Council Agenda Regular Somerset Town Council Meetings August 5, 2019 Council Meeting Agenda

The Somerset Town Council will meet in regular session on August 5, 2019 at 7:30 p.m. at the Somerset Town Hall. Agenda updates are posted on the Town website: www.townofsomerset.com.

Council Work Session – 7:00 p.m.

Council Meeting Convenes – 7:30 p.m.

Comments: Public Comment Period – 7:30 p.m.

CONSENT

1. Motion: To approve Town Council Committee Liaisons - 7:40

NON-CONSENT

2. Discussion: Town Manager July Administrative and Fiscal Report - 7:41

3. Discussion: Building Permit Administrator Report - 7:50

4. Discussion: Town Hall construction project-7:55

5. Public Hearing/Motion: To consider approval of Town Hall renovation bills (contractor payment – \$42,457; project manager invoice - \$6,857; roof repair estimate adjustment - \$15,000) totaling \$64,314 – 8:10***

6. Public Hearing/Motion: To consider modification to the retaining wall on the left (north side of the driveway to match the previously existing retaining wall; construction of a new retaining wall at the right (south) side of the driveway; modification to the asbuilt driveway to 16 ft.; and install 36" tall fixed planters on the side patio facing Surrey Street at 5813 Surrey - 8:15

7. Public Hearing/Motion: To consider confirmation approval of a building permit at 4715 Cumberland Avenue to rebuild the foundation of existing screen porch and enclose said screened– 8:30

8. Public Hearing/Motion: To consider retroactive approval of emergency HVAC permit to replace failed unit at 5527 Surrey -8:40***

9. Public Hearing/Motion: To consider retroactive approval of emergency HVAC permit to replace failed unit at 5510 Uppingham – 8:42***

10. Public Hearing/Motion: To consider removal the following Town trees as recommended by the Town Arborist -8:45

• 2 Kousa Dogwoods at Upper Parking Lot of Town Pool Both multi-stem 5" diameter at base

- Dogwood at 4607 Dorset 2" diameter at base***
- Flowering Cherry at 5510 Trent 3" diameter at base***
- Japanese Maple Tree at 5820 Surrey 6" diameter at base***

11. Discussion/Motion: To consider approval of minutes taken at Town Council Meeting held on July 1, 2019. -8:55

12. Public Hearing/Motion: To consider approval of extension of Zelenkofske Axelrod LLC contract to perform FY2019 audit at a cost of \$13,390, and FY2020 audit at a cost of 13,700. - 9:00

13. Public Hearing/Motion: To consider approval of Professional Accounting Services contract with Weyrich, Cronin & Sorra for up to \$7,000 to assist in audit preparation, and to review and establish appropriate internal control policies and procedures. – 9:02***

14. Public Hearing/Motion: To consider approval of payroll service software provided by Heartland at a cost of $3,200. - 9:10^{***}$

15. Discussion: General Code Update - 9:20

16. Discussion: Mayor's Report – 9:25

17. Adjourn – 9:35

Key:

Public Hearing Item: Agenda item where public comment is permitted. Discussion Item: Agenda item limited to discussion among the Council, Mayor and Town Staff. Motion Item: Agenda item requesting action, limited to Council discussion.

Comments: Opinions and Questions from Town residents.

*** Denotes Item that was added post-Town Journal publication

The Mayor and Town Council may entertain a motion during the open meeting to close a portion of the meeting, in accordance with Section 3-305(b)(1)(7) of the Open Meetings Act (Maryland Code, General Provisions Article), to consult with counsel to obtain legal advice.

Council Liaison Assignments and other Town Representation for July 2019-June 2020 Council President Marnie Shaul, Uppingham Street

Each year the council agrees on council member liaison assignments to the Town's Committees. It also agrees on other assignments such as Town ad hoc committees, other Town activities, and representation with external organizations. If you have questions about various Town and external organizations, you can contact the council members and other residents listed below.

Assignments for Town Committees:

Audit Committee: Morris Panner, Marnie Shaul, Alternate Environmental Committee: Steve Surko, Marnie Shaul. Alternate Parks and Natural Resources Committee: Barbara Zeughauser, Franny Peale, Alternate Pool Committee: Marnie Shaul, Morris Panner, Alternate Swim Team Committee: Franny Peale, Morris Panner, Alternate Tennis Committee: Franny Peale, Barbara Zeughauser, Alternate

Other Liaison Assignments and Council Responsibilities

Ad Hoc Communications Committee: Barbara Zeughauser, Marnie Shaul Ad Hoc Budget Committee: Marnie Shaul, Steve Surko, and Morris Panner Ad Hoc Personnel Committee: Marnie Shaul, Barbara Zeughauser Ad Hoc Town Hall Committee: Barbara Zeughauser, Franny Peale Ad Hoc Traffic Committee, Marnie Shaul Artist Shows in Town Hall, Barbara Zeughauser Bethesda Fire Board: Barbara Condos Bus Rapid Transit: County Committee: Barbara Condos Check signing: Marnie Shaul, Barbara Zeughauser Citizens Coordinating Committee on Friendship Heights: Steve Surko, Marnie Shaul, Alternate Code Review: Franny Peale, Barbara Condos Montgomery County Cable, Channel 16: Marnie Shaul Snow Removal: Barbara Zeughauser Transportation Management District (TMD): Barbara Condos Western Montgomery Citizens Advisory Board: Carrie Wofford

Manager's Report August 5, 2019

Administrative Matters

- **Computers:** The Town received its three new computers, and completed setup. Staff hired outside help to assist with installation.
- File Storage: Canon has a cloud-based storage system (see above). Staff also met with Amazon at the MML Conference, which offers a relatively low-cost cloud-based storage system as well. Staff is scheduling follow-up calls and conversations with the companies to get a better understanding of pricing and mechanics of the systems. Staff hopes to bring a recommendation to the Council at the August meeting.
- **Document Scanning:** The Town met with, and received a quote from Shore Scan to provide equipment and services that would allow digital archiving. Costs include scanner; monthly page upload fee; and setup, configuration and training. The total fiscal year cost for FY2020 would be \$7,501. Additional years would be renewed at a cost of \$1,635.
- **Code Revisions:** General Code has completed the Town's Code of Ordinance and Charter updates. The Council may review and present at the September meeting.
- **Payroll Administration**: Currently the Town uses the default payroll software provided by Suntrust. I recommend using a more sophisticated software tool that is able to make changes and integrate with budgeting software more seamlessly. Staff has gotten quotes from multiple companies, and recommends Heartland.
- **ClearGov:** Staff met with a company called ClearGov, which specializes in community engagement, and budget presentation. The program may help make financial documents more easily readable; and improve the Town's transparency. Staff recommends waiting until a decision is made on financial assistance, and, if hired, their recommendations and help in setting up the budget.
- **Phones:** Once renovations are completed, the Town may consider new phones for the Town Hall.
- **Town Website:** The Town's website is six years old. The Council may consider an update to the website. Quotes were given by CivicPlus, who designed the current website. The Town could also elect to go out to bid on the service.
 - The Town may also consider changing from .com to .org or .gov. Staff has begun to look at the requirements for such a change.

Community Events

- Upcoming Events:
 - Dates need to be set:
 - Nonagenarian Party (Sept.)
 - Newcomers' Party (Sept.)

- Pool Closing (Sept.)
- Flu Clinic (Oct.)
- Dates Set:
 - Late Night Swim (Sept. 1)
 - Adult Party at the Pool (Sept. 14)

<u>Infrastructure</u>

- **Town Hall Renovations**: Staff has attended weekly Town Hall renovation update meetings. (See report from architect and project manager Lou Baledamas)
- **Pool Entrance Bridge**: Staff is looking into options to help the drainage situation at the new bridge at the Town Pool. One option may be to install a slotted drain.
- Utility Poles: Staff is putting together a list of "double poles" in Somerset. Poles need to be rid of telecom cables before Pepco will remove them.

