activity shall not be considered a Land Development subject to this Ordinance (excepting only the requirements herein for a Land Disturbance Permit) if the subject Lot was specifically identified as a separate identical Lot on a Final Plat approved as part of a previously approved Final Subdivision and/or Land Development Application for a Subdivision containing said Lot.

…

2. City of Leesburg VA

Administrative review of boundary line adjustments if:
(a) Shall not result in the creation of additional buildable lots; and

(b) Shall represent the same general lot relationships as shown in the plat prior to the boundary line adjustment; and

(c) Shall not involve the relocation or alteration of streets, alleys, easements for public passage,
or other public areas; and
(d) Shall not relocate or alter any easements or utility right-of-way without the express written consent of all persons holding interest therein; and

(e) Shall result in lots, which conform to the requirements of the Leesburg Zoning Ordinance, or in the case of existing non-conforming lots, does not increase the extent of non- conformance (See Section 10.4.4.E. of the Leesburg Zoning Ordinance).

Administrative review of minor subdivisions if 5 or fewer lots are created and the following criteria are met:

(1) Full frontage improvements (i.e. curb, gutter, sidewalk, and storm sewer) exist across the frontage of the proposed lots.

(2) No water or sanitary sewer mains are needed or proposed.

(3) No underground storm sewers are needed or proposed, except for necessary surface drainage swales.

(4) The street right-of-way meets the requirements of these regulations, or dedication of required right-of-way is made as part of the proposed subdivision.

(5) No new streets are needed or proposed.

(6) No vacation of streets is needed or proposed.

(7) No pipestem lot can be created as part of the minor subdivision

Planning Commission
101 East Washington Street
Charles Town, WV 25414

SCHEDULED

Meeting: 01/30/24
Department: Planning Commission
Category: Report
Initiator:

AGENDA ITEM (ID #)

TXA2023-09: Neighborhood Residential Uses

ATTACHMENTS:

- 1. Report.pdf

Neighborhood Residential Use Mix Review

Date: For the January 30, 2024 Planning Commission Special Work Session
Report by: James Newman, City Planner, Zoning/Subdivision Administrator.

ISSUE

While the NR zoning district allows for some recreational uses by-right (such as parks, tennis courts, gym), the only retail use permitted is a convenience store open 15-16 hours/day. That is the sole commercial use allowed at all, either by-right or with a special exception. Additionally, the only office use allowed at all is a government office building. The requirement for Neighborhood Commercial (NC) uses does not specify that such uses must be commercial in nature, and must be corrected.

PURPOSE

The purpose of the NR District is to provide for a mix of housing types and related services and Uses, including Commercial Uses and office services. It is the intent of the zoning classification to allow mixed development on undeveloped land and, where applicable as may be further described in this Ordinance, the Redevelopment of specific parcels within the City.

The NR District applies to parcels or tracts larger than five (5) acres. The intent is to create a cohesive pattern of primarily residential development that allows a mix of Uses, including neighborhood servicing Commercial and office Uses and/or Commercial and office Uses that complement the primarily residential character of the neighborhood.

CITY COUNCIL

On September 5, 2023, City Council unanimously voted to refer this item to the Planning Commission for discussion and eventual public hearing.

PLANNING COMMISSION

The Planning Commission reviewed this item at their October 23, 203 work session. The Commission requested staff modify the language about NC Use requirements in NR zoning, and requested some modifications to permitted uses.

The Commission reviewed this item at their November 27, 2023 meeting. The Commission discussed removal of reference to Neighborhood Commercial, and to simplify by stating that the required 10% to be *non-residential* uses. They asked staff to provide a comparison of the R15, NR, NC Districts.

RESIDENTIAL MEDIUM-HIGH DENSITY (R15)

Purpose: The purpose of the R-15 District is to provide for locations for moderate and high density residential development through a variety of housing types.

NEIGHBORHOOD RESIDENTIAL

Purpose: The purpose of the NR District is to provide for a mix of housing types and related services and Uses, including Commercial Uses and office services. It is the intent of the zoning classification to allow mixed development on undeveloped land and, where applicable as may be further described in this Ordinance, the Redevelopment of specific parcels within the City. The NR District applies to parcels or tracts larger than five (5) acres. The intent is to create a cohesive pattern of primarily residential development that allows a mix of Uses, including neighborhood servicing Commercial and office Uses and/or Commercial and office Uses that complement the primarily residential character of the neighborhood.