Contracting

- **Gardening Consultant**: The Town may be interested in contracting out services for a gardening consultant to assist maintenance staff with planting and care of Town green spaces.
- **Bridge/Signage/Traffic Consultant**: The Council approved the hiring of a consultant to look at parking and other issues at the Town Pool. Staff is currently working to locate a previous RFP to use as a template, and to go out to bid so that any changes could be incorporated before next year's pool season.

Building Administration

See worksheet from Town Building Administrator Doug Lohmeyer – included in packet. <u>Tree Updates</u>

See report from Town Arborist, Dr. Tolbert Feather – included in packet.

Town of Somerset August Fiscal Report July 2019

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	 19-Jul		Budget	An	nual Budget
41000 Tax	569.69		FC 074 00		
41100 Property Tax	 	*	56,971.83	*	683,662.00
Total 41000 Tax	\$ 569.69	\$	56,971.83	\$	683,662.00
42000 Intergovernmental			05 000 00		4 450 000 00
42100 Income Tax	E 407 00		95,833.33		1,150,000.00
42200 Highway User (MD)	5,167.00		3,009.00		36,108.00
42300 Revenue Sharing (MC)			4,681.08		56,173.00
42400 Bank Share (MC)			22.42		269.00
42500 Cable Franchise Fee					
42501 Comcast			517.25		6,207.00
42502 Verizon	 		1,058.08		12,697.00
Total 42500 Cable Franchise Fee	\$ 0.00	\$	1,575.33	\$	18,904.00
Total 42000 Intergovernmental	\$ 5,167.00	\$	105,121.16	\$	1,261,454.00
43000 Recreation					
43100 Pool Fees	2,129.73				
43101 Camp Summerset	6,076.00		2,000.00		8,000.00
43102 Guest Fees	3,232.01		2,398.75		9,595.00
43103 Water Aerobics			505.00		2,020.00
43104 Morning Swim			378.75		1,515.00
Total 43100 Pool Fees	\$ 11,437.74	\$	5,282.50	\$	21,130.00
43200 Tennis Court Fees	150.00				
43201 Regular Fees	198.50		166.67		2,000.00
43202 Camp Summerset - Tennis	 140.00		50.00		100.00
Total 43200 Tennis Court Fees	\$ 488.50	\$	216.67	\$	2,100.00
Total 43000 Recreation	\$ 11,926.24	\$	5,499.17	\$	23,230.00
44000 Interest					
44100 Interest - MCPIP	8,096.00		929.66		11,156.00
44200 Interest - PNC	468.55		268.83		3,226.00
44300 Interest - Capital One	 6.82		4.50		54.00
Total 44000 Interest	\$ 8,571.37	\$	1,202.99	\$	14,436.00
45000 Rental to Residents					
45100 Town Hall Fees			166.67		2,000.00
Total 45000 Rental to Residents	\$ 0.00	\$	166.67	\$	2,000.00
46000 Permit					
46100 Building Permits	600.00		935.00		11,220.00
46200 Fence/Wall			83.33		1,000.00
46300 Storage Pods			16.67		200.00
46400 Dumpster			85.00		1,020.00
46500 Curb/Driveway			25.00		300.00

				50.00		600 00
46600 Late fee 46700 Waiver				50.00		600.00 100.00
Total 46000 Permit	\$	600.00	\$	8.33 1,203.33	\$	
47000 Miscellaneous - Revenue	Φ	600.00	φ	1,203.33	φ	14,440.00
47200 Miscl. Revenues		70.00		85.00		1,020.00
47400 Compost Bins Fee		10.00		4.17		50.00
Total 47000 Miscellaneous - Revenue	\$	70.00	\$	89.17	\$	1,070.00
Total Income	\$	26,904.30	\$	170,254.32	\$	2,000,292.00
Gross Profit	\$	26,904.30	\$	170,254.32	\$	2,000,292.00
Expenses						
61000 Personnel						
61100 Payroll Expense						
61101 Suntrust		7,660.85				
61102 Pension Expense		531.54		83.33		1,000.00
Total 61100 Payroll Expense	\$	8,192.39	\$	83.33	\$	1,000.00
61200 Salary Expense						
61201 Mayor		435.00		1,250.00		15,000.00
61202 Town Clerk		4,369.55		8,333.33		100,000.00
61203 Public Works Regular		4,417.03		10,458.50		125,502.00
61204 Public Works Overtime		192.92		83.33		1,000.00
61207 Office Employee				4,463.33		53,560.00
Total 61200 Salary Expense	\$	9,414.50	\$	24,588.49	\$	295,062.00
61300 Employer Retirement Cont.		2,705.13		1,666.67		20,000.00
61400 Health Insurance-Employer Paid		4,168.92		3,500.00		42,000.00
61600 Workman's Comp				500.00		6,000.00
61700 FICA, Medicare & UI				2,916.67		35,000.00
61800 Staff Training		250.00		41.67		500.00
Total 61000 Personnel	\$	24,730.94	\$	33,296.83	\$	399,562.00
62000 Professional Services						
62100 Arborist		8,415.00		1,166.67		14,000.00
62101 Garden Supervisor				1,166.67		14,000.00
62200 Audit/Accounting				1,141.67		13,700.00
62300 Storm Water				83.33		1,000.00
62400 Traffic Calming				416.67		5,000.00
62500 Legal Fees						
62501 Attorney				5,833.33		70,000.00
62502 Code				833.33		10,000.00
Total 62500 Legal Fees	\$	0.00	\$	6,666.66	\$	80,000.00
62600 Police		436.53		4,166.67		50,000.00
62600_1 Security Camera Rebate				166.67		2,000.00
62700 IT						
62701 Web Site				343.25		4,119.00
62703 Web Site Credit Card Fee				41.67		500.00
	\$	0.00	\$	384.92	\$	4,619.00
62800 Code Enforcement Officer				1 000 05		<u> </u>
62801 Enforcement Officer				1,666.67		20,000.00
62802 Building Adminstrator				4,166.67		50,000.00

Total 62800 Code Enforcement Officer	\$ 0.00	\$	5,833.34	\$	70,000.00
62907 Town Code Consultant			250.00		3,000.00
62908 Project Management Support			416.67		5,000.00
62909 Lighting Consultant	 1,228.53				
Total 62000 Professional Services	\$ 10,080.06	\$	21,859.94	\$	262,319.00
64000 Civic Affairs					
64100 Special Events					
64101 Community Service			0.00		1,000.00
64102 4th July	333.33		250.00		500.00
64103 New Comers			300.00		1,000.00
64104 Summer Kick-off			0.00		1,500.00
64105 Social Events					
64108-1 Nonagenarian			0.00		500.00
64108-2 Tennis			0.00		200.00
64108-3 History			41.66		500.00
64108-4 Pool			0.00		1,000.00
Total 64105 Social Events	\$ 0.00	\$	41.66	\$	2,200.00
64107 Guest Speakers	 		333.33		4,000.00
Total 64100 Special Events	\$ 333.33	\$	924.99	\$	10,200.00
64200 Membership Dues					
64201 CCCFH			100.00		100.00
64202 Other			0.00		400.00
64203 MCCMA	 	-	150.00		150.00
Total 64200 Membership Dues	\$ 0.00	\$	250.00	\$	650.00
64300 MML					
64301 Chapter Meetings	/-		125.00		1,500.00
64302 Dues	6,699.12		516.25		6,195.00
64303 Conference Registration			272.00		3,264.00
64304 Travel and Lodging	702.96		340.00		4,080.00
64305 Miscl.	 	•	20.83	•	250.00
Total 64300 MML	\$ 7,402.08	\$	1,274.08	\$	15,289.00
64400 Cable TV-Channel 16 Local Gov't	 		125.00		1,500.00
Total 64000 Civic Affairs	\$ 7,735.41	\$	2,574.07		#REF!
65000 Publications					
65100 Journal			440.07		-
65101 Postage	107 50		416.67		5,000.00
65102 Printing	467.50		561.00		6,732.00
65103 Graphic Designer	 832.00	•	666.67	•	8,000.00
Total 65100 Journal	\$ 1,299.50	\$	1,644.34	\$	19,732.00
65200 Directory & Handbook	 4 000 50		314.50	<u> </u>	3,774.00
Total 65000 Publications	\$ 1,299.50	\$	1,958.84	\$	23,506.00
66000 Insurance	F 000 00		500.00		
66100 Property/Liability - LGIT	5,609.00		500.00		6,000.00
66200 Truck Insurance - LGIT	 1,918.00	<u>^</u>	141.67	<u>^</u>	1,700.00
Total 66000 Insurance	\$ 7,527.00	\$	641.67	\$	7,700.00
67000 Town Hall/Garage					
67100 Town Hall					