NEIGHBORHOOD COMMERCIAL

Purpose: The purpose of the NC District is to provide for necessary Commercial Uses of a convenient nature within residential areas. The regulations which apply within the NC District are designed to encourage the formation and continuance of a stable, healthy and compatible environment for Uses that are located so as to provide nearby residential areas with convenient shopping and service facilities; reduce traffic congestion and avoid the development of "strip" business. The residential character of the area surrounding NC District shall be of primary consideration.

Development objectives of the NC District include:

1. Attractive, tree-lined Streets, which emphasize and encourage walking and bicycling as well as efficient automobile transit, to serve the commercial developments. In such neighborhoods, the Sidewalk will be setback from the Street aligning with any existing sidewalks; and

2. Commercial Buildings designed in a manner which encourages pedestrian-scale activity on the Street, by placing main entrances facing the Street, and reducing the dominance of parking facilities as a prominent visual street feature. Where possible, parking lots should be placed to the rear or to the side of Buildings. Article 1333, Site Planning and Design Specifications, of the Charles Town Subdivision and Land Development Ordinance provides further Site design standards.

POTENTIAL USES

The zoning use table is on the following pages and includes the current uses allowed, and proposed uses in red text.

Proposed use changes are based on the intent of the district.

TABLE 1322.04, Zoning District Use Table

CHARLES TOWN ZONING ORDINANCE DISTRICT USE TABLE Key: P – Permitted Use S – Special Exception Use PA – Permitted Accessory Use SA – Special Exception Accessory Use		ZONING DISTRICTS						
		Residential Low Density	Residential Medium-High Density	Neighborhood Residential	Neighborhood Commercial	General Commercial	Old Town Mixed Use Commercials	Old Town Residential
ITE Code	**Land Use**	**R-3**	**R-15**	**NR**	**NC**	**GC**	**OT-MUC**	**OT-R**
PORT AND TERMINAL USES (ITE CODES 000 – 009)								
090	Park-and-Ride Lot				P	P	P	
RESIDENTIAL USES (ITE CODES 200 - 299)								
210	Single-Family Detached Housing	P	P	P	P		P	P
*	Duplex	P	P	P			P	P
220	Apartment		P	P	P		P	S
230	Residential Condominium/Townhouse		P	P	P		P	S
240	Mobile Home Park		S					
251	Senior Adult Housing – Detached	P	P	P			P	
252	Senior Adult Housing – Attached		P	P	S		P	
253	Congregate Care Facility			S	S			
254	Assisted Living			S	S			
255	Continuing Care Retirement Community			S	S			
*	Adult Day Care Center			S	S	P		
*	Child Care Center			S	S	P		
*	Detached Garage or carport, provided it does not exceed 500 sq. feet.	PA	PA	PA	PA		PA	PA
	Guest Quarters	PA	PA	PA	PA			PA
	Group Home		S					S
*	Home Occupation, Minor	PA	PA	PA	PA		PA	PA
*	Home Occupation, Major	SA	SA	SA	SA		SA	SA
*	Swimming Pool (Private)	PA	PA	PA				PA
LODGING USES (ITE CODES 300 – 399)								
310	Hotel					P	S	
311	All Suites Hotel					P	S	
312	Business Hotel					P	S	
320	Motel					P	S	
*	Bed and Breakfast Inns	SA	SA	SA	P	P	P	SA