67101 Equipment	5,280.00	250.00	3,000.00
67102 Maintenance		208.33	2,500.00
67103 Supply	19.99	208.33	2,500.00
67104 Utilities	279.53	416.67	5,000.00
67105 Renovation/Improvements	2,710.68	80,000.00	400,000.00
67105-1 Project Manager		4,200.00	21,000.00
Total 67105 Renovation/Improvements	\$ 2,710.68	\$ 84,200.00	\$ 421,000.00
Total 67100 Town Hall	\$ 8,290.20	\$ 85,283.33	\$ 434,000.00
67200 Garage	805.54		
67201 Supplies	520.53	125.00	1,500.00
67202 Utilities	24.44	187.92	2,255.00
67203 Maintenance		250.00	3,000.00
67205 Renovation/Improvements		250.00	3,000.00
67207 Truck	12.48		
67207-1 Gasoline	177.35	208.33	2,500.00
67207-2 Repairs		175.00	2,100.00
67207-3 Inspection		 0.00	14.00
Total 67207 Truck	\$ 189.83	\$ 383.33	\$ 4,614.00
Total 67200 Garage	\$ 1,540.34	\$ 1,196.25	\$ 14,369.00
67300 Office	285.96		
67301 Supplies	498.97	427.08	5,125.00
67302 Web-hosting/Domain	11.95	17.08	205.00
67303 Phone		341.67	4,100.00
67304 Uniform	117.45	85.42	1,025.00
67306 Miscellaneous		191.67	2,300.00
Total 67300 Office	\$ 914.33	\$ 1,062.92	\$ 12,755.00
otal 67000 Town Hall/Garage	\$ 10,744.87	\$ 87,542.50	\$ 461,124.00
8000 Streets & Sidewalks			
68100 Streets			
68101 Sweeping		333.33	4,000.00
68102 Maintenance	97.20	250.00	3,000.00
68104 Supplies/Signs		166.67	2,000.00
68105 Street Lighting	1,545.23	1,874.25	22,491.00
68106 Street Snow Removal	 	2,083.33	25,000.00
Total 68100 Streets	\$ 1,642.43	\$ 4,707.58	\$ 56,491.00
68200 Sidewalk			
68203 Sidewalk Snow Removal	 	 0.00	 50,000.00
Total 68200 Sidewalk	\$ 0.00	\$ 0.00	\$ 50,000.00
otal 68000 Streets & Sidewalks	\$ 1,642.43	\$ 4,707.58	\$ 106,491.00
9000 Trees, G. & P			
69100 Contract-Trees & Grounds			
CO101 Maintenance	10,125.00	5,000.00	60,000.00
69101 Maintenance			~~ ~~ ~~
69102 Tree Removal	 5,398.00	 2,333.33	 28,000.00
	\$ 5,398.00 15,523.00	\$ 2,333.33 7,333.33	\$ 28,000.00 88,000.00
69102 Tree Removal	\$	\$ •	\$
69102 Tree Removal Total 69100 Contract-Trees & Grounds	\$	\$ 7,333.33	\$ 88,000.00

69203-1 Landscaping/Stormwater Project Manager		166.67	2,000.00
69203-2 Landscaping/Stormwater		1,500.00	18,000.00
Total 69203 Landscaping/Stormwater	\$ 0.00	\$ 1,666.67	\$ 20,000.00
69204 Lighting		5,833.33	70,000.00
69204-1 Lighting Consultant		1,250.00	15,000.00
69300 Dumping Fees			
69301 Recycling	79.58	125.00	1,500.00
Total 69300 Dumping Fees	\$ 79.58	\$ 125.00	\$ 1,500.00
69400 General			
69401 Supplies	621.00	416.67	5,000.00
69402 Maintenance	307.55	166.67	2,000.00
69404 WSSC Meter		62.50	750.00
Total 69400 General	\$ 928.55	\$ 645.84	\$ 7,750.00
Total 69000 Trees, G. & P	\$ 16,531.13	\$ 18,104.17	\$ 217,250.00
70000 Sanitation			
70100 Trash Contract	0.35	5,500.00	66,000.00
70200 Recycling Contract	0.00	5,500.00	66,000.00
70300 Leaves Contract		3,000.00	36,000.00
70400 Blue Bins		416.67	5,000.00
70500 Composting	2,193.60	2,500.00	30,000.00
70600 Composting Bins		66.67	800.00
70700 Yard Waste	 -0.13	1,287.50	15,450.00
Total 70000 Sanitation	\$ 2,193.82	\$ 18,270.84	\$ 219,250.00
71000 Recreation Exp			
71100 Pool	34.00		
71101 Maintenance	1,656.18	1,250.00	15,000.00
71102 Equipment		3,333.33	40,000.00
71104 Management Fees		10,833.33	130,000.00
71105 Management Miscl. Fees		291.67	3,500.00
71107 Coaches Fee		1,666.66	20,000.00
71108 Aerobics Class		166.66	2,000.00
71109 MCSL Fee	227.94	41.67	500.00
71110 Utilities			
71110-1 WSSC			
71110-a Water	1,134.38	750.00	9,000.00
71110-b Sewer	 1,674.75	666.67	8,000.00
Total 71110-1 WSSC	\$ 2,809.13	\$ 1,416.67	\$ 17,000.00
71110-2 Electric	1,426.71	816.67	9,800.00
71110-3 Gas	221.54	250.00	3,000.00
71110-4 Phone			
71110-c Reg. Phone		66.67	800.00
71110-d Fios	 500.42	133.33	1,600.00
Total 71110-4 Phone	\$ 500.42	\$ 200.00	\$ 2,400.00
Total 71110 Utilities	\$ 4,957.80	\$ 2,683.34	\$ 32,200.00
71111 Plumber		333.33	4,000.00
71112 Software	99.00	66.67	800.00
71114 Pool Bridge	11,435.00		

71116 Security Monitoring		5,623.68		541.67	6,500.00
71117 Cleaning Contract		1,980.00		583.33	7,000.00
71119 Early Bird Swim				145.83	1,750.00
71120 Pest Inspection		354.00		125.00	1,500.00
Total 71100 Pool	\$	26,367.60	\$	22,062.49	\$ 264,750.00
71200 Batting Cage					
71203 Supplies				166.67	2,000.00
Total 71200 Batting Cage	\$	0.00	\$	166.67	\$ 2,000.00
71300 Tennis Courts					
71302 Supplies				41.67	500.00
71303 Maintenance				20.83	250.00
71304 Water Fountain				208.33	2,500.00
Total 71300 Tennis Courts	\$	0.00	\$	270.83	\$ 3,250.00
Total 71000 Recreation Exp	\$	26,367.60	\$	22,499.99	\$ 270,000.00
72000 Bank Service Charge		61.24		54.17	650.00
73000 Debt Services					
73100 SunTrust Poolhouse Bond		102,174.00		9,905.00	118,860.00
Total 73000 Debt Services	\$	102,174.00	\$	9,905.00	\$ 118,860.00
74000 Miscl. Expenses		1,211.25		250.00	3,000.00
75000 Environmental				2,666.67	32,000.00
76000 Budget Contingency				0.00	50,000.00
77000 Wynne Case				3,333.33	40,000.00
Uncategorized Expense		0.50			
Total Expenses	\$	212,299.75	\$	227,665.60	#REF!
Net Operating Income	-\$	185,395.45	-\$	57,411.28	#REF!
Net Income	-\$	185,395.45	-\$	57,411.28	#REF!

Thursday, Aug 01, 2019 11:19:52 AM GMT-7 - Cash Basis

PERMITS P	REVIEWED BY DOU	G		1	DATE O	F REPORT 08/	01/2019		
ADDRESS	STREET NAME	APPLICANT	PHONE NO.	EMAIL	DESCRIPTION OF WORK	CONTRACTOR	PHONE	PERMIT EXP.	DOUG'S COM
			2. 10 - 27						
5800	Deal Pl.	5800 Deal PI, LLC	202-812-9278	designbuilddc@gmail.com	Add front & rear decks. Build addition adding 2nd & 3rd floors.	Bianca Peters	202-812-9278	6/18/2019	Plans revised app. 6/1/19
4709	Dorset Ave.	Sandy Spring Builders	301-841-2516	jlanum@sandyspringbuilders.com	Rear Addition, Garage, Pool, Deck, Apron & A/C	Russell McCampbell	301-252-0470	10/9/2019	
4823	Dorset Ave.	Stuart & Stoliaroff	301-654-2989	drsharon@aol.com	Demo exsisting garage and shed. Build new shed and screened porch. Replace exisiting walls and fence.	Bernie Mihm	301-370-0471 bernie@fineearth.com	4/16/2020	
4710	Essex Ave.	Atsuko Horiguchi	202 378 7317	atsukohoriguchi@gmail.com	Demo and New House	Potomac Valley Builders, Jeff Hanes	301-651-8115	11/6/2019	
4813	Falstone Ave.	Nicolas Lloreda	613-715-1189	nlloreda@gmail.com	Rear sceened porch	Primos Contractors, Inc	<u>703-820-1144</u>	8/6/2019	
4909	Falstone Ave.	Javid Farazad	240.286.1113	javid.farazad@gmail.com	Demo and New House	AAI Constuction	240.286.1113	12/10/2019	
5813	Surrey Street	Dan & Aveva Rosenthal	301-927-2272	dkrosenthal@gmail.com	rear and side addition, 1 A/C, driveway & Apron	Andrew Kerr & Tito Cantero	202-489-1599 202-271- 4464	1/4/2019	Waiting for en and HPC.
5415	Trent Street	Kumar/Swain	202-910-7131	kellyswain@gmail.com	Addition / Renovation	Will Pinto, WWK Construction	240-464-4749	7/1/2019	Town and Cou closed. Retain is complete

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	PHONE	PERMIT EXP.	DOUG'S COMMENTS
	202-812-9278	6/18/2019	Plans revised at MCDPS - waiting Council app. 6/1/19
	301-252-0470	10/9/2019	
	301-370-0471 bernie@fineearth.com	4/16/2020	
	301-651-8115	11/6/2019	
	<u>703-820-1144</u>	8/6/2019	
	240.286.1113	12/10/2019	
	202-489-1599 202-271- 4464	1/4/2019	Waiting for enforcement from MC DPS and HPC.
	240-464-4749	7/1/2019	Town and County permits have been closed. Retaining bond until landscaping is complete



balodemas architects 4301 Connecticut Avenue NW | Suite 149 | Washington, DC 20008 202-363-4820 | balarch.com

August 1, 2019

TOWN HALL RENOVATION - COST SUMMARY

		Council App'd Funding	Current as of 6/28/2019	Remarks
Construction contract	xt	\$310,970.00	\$310,970.00	
Performance & Payr	ment Bond	\$9,428.00	\$9,428.00	
Surface-mtd light fix	tures (allowance)	\$16,300.00		Add included in CO#14 below
Electric work in Mee	ting Rm 1	Included		Credit included in CO#14 below
Carpet (\$40/SY mate	erial allowance)	Included	Included	Adjustment pending selection
Windows - Final quo	te over base bid	\$2,450.00	\$2,436.50	CO#1 (+0 days)
Fire sprinkler & alarr	n systems	\$47,685.00	\$76,737.81	CO#11 (+10 days)
Fire-rated door & gla	ass @ Meeting Rm 1	\$15,000.00	\$4,911.04	CO#10 (+1 day)
Remainder building	code upgrades	\$7,200.00	\$13,627.48	CO#13 (+2 days)
Bonding for addition	al work (3%)	\$2,660.00	\$967.96	CO#4 (+0 days) Covers CO#'s 1-3
A/E Fees/Expenses	to date	\$49,530.93	\$83,633.19	Thru 6/30
A/E Fees/Expenses	to finish	\$15,000.00	\$8,142.50	Estimated 7/1-9/30
County permit filing	fee paid by Town	\$3,264.00	\$3,264.00	
County permit balan	ce paid by Town	\$4,000.00	\$3,362.00	
Other costs	Cabling	\$5,000.00	\$2,575.00	Splaine 6/7/19 proposal
	Furniture	\$15,000.00	\$15,000.00	
	Sign	\$5,000.00	\$5,000.00	
Total 12/19/2018	Subtotal	\$508,487.93	\$540,055.48	
Council Approval	Rounded	\$510,000.00		
	Contingency (10%)	\$51,000.00		
7/2/2019 Council Ap Repair	proval for Roof	\$28,000.00		
Replace subfloor at	2nd floor		\$5,230.00	CO#2 (+7 days)
Sister existing 2nd fl	Sister existing 2nd floor joists (optional)		\$4,520.00	
Fireblocking at 2nd floor perimeter Rot repair			\$925.00	
			\$1,545.00	1
Structural repairs inc	cl. chimney bracing		\$12,615.00	
Replace "barnwood"	framing		\$425.00	
Extra ceiling demo			\$1,665.00	
Plumbing fixtures ov	er allowance		\$2,903.75	CO#3 (+0 days)

Upgrade roof shingles		\$1,077.38	CO#5 (+0 days)
Relocate water heater for sprinkler valve		\$2,533.80	CO#6 (+1 day)
Crawlspace framing repairs		\$8,773.54	CO#7 (+5 days)
Hardwood in lieu of carpet at lower stair		\$1,626.76	CO#8 (+0.5 day)
Add floor hatch to crawlspace		\$5,402.00	CO#9 (+1 day)
Add insulation at crawlspace; substitute open-cell insulation at second floor walls for closed-cell		\$2,334.19	CO#12 (+0.5 day)
Add surface-mtd light fixtures; delete electric work in Meeting Rm 1; add heat in crawlspace; delete lighting controls		\$6,508.83	CO#14 (+0 days)
Delete pantry cabinets		(\$5,750.00)	CO#15 (-0.5 day)
Exterior trim repairs vs. allowance		(\$850.00)	CO#16
WSSC tap fees for fire service		\$25,000.00	Estimated. Does not include refundable bonds.
Civil engineering & surveying for new WSSC tap		\$0.00	Estimated
Structural repair of roof over large meeting room		\$40,994.00	Estimated
New lighting design and ceiling fans for Meeting Rm 1		\$15,000.00	Estimated
Total	\$589,000.00	\$672,534.73	
Funding shortfall	φ000,000.00	(\$83,534.73)	
Project duration	180 days	208 days	+ 27.5 days
Completion date from 2/4/2019 building permit approval (9/7/2018 contract date)	8/3/2019	8/31/2019	+ WSSC delay & roof repair



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July 13, 2019

INVOICE

- To: Town of Somerset 4510 Cumberland Ave Chevy Chase, MD 20815
- Attn: Council Member B. Zeughauser
- cc: Town Manager
- via: E-mail only

Re: Town Hall Second Floor & Exterior Alterations/Renovations

(Reference 1/11/2017 second floor agreement & 3/30/2017 exterior agreement) Balodemas Project No. 0717 Period 6/1/2019 through 6/30/2019

6/13/2019 invoice	\$ 21,717.26
Payments received	(\$ 0.00)

Services this Period

Construction Contract Administration (both agreements) Principal - 15.25 hours @ \$225/Hr \$ 3,431.25 Architect - 1.5 hours @ \$130/Hr 195.00
Designers/Drafter - 10.5 hours @ \$100/Hr
Reviewed D&D payment application #3. Issued 6/1 approved.
Prepared revised project cost summary. Issued 6/1.
6/2 - Prepared/issued 5/28 meeting minutes.
Reviewed fire alarm submittal. Issued 6/3 with corrections for record only.
6/3 - Council meeting.
Reviewed sprinkler system submittal. Returned approved-as-noted on 6/5.
6/10 - Construction progress meeting.
6/2 - Prepared/issued 6/10 meeting minutes.
6/14 - Tile selection at Best Tile w/ BZ. Issued to D&D w/ carpet selection.
6/19 - Mechanical and electrical engineering close-in inspection. Issued list of corrections on 6/26.