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		Residential Low Density	Residential Medium-High Density	Neighborhood Residential	Neighborhood Commercial	General Commercial	Old Town Mixed Use Commercials	Old Town Residential
ITE Code	Land Use	R-3	R-15	NR	NC	GC	OT-MUC	OT-R
RECREATIONAL USES (ITE CODES 400 – 499)								
411	City Park	P	P	P	P	P	P	P
412	County Park	P	P	P	P	P	P	
413	State Park	P	P	P	P	P	P	
416	Campground/Recreational Vehicle Park					S		
430	Golf Course		S	S	S	S		
431	Miniature Golf Course			S	P	P		
432	Golf Driving Range					S		
433	Batting Cages			S	P	P		
438	Billiard Hall			S	S	S	S	
435	Multipurpose Recreational Facility			S		P		
437	Bowling Alley			S		P		
440	Adult Cabaret (Adult Uses)					S		
441	Live Theater				P	P	P	
443/444	Movie Theater					P	P	
445	Multiplex Movie Theater					P		
460	Arena					S		
464	Roller Skating Rink					P		
465	Ice Skating Rink					P		
473	Casino/Video Lottery Establishment					S		
480	Amusement Park					S		
488	Soccer Complex		S	S	S	P		
490	Tennis Courts			P	P	P		
491	Racquet/Tennis Club			S	S	P		
492	Health/Fitness Club			P	P	P	P	
493	Athletic Club			P	P	P		
495	Recreational Community Center	S	S	S	P	P		
*	Swimming Pool Facility		S	S	S	S		S
INSTITUTIONAL USES (ITE CODE 500 – 599)								
520	Elementary School				P	P	P	P
522	Middle School/Junior High School				P	P	P	P

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ITE Code	Land Use	R-3	R-15	NR	NC	GC	OT-MUC	OT-R
530	High School				P	P	P	
534/536	Private School (K-12)				P	P	P	
540	Junior/Community College				P	P	P	
550	University/College				P	P	P	
*	Technical and Vocational School				P	P	P	
*	Professional and Management Development Training Center				P	P	P	S
560/561	Church/Synagogue			S	P	P	P	P
565	Day Care Center			~~SA~~ P	P	P	P	
566	Cemetery				P	P	P	
571	Prison					S		
580	Museum			P	P	P	P	S
*	Cultural Center			~~S~~ P	P	P	P	S
590	Library			P	P	P	P	
591	Lodge/Fraternal Organization			S	S	S	S	
MEDICAL USES (ITE CODES 600 – 699)								
610	Hospital					P		
612	(Outpatient) Surgery Center					P	S	
620	Nursing Home				P	P	P	
630	Clinic				P	P	P	
640	Animal Hospital/Veterinary Clinic			P	P	P	P	
*	Medical / Dental Lab				P	P	P	
*	Heliport					SA		
OFFICE USES (ITE CODES 700 – 799)								
710	General Office Building				P	P	P	
714	Corporate Headquarters Building				P	P	P	
715	Single Tenant Building			P	P	P	P	
720	Medical-Dental Office Building			P	P	P	P	
730	Government Office Building			P	P	P	P	
732	United States Post Office			P	P	P	P	
733	Government Office Complex					P	P	
735	Judicial Complex					P	S	
750	Office Park				P	P	P	
760	Research and Development Center					S	S	
770	Business Park					P	P	

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ITE Code	Land Use	R-3	R-15	NR	NC	GC	OT-MUC	OT-R
RETAIL USES (ITE CODES 800 – 899)								
812	Building Materials and Lumber Store					P	P	
813	Free-Standing Discount Superstore					P		
814	Specialty Retail Center			P		P		
815	Free-Standing Discount Store			P		P		
816	Hardware/Paint Store			P	P	P	P	
817	Nursery/Garden Center			S	P	P	P	
818	Nursery (Wholesale)					P		
820	Shopping Center				P	P		
823	Factory Outlet Center					P		
841	Automobile Sales					P	P	
843	Automobile Parts Sales					P		
848	Tire Store				P	P		
849	Tire Superstore					P		
850	Supermarket				P	P	P	
851	Convenience Market (Open 24 Hours)				P	P	P	
852	Convenience Market (Open 15 – 16 Hours)			P	P	P	P	
853	Convenience Market with Gasoline Pumps				S	P	S	
854	Discount Supermarket			S	P	P	P	
857	Discount Club					P		
859	Liquor Store (including Beer Distributor)				S	P	S	
860	Wholesale Market					P	P	
861	Sporting Goods Superstore					P		
862	Home Improvement Superstore					P		
863	Electronics Superstore					P		
864	Toy/Children's Superstore					P		
865	Baby Superstore					P		
866	Pet Supply Superstore					P		
867	Office Supply Superstore					P		
868	Book Superstore					P		
869	Discount Home Furnishings Superstore					P		
870	Apparel Store				P	P	P	