6/27 - Construction progress meeting. Prepared progress meeting minutes and revised project cost summary. Issued 6/29.

Additional Services

Principal - 7.25 hours @ \$225/Hr
Designers/Drafter - 5.5 hours @ \$100/Hr
Obtained alternate civil engineering/surveying proposals
for water service site plan.
6/10 - Follow-up w/ WSSC re: site plan requirements.
6/14 - Checked furniture options at G. Smith Office
Furniture w/ BZ.
6/14 - Issued status report re: new water service.
6/14 - Returned comments to furniture supplier for revised
pricing per BZ direction.
6/14 - RFP to G. Smith for new flat files and new fire safe.
Analysis of roof failure. Preliminary repair alternatives issued 6/18.
6/19 - Meeting w/ AI re: roof failure.

Total Services This Period \$ 6,857.50

Expenses this Period

None	\$ 0.00		
Subtotal			
O'hd per contract	0.00		
Total Expenses this Period \$ 0.00			

TOTAL DUE (incl. prior balance)	 \$ 28,574.76

Balodemas Architects, Chtd.

pri GSM

Lou Balodemas, AIA

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MONTGOMERY CONSULTING MEMO

TO:	Town of Somerset
FROM:	Doug Lohmeyer
DATE OF MEMO:	July 20, 2019
SUBJECT:	5813 Surrey Wall Permit

The applicants at 5813 Surrey St. have applied for a Town permit to construct or modify the following features at the site.

The improvements have received approval from both MCDPS and HPC.

The existing wall along the left (north) side of the driveway will be extended to the length similar to the wall that was removed during the recent construction, per the HPC approval

They will build a new wall along the right (south) side of the driveway to replace the wall that was removed during the recent construction, per the HPC approval.

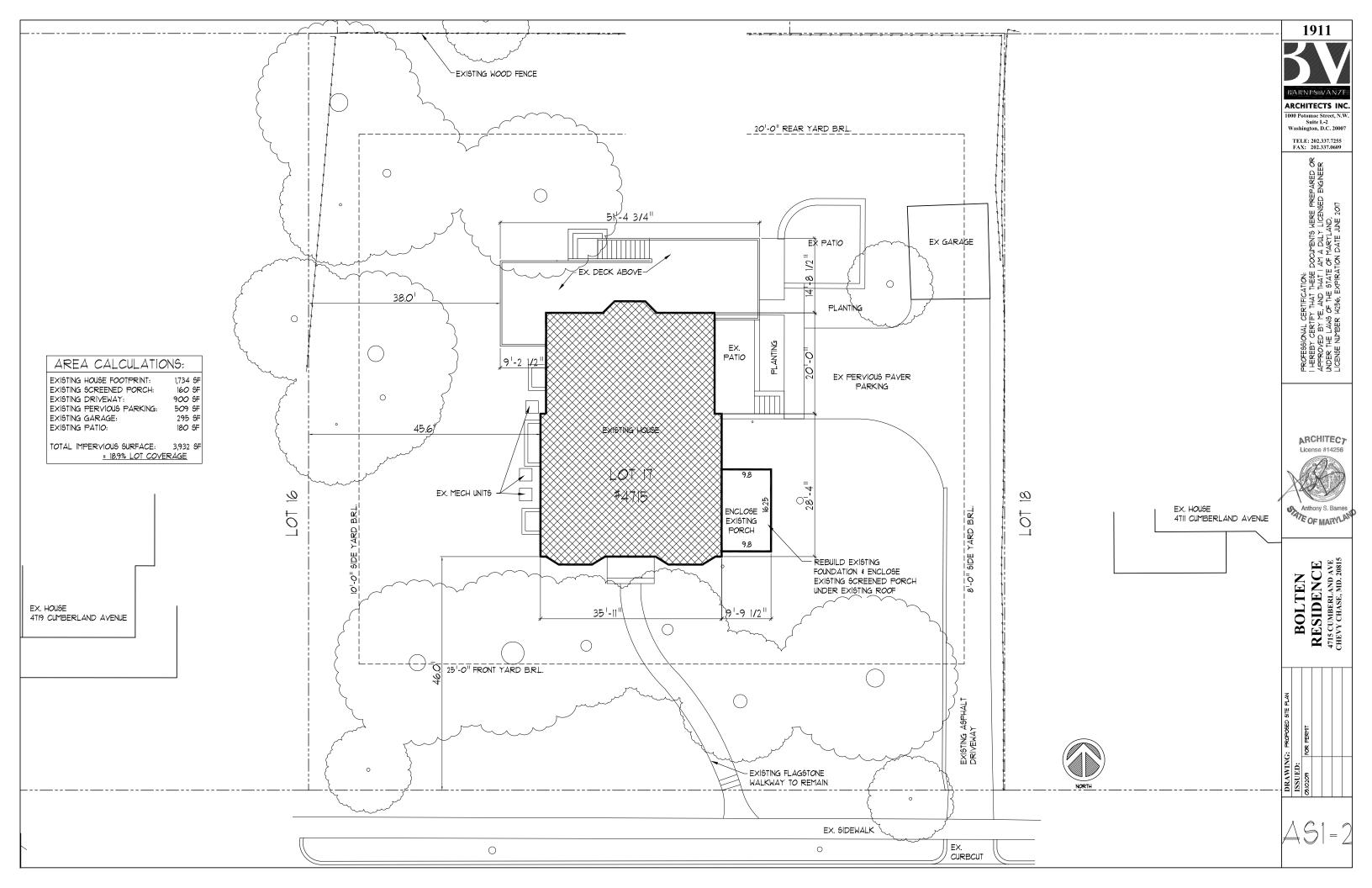
They will install a 3-foot high planter wall around the perimeter of the planter box on the south side of the yard.