879	Arts and Crafts Store				P	P	P	

CHARLES TOWN ZONING ORDINANCE DISTRICT USE TABLE Key: P – Permitted Use S – Special Exception Use PA – Permitted Accessory Use SA – Special Exception Accessory Use		ZONING DISTRICTS						
		Residential Low Density	Residential Medium-High Density	Neighborhood Residential	Neighborhood Commercial	General Commercial	Old Town Mixed Use Commercials	Old Town Residential
ITE Code	**Land Use**	**R-3**	**R-15**	**NR**	**NC**	**GC**	**OT-MUC**	**OT-R**
880	Pharmacy/Drugstore w/o Drive-Through Window			P	P	P	P	
881	Pharmacy/Drugstore w/Drive-Through Window			S	P	P	S	
890	Furniture Store				P	P	P	
892	Carpet Store				P	P	P	
896	Video Rental Store				P	P	P	
*	Art Gallery				P	P	P	
*	Gift shops and Boutiques				P	P	P	
*	Farmers Market				P	P	P	
*	Florist			P	P	P	P	
*	Photo / Camera Store				P	P	P	
SERVICE USES (ITE CODES 900 – 999)								
911	Walk-in Bank			P	P	P	P	
912	Drive-in Bank			S	P	P	P	
918	Hair Salon			P	P	P	P	
931	Quality Restaurant				P	P	P	
932	High-Turnover (Sit-Down) Restaurant				P	P	P	
933	Fast-Food Restaurant w/o Drive-Through Window				P	P	P	
934	Fast-Food Restaurant with Drive-Through Window				P	P		
935	Fast-Food Restaurant with Drive-Through Window and No Indoor Seating				P	P		
936	Coffee/Donut Shop w/o Drive-Through Window				P	P	P	
937	Coffee/Donut Shop with Drive-Through Window				P	P		
938	Coffee/Donut Shop with Drive-Through Window and No Indoor Seating				P	P		
939	Bread/Donut/Bagel Shop w/o Drive-Through Window				P	P	P	
940	Bread/Donut/Bagel Shop with Drive-Through Window				P	P		
941	Quick Lube Vehicle Shop					P	P	
942	Automobile Care Center					P	P	

943	Automobile Parts and Service Center					P	P	

CHARLES TOWN ZONING ORDINANCE DISTRICT USE TABLE Key: P – Permitted Use S – Special Exception Use PA – Permitted Accessory Use SA – Special Exception Accessory Use		ZONING DISTRICTS						
		Residential Low Density	Residential Medium-High Density	Neighborhood Residential	Neighborhood Commercial	General Commercial	Old Town Mixed Use Commercials	Old Town Residential
ITE Code	**Land Use**	**R-3**	**R-15**	**NR**	**NC**	**GC**	**OT-MUC**	**OT-R**
944	Gasoline/Service Station				P	P	P	
945	Gasoline/Service Station with Convenience Market				P	P	P	
946	Gasoline/Service Station with Convenience Market and Car Wash				P	P	P	
947	Self-Service Car Wash					P	P	
948	Automated Car Wash					P	P	
960	Dry Cleaners			S	P	P	P	
*	Funeral Home/Crematory				P	P	P	
*	Kennel				S	P		
*	Tattoo Parlor				S	P	P	
*	Self-Storage Facility				S	P		
*	Outdoor Café				P	P	P	
MISCELLANEOUS USES								
*	Parking Facility		PA	PA	PA	P	P	PA
*	Wireless Telecommunication Facilities	S	S	S	S	S	S	
*	Essential Utilities and Equipment	P	P	P	P	P	P	

…

Section 1322.08, Neighborhood Residential (NR) District

…

(B) Application:

…

3. The NR District must contain a mix of Uses compatible with surrounding Uses, particularly existing residential neighborhoods adjoining the proposed development or Redevelopment. At least fifty percent (50%) of the total area must be residential, ten percent (10%) of the total usable land area must be Open Space and not less than ten percent (10%) of the total area must be comprised of ~~Neighborhood Commercial~~ non-residential uses. A market assessment substantiating the proposed mix of residential, Commercial and Open Space Uses shall be submitted with the application;

Planning Commission
101 East Washington Street
Charles Town, WV 25414

SCHEDULED

Meeting: 01/30/24
Department: Planning Commission
Category: Report
Initiator:

AGENDA ITEM (ID #)

TXA2023-13: Lighting Requirements

ATTACHMENTS:

- 1. Report.pdf

TXA2023-13 Lighting Requirements

Date: For the January 30, 2024 Planning Commission Special Work Session
Report by: James Newman, City Planner, Zoning/Subdivision Administrator.

ISSUE
Light pollution and how to mitigate it, as well as a review of the City's lighting standards.

COUNCIL ACTION
Council discussed this item at their October 16, 2023 meeting and directed staff to do research and possibly bring a text amendment to the Planning Commission for review, with a focus on *Dark Sky* lighting.

CITY CODE LANGUAGE:
Zoning Ordinance:
Article 1323, Supplemental Regulations

> M. Nuisances:
> The following nuisance performance standards and restrictions shall apply for **all non-residential Uses** in any of the Zoning Districts:
> …
> 4. Glare and Heat
> All Uses shall minimize the production of light, heat or glare that is perceptible beyond any property line of the Lot from which the light, heat or glare is produced;
>
> b. Glare, whether direct or reflected, such as from spot lights or high temperature processes, and as differentiated from general illumination, shall be not visible beyond the Lot line of the Lot on which the Use is located;
>
> c. Exterior lighting, other than that essential for the safety and convenience of the users of the premises shall be prohibited. **All exterior lighting shall be shielded in such manner that the level of light (i.e., measured in foot candles) is zero at common, adjacent Lot lines,** except within commonly- owned properties under unified management such as commercial centers; and
>
> d. Except for within commonly-owned properties under unified management such as commercial centers, no direct or sky-reflected glare, whether from floodlights or from temperature processes such as combustion or welding or otherwise, so as to be visible at the Lot line of the subject property shall be permitted. Furthermore, there shall be no transmission of heat or heated air so as to be discernible (by a healthy observer such as the Zoning Administrator or a designee) at the Lot line;

Subdivision Ordinance
Section 1333.14 Lighting Standards

A) **Public Street Lighting.** Street lights are required for all new Public Streets in accordance with the following standards:

1. Lights shall be provided along all City Streets and shall conform to Article 926, Underground Utilities, of the Charles Town Codified Ordinance.
2. Lights shall be provided at all entrances, intersections, and Cul-de-sacs.
3. Lights shall be spaced no more than two hundred (200) feet apart in residential areas, and no more than three hundred (300) feet apart in non-residential areas.
4. Lights shall use a white metal halide lighting system.
5. Lights shall conform to the power provider's requirements pertaining to watts, lumens, downlight reflectors and residential shields.
6. **Lights shall be mounted on flat black poles with acorn style tops, unless otherwise specified by the Planning Commission.**
7. Lights proposed within Land Developments and Subdivisions shall be provided without any installation or equipment costs incurred by the City of Charles Town.

B) **Parking Lot Lighting.**

1. Parking lot lighting shall conform to the Underground Utility standards specified in Article 926 of the Charles Town Codified Ordinance.
2. **Lights shall be mounted on flat black poles that match in detail and design the lights in the downtown of Charles Town with acorn style tops, unless otherwise specified by the Planning Commission**
3. The mounting height for luminaire fixtures shall not exceed 33 feet as measured to the top of the fixture from grade.
4. **All fixtures shall be non-adjustable and shall have a cutoff that shields the light source at an angle of 90 degrees from vertical. Floodlights are not permitted.**
5. The maximum average maintained footcandles for all parking lighting shall be three (3) footcandles and the minimum average maintained footcandles shall be one (1) footcandle. For the purposes of this Ordinance the average maintained footcandles shall be calculated at 0.8 of initial footcandles at the property line. A photometric plan shall be submitted as part of any Major S/LD.
6. Luminaire fixtures shall be arranged in order to provide uniform illumination throughout the parking lot of not more than a 6:1 ratio of average to minimum illumination and not more than 20:1 ratio of maximum to minimum illumination.
7. S/LD Application Requirements. A point by point calculation showing compliance with the lighting standards is required with all Preliminary S/LD Applications. The calculations shall be measured at grade for lighting levels within the parking lot. A cut sheet of the proposed fixtures, including a candlepower distribution curve, shall also be submitted. A vertical plan foot-candle calculation shall be submitted for property lines abutting residential properties. The maximum maintained vertical footcandle at an adjoining residential property line shall be 0.5 footcandles, measured at five (5) feet above grade.

(C) Canopy and Gas Service Station Lighting. Light fixtures mounted on canopies shall be recessed so that the lens cover is recessed or flush with the bottom surface (ceiling) of the canopy or shielded by the fixture or the edge of the canopy so that light is restrained to 85 degrees or less from vertical.

(D) Other Lighting. Lighting for Private Streets, public and private parks, and businesses shall be shielded and/or directed away from adjoining uses and Streets to reduce glare. Lighting shall be of a design similar to the standards for street lights found in Section 1333.14(A) or for parking lot lighting found in Section 1333.14(B) as deemed appropriate by the Planning Commission.

DARK SKY LIGHTING

In 2011, Dark Sky International and the Illuminating Engineering Society (IES) published a Model Lighting Ordinance to address the need for strong, consistent outdoor lighting regulation in North America.

Per the Model Lighting Ordinance:

The purpose of this Ordinance is to provide regulations for outdoor lighting that will:

a. Permit the use of outdoor lighting that does not exceed the minimum levels specified in IES recommended practices for night-time safety, utility, security, productivity, enjoyment, and commerce.

b. Minimize adverse offsite impacts of lighting such as light trespass, and obtrusive light.

c. Curtail light pollution, reduce skyglow and improve the nighttime environment for astronomy.

d. Help protect the natural environment from the adverse effects of night lighting from gas or electric sources.

e. Conserve energy and resources to the greatest extent possible.

Source: https://darksky.org/resources/guides-and-how-tos/model-lighting-ordinances/

HISTORIC DISTIRCT

The Historic District Design Review Standards do not cover street lighting.

DISUCSSION

Would the Commission like to retain or remove the acorn style lighting requirement? Are there aspects of our lighting requirements that the Commission would like to change? Would the Commission like additional information on Dark Sky lighting?

JURISDICTIONAL COMPARISON

Lighting – Style requirements:

The City of Martinsburg WV has no requirements for specific style of lighting.

The City of Leesburg VA has no requirements for specific style of lighting.

The City of Frederick MD has no requirements for specific style of lighting.

The City of Hagerstown MD has no requirements for specific style of lighting.

Lighting – General requirements:

The **City of Martinsburg** WV:

Zoning Ordinance Section 5.10-4.C. *Glare and Heat: Exterior lighting, other than that essential for the safety and convenience of the users of the premises shall be prohibited. All exterior lighting shall be shielded in such manner that the level of light (i.e., measured in foot candles) is zero at common, adjacent Lot lines, except within commonly owned properties under unified management such as commercial centers;*

Subdivision Ordinance Section 4.13 *Outdoor Lighting* Sub-section B.:

Lighting Fixture Design.

1. *Street lighting supplied with unmetered electric service shall meet the specifications of the electric utility.*

2. *Lighting fixtures for Building entrances, sidewalks, paths, site entrances, and parking areas shall be aimed straight down and shall be full cutoff or fully shielded. For the use of reflector lamps, a maximum of 14,000 center-beam-candlepower (CBCP) shall be permitted.*

3. *For the lighting of non-horizontal surfaces such as, but not limited to, facades, Landscaping, signs, fountains, displays, flags and statuary, the use of lighting fixtures that are not full cutoff or fully shielded, shall be permitted only with the approval of City Engineer/Planning Director or designee, based upon acceptable shielding and other glare control. At a minimum, shielding shall render the light source not visible from neighboring properties.*