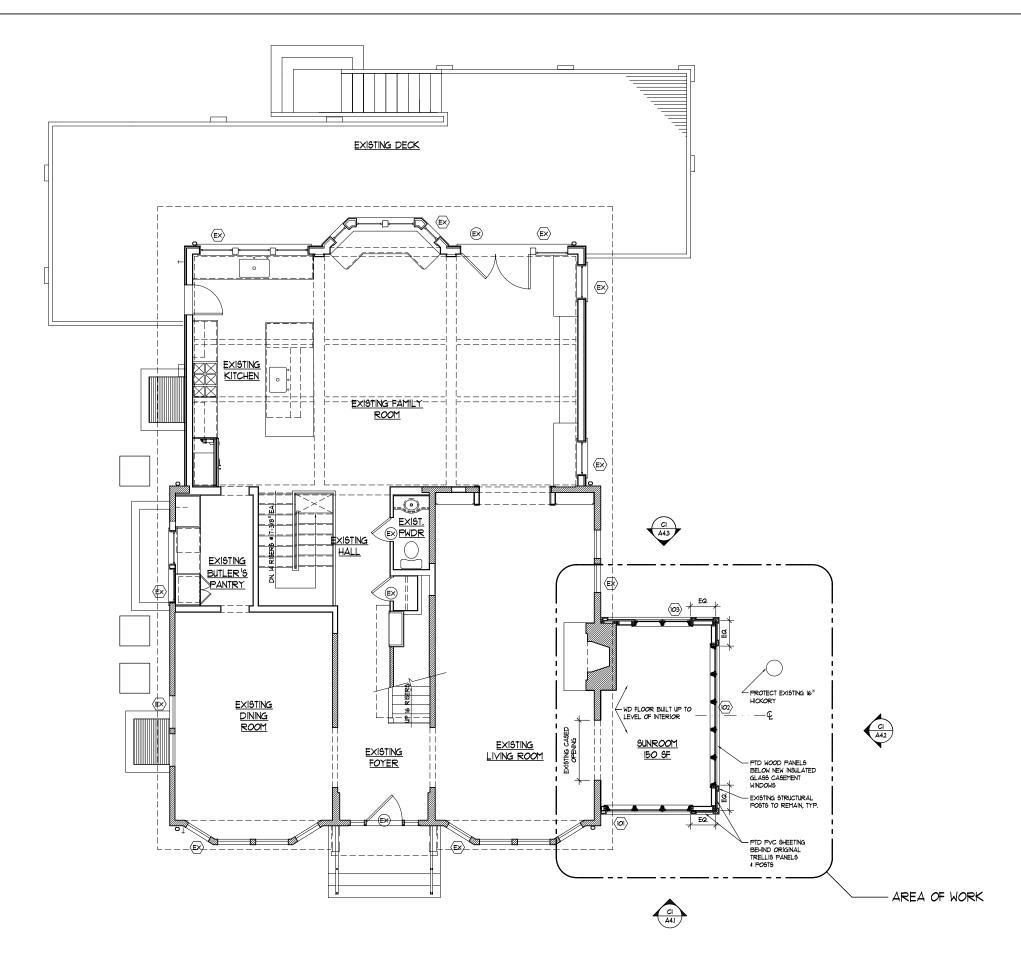
They will also reduce the width of the existing concrete driveway from approximately 18 feet to the maximum 16 feet, per the HPC approval.

The driveway apron was recent re-built to conform to the Town's driveway apron specifications.

The applicants have already removed the gravel strips from both sides of the concrete sidewalk along Cumberland Ave., per the HPC approval.

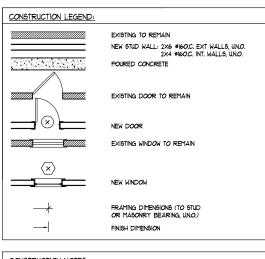
The Town still holds the \$2000 performance bond from the recent construction.





 CI
 PROPOSED FIRST FLOORPLAN

 43.1
 1/4" = 1'-0" WHEN PRINTED AT 22"x36"

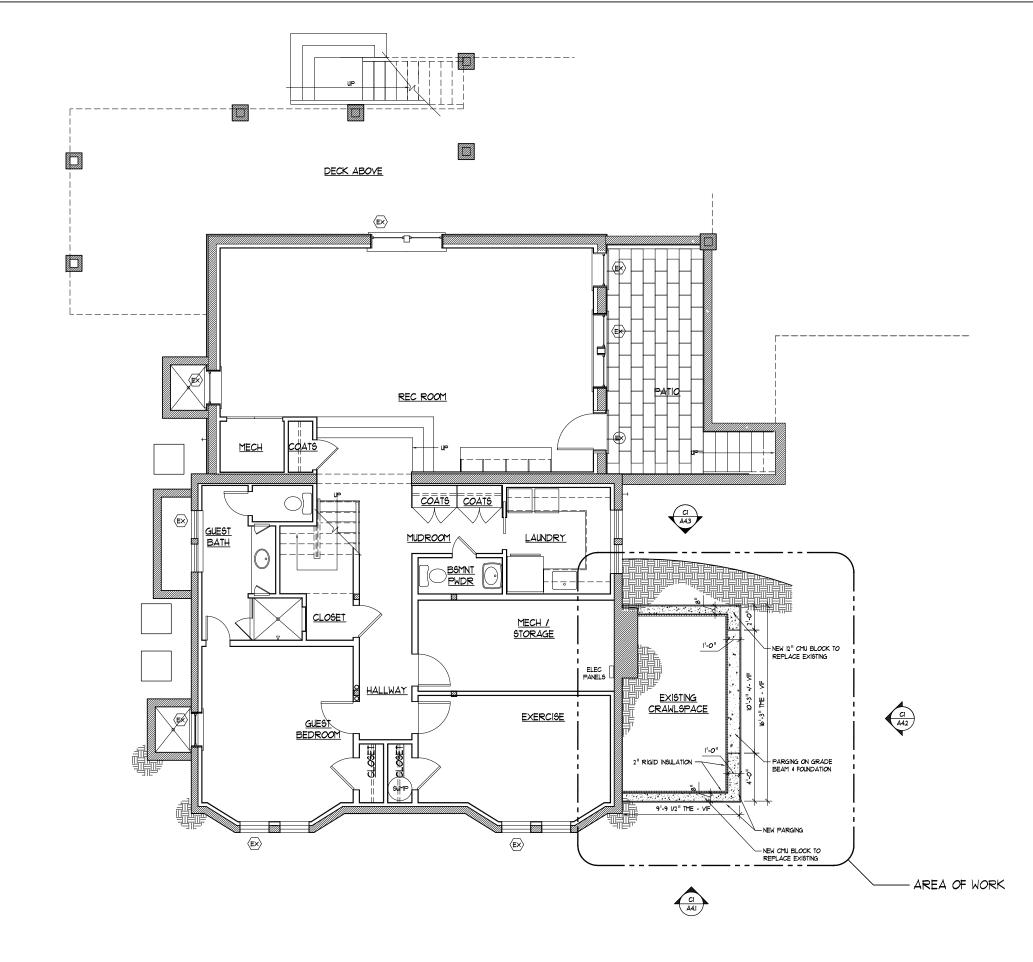


CONSTRUCTION NOTES:

FINISHED GRADES ARE INDICATED TO SHOW DESIGN INTENT. GENERAL CONTRACTOR SHALL DETERMINE CUT/FILL REQUIREMENTS

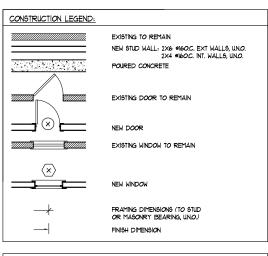






 CI
 PROPOSED FIRST FLOORPLAN

 (A3.1)
 1/4" • 1'-0" WHEN PRINTED AT 22"x36"

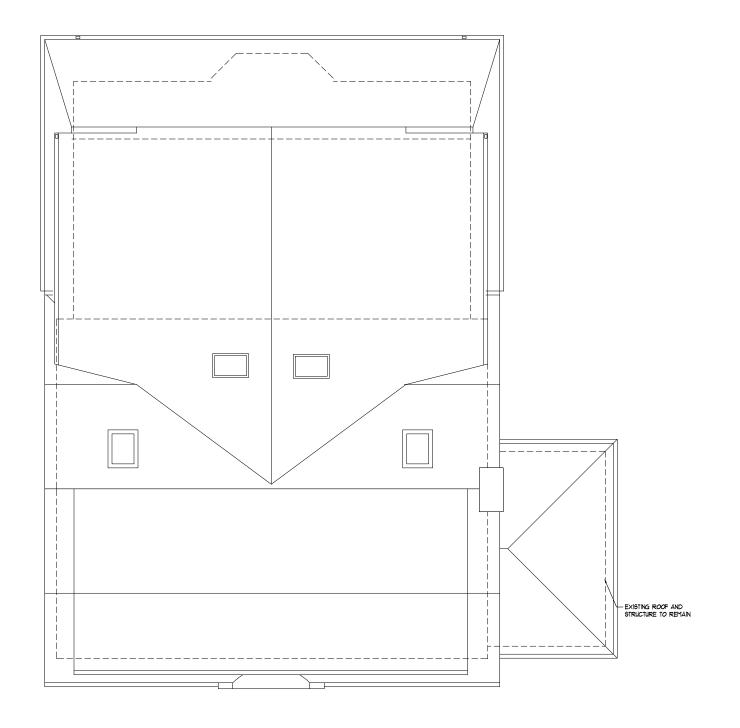


CONSTRUCTION NOTES:

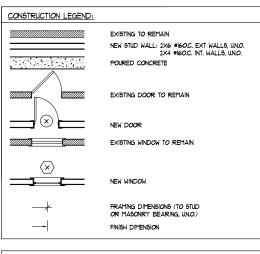
. FINISHED GRADES ARE INDICATED TO SHOW DESIGN INTENT. GENERAL CONTRACTOR SHALL DETERMINE CUT/FILL REQUIREMENTS





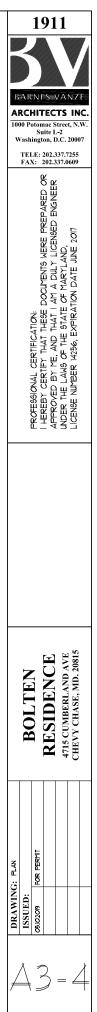






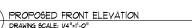
CONSTRUCTION NOTES:

I. FINISHED GRADES ARE INDICATED TO SHOW DESIGN INTENT. GENERAL CONTRACTOR SHALL DETERMINE CUT/FILL REQUIREMENTS





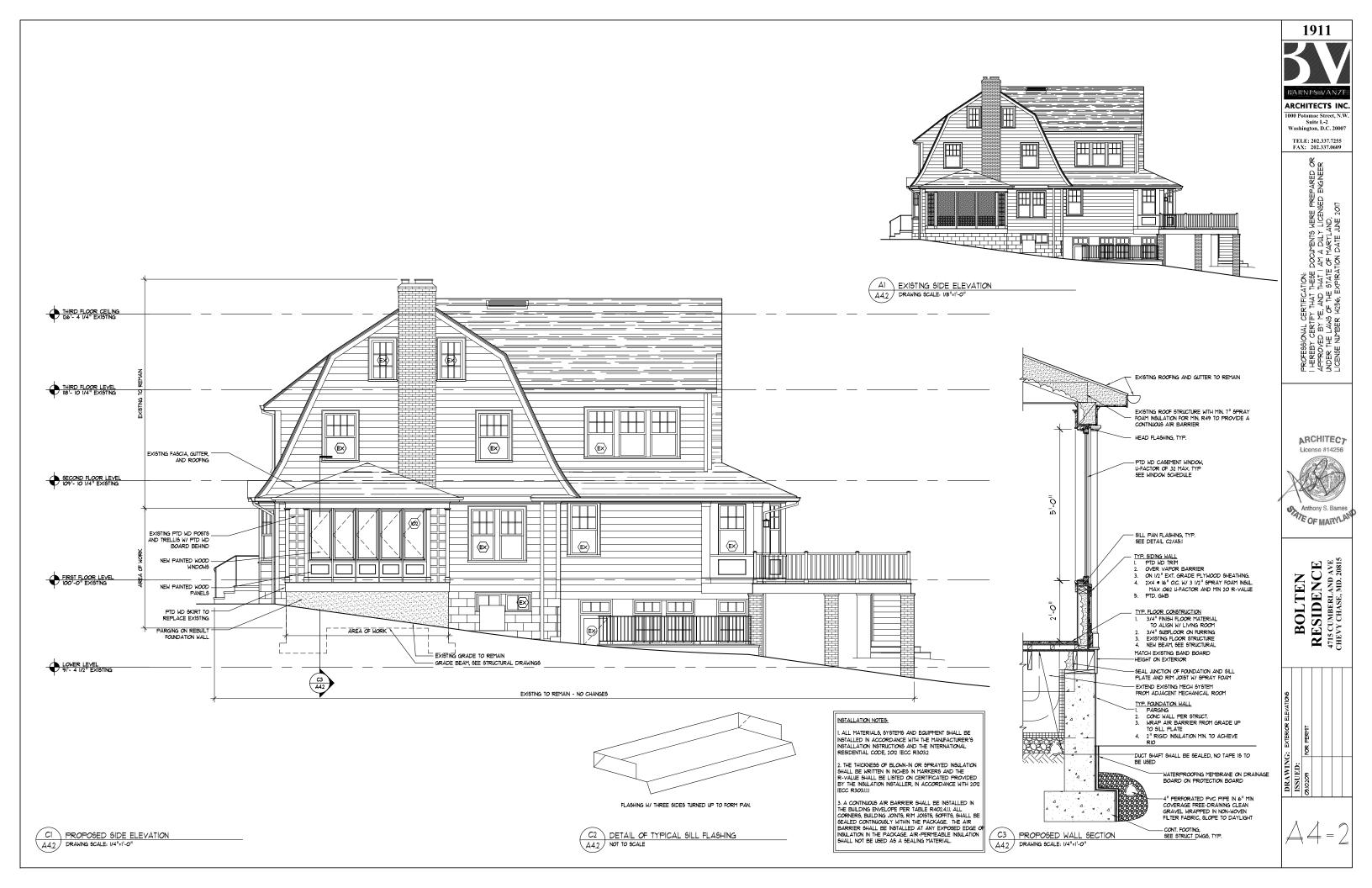


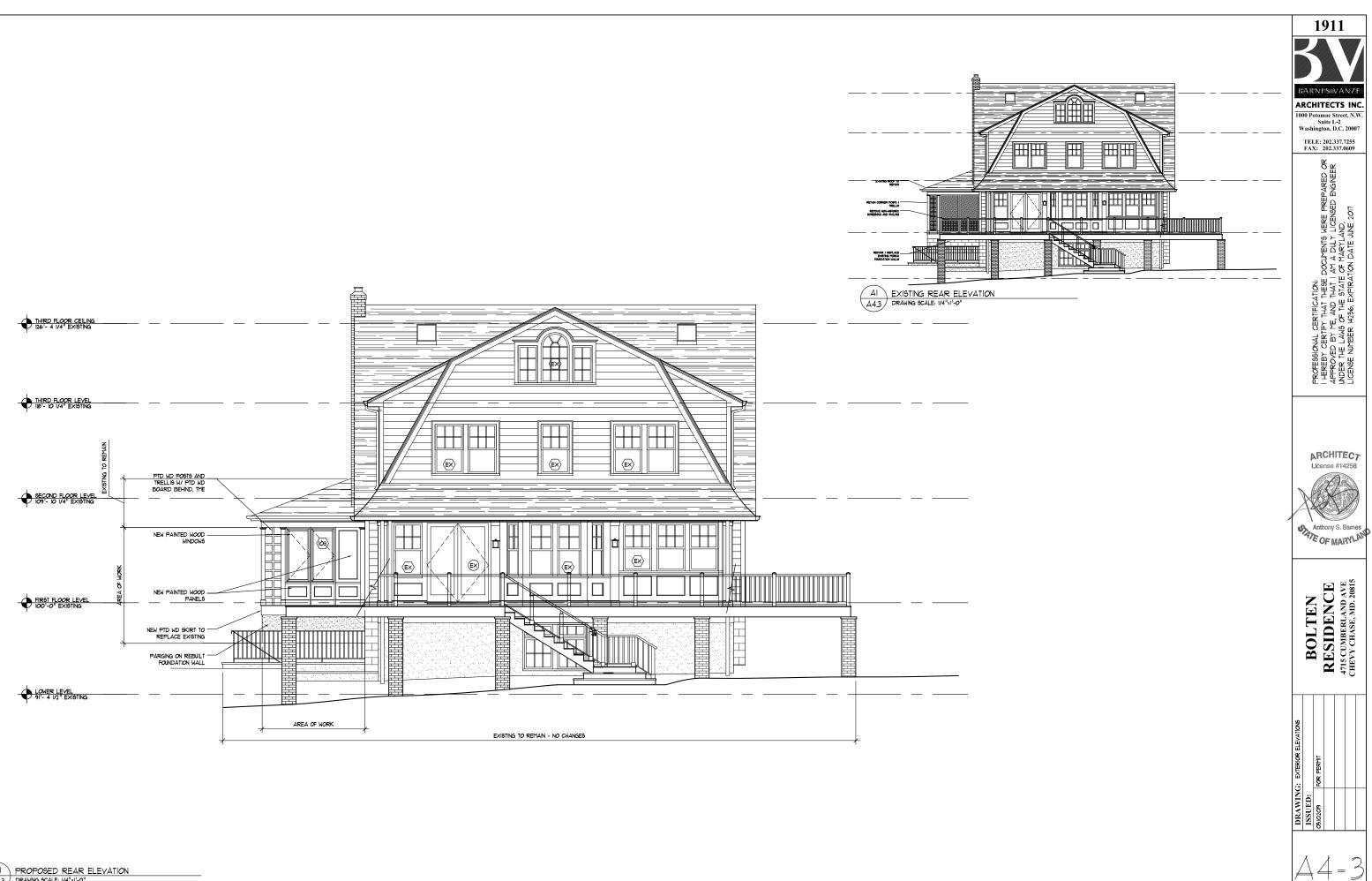






1911 BROFESSIONAL CERTIFICATION: DEVERSIONAL CERTIFICATION: BROFESSIONAL CERTIFICATION: BROFESSIONA
 Anthony S. Barnes
 BOLTEN RESIDENCE 4715 CUMBERLAND AVE CHEVY CHASE, MD. 20815
DRAWING: EXTERIOR ELEVATIONS ISSUED: 05:02:09 FOR FERMIT







NO PROPOSED CHANGES





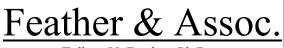
MONTGOMERY CONSULTING MEMO

TO:	Town of Somerset
FROM:	Doug Lohmeyer
DATE OF MEMO:	June 29, 2019
SUBJECT:	4715 Cumberland Ave. Building Permit

The applicants have submitted a building permit application to enclose the existing onestory porch located on the front, right corner of the existing house. The existing house will not be modified. MCDPS issued their building permit on June 17, 2019.

- 1. The ex. porch is 9.8 feet wide and 16.25 feet long.
- 2. The improvement will retain the ex. porch footprint.
- The enclosed porch will be approx. 46 feet from the front property line and approx.
 46 feet from the right property line.
- 4. The lot area is 20,750 sq. ft.
- 5. Including the enclosed porch, the proposed building coverage will be 2219 sq. ft. or 10.7% of the lot.
- 6. The site plan shows three ex. trees located adjacent to the proposed improvement. I recommend Dr. Feather's input be requested.

I recommend the Council approve the applicant's building permit.



Town of Somerset 4510 Cumberland Avenue Chevy Chase, MD 20815

RE: Public Tree Removal 5545 Warwick Place (pool upper parking lot)

Two dogwood trees 3" diameter at base. The trees are in poor condition and will not revive.

I recommend removal.

Tolbert V. Feather



7826 Spout Spring Rd., Frederick, MD 21702, <u>tfeather@xecu.net</u>, 240 271 6749, Fax (301) 662-9315 MD Tree Expert License#880, ISA Certification #PD-0715, MD Pesticide Applicator#2070-5937



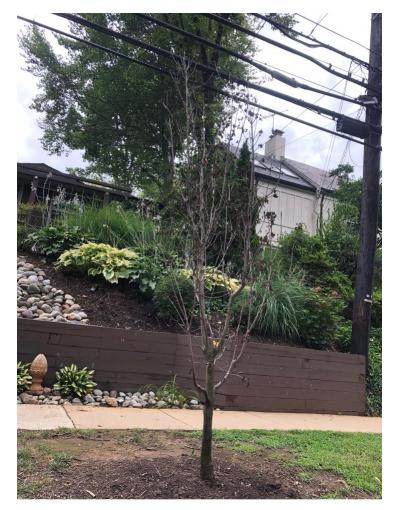
Town of Somerset 4510 Cumberland Avenue Chevy Chase, MD 20815

RE: Public Tree Removal 4607 Dorset Avenue

Dogwood trees 2" diameter at base. The tree is dead

I recommend removal.

Tolbert V. Feather



7826 Spout Spring Rd., Frederick, MD 21702, <u>tfeather@xecu.net</u>, 240 271 6749, Fax (301) 662-9315 MD Tree Expert License#880, ISA Certification #PD-0715, MD Pesticide Applicator#2070-5937



Town of Somerset 4510 Cumberland Avenue Chevy Chase, MD 20815

RE: Public Tree Removal 5510 Trent Street

Flowering Cherry Tree 3" diameter at base. The tree is dead

I recommend removal.

Tolbert V. Feather



7826 Spout Spring Rd., Frederick, MD 21702, <u>tfeather@xecu.net</u>, 240 271 6749, Fax (301) 662-9315 MD Tree Expert License#880, ISA Certification #PD-0715, MD Pesticide Applicator#2070-5937



Town of Somerset 4510 Cumberland Avenue Chevy Chase, MD 20815

RE: Public Tree Removal 5820 Surrey Street

Japanese Maple Tree 6" diameter at base. The tree is dead

I recommend removal.

Tolbert V. Feather