4. *Barn lights (i.e., fixtures which are not full-cutoff, or cutoff, but which have a diffuser which transmits the light at angles above full-cutoff or cutoff angles) shall not be permitted where they are visible from other uses unless fitted with a reflector or other device to render them fully shielded or full cutoff.*

The **City of Leesburg** VA:

Zoning Ordinance Section 12.11 Outdoor Lighting:

Full cut-off lighting fixtures shall be mounted horizontal to the ground and shall be used for all walkway, parking lot, canopy and building/wall mounted lighting and all lighting fixtures located within those portions of open-sided parking structures that are above ground. For purposes of this

section, an open-sided parking structure shall be a parking structure which contains exterior walls that are not fully enclosed between the floor and ceiling.

B. Lighting used to illuminate flags, statues, signs or any other objects mounted on a pole, pedestal or platform, spotlighting or floodlighting used for architectural or landscape purposes, shall consist of full cut-off or directionally shielded lighting fixtures that are aimed and controlled so that the directed light shall be substantially confined to the object intended to be illuminated. Directional control shields shall be used where necessary to limit stray light. In addition, such lighting shall be shielded to protect motorists and pedestrians from glare.

C. All construction site lighting, with the exception of lighting that is used to illuminate the interiors of buildings under construction, shall use full cut-off or directionally shielded fixtures that are aimed and controlled so the directed light shall be substantially confined to the object intended to be illuminated. Directional control shields shall be used where necessary to limit stray light. Frosted light bulbs shall be used to light the ten foot outermost perimeter area of the interiors of the buildings under construction.

D. High intensity light beams in the form of outdoor search lights, lasers or strobe lights are prohibited.

E. Light poles in all parking lots areas shall not exceed a maximum height of 25 feet including the base. Light poles shall not be permitted on the top deck of parking structures.

F. Wherever possible, illumination of outdoor seating areas, building entrances and walkways is accomplished by use of ground mounted fixtures not more than four feet in height.

G. All exterior lighting fixtures shall be located a minimum of ten feet from a property line.

H. Wall mounted lights, other than entry lights of 100 watts or less, shall be fully shielded luminaries, such as shoebox or can fixtures, to direct all light downward and to prevent the light source from being visible from any adjacent residential properties and public street right-of-way. Wall pack lights on buildings may be used at entrances to a building to light unsafe areas. Such lights cannot be used to draw attention to the building or provide general building or site lighting. Wall packs on the exterior of the building shall be fully shielded, full cut-off, to direct light vertically downward at an angle that shall limit output to prevent glare onto adjacent properties and be 100 watts or less. Wall pack lights visible from any location off site are prohibited.

The **City of Frederick** MD has no list of lighting requirements. A lighting plan is required for review.

The **City of Hagerstown** MD has no requirements for specific style of lighting.

Section I.4.H.10.B.:
Lighting shall be provided for all parking areas which will receive night use. Such lighting shall be directed to the parking area and be shielded to prevent adverse glare on adjacent public streets and properties. Where proposed lighted parking areas are located adjacent to a residential district or residential use, lighting shall be of minimum intensity to assure safety and security and shall be well shielded from the adjacent property.

However, security lighting within the aforementioned pedestrian areas used at night shall be illuminated at a level not less than 0.5 candle power. Upon review of the area to be illuminated, if it is classified as a Special Security area by the City, an increased level of illumination may be considered and studied.

Subdivision Ordinance Article 5 *AI.4.H.6.B.6.*
Lights illuminating off-street parking or loading areas shall be arranged and installed so that no material glare or direct light shall spill over into adjacent parcels. Light standards shall not exceed 20 feet in height and shall be of a directional type capable of shielding the light source from direct view. Spotlighting of buildings shall be from fixtures along the top of the building, directed downward.

COMPREHENSIVE PLAN

Per State Code 8A-7-8, before amending the zoning ordinance, the governing body with the advice of the planning commission, must find that the amendment is consistent with the adopted comprehensive plan. If the amendment is inconsistent, then the governing body with the advice of the planning commission, must find that there have been major changes of an economic, physical or social nature within the area involved which were not anticipated when the comprehensive plan was adopted and those changes have substantially altered the basic characteristics of the area.