7826 Spout Spring Rd., Frederick, MD 21702, <u>tfeather@xecu.net</u>, 240 271 6749, Fax (301) 662-9315 MD Tree Expert License#880, ISA Certification #PD-0715, MD Pesticide Applicator#2070-5937

Town of Somerset 4510 Cumberland Avenue, Chevy Chase, MD 20815 Minutes for Council Meeting on Tuesday, July 2, 2019

Council Members Present: Marnie Shaul; Barbara Zeughauser; Morris Panner; Steve Surko; **Council Members Not Present**: Frannie Peale; **Mayor**: Jeffrey Slavin; **Town Manager**: Matthew Trollinger; **Outgoing Town Manager**: Rich Charnovich; **Building Administrator**: Doug Lohmeyer; **Town Arborist**: Tolbert Feather; **Town Hall Renovation Project Manager**: Lou Baledamas

7:00 p.m. Council Work Session

The Council and Mayor reviewed the Council work session notes. On the first item – keeping construction sites clean – Mayor Slavin suggested a Town-wide effort and campaign to pick up trash when a resident sees trash. Council member Shaul asked how often staff rides by active work sites. Manager Trollinger reported that Town staff rides by at least once per day; typically Mr. Lohmeyer goes by in the morning, and the Code Enforcement Officer, Mr. Wayne Fowler goes by in the afternoon. There may be opportunities to be more proactive and to go by on foot more often.

On the second item discussed – debris collecting on storm drain – Mr. Lohmeyer explained that if debris is on top of the storm drain it is the Town's responsibility to take care of it. If it inside the storm drains, it is the County's responsibility to maintain. Council member Planner recommended revisiting the issue later to devise a plan for removing debris. Mayor Slavin noted that in the past the Town has painted storm drains to cover up rust, and it may be something to look into again.

On the third item discussed – the piano in the Town Hall meeting room – Council member Zeughauser noted that only one resident has asked to use the piano in the past year. Mayor Slavin suggested the Town could donate to a nonprofit, contingent on signing an MOU that allows residents to use the piano freely.

eFile Storage: Manager Trollinger informed the Council that a proposal could be brought to the August meeting. Council member Panner suggested any eFile storage system be purpose-driven, and effective for the use in the office. He recommended testing out multiple systems before deciding on one. Council member Shaul added that staff should not feel rushed to bring a recommendation to the Council.

Payroll Services: Manager Trollinger suggested there could be benefits to using payroll software rather than running directly from the bank to more easily handle things such as payroll deductions, for example. Council member Shaul noted that the Town might be obligated to use SunTrust's system because of the loan the Town has taken out. Council member Panner recommended looking into a company called Just Works. LED lights: Council member Shaul reported that she had reached out to Pepco to help put together estimates for different possibilities. She had made a connection at the Maryland Municipal League meeting. Council member Panner noted that while he is against the project in general, he felt it imperative that the Council understand the true cost and risk of undertaking streetlight replacement. Mayor Slavin and Council member Shaul will meet later in July to discuss adding an agenda item in September.

Town ROW: Mayor Slavin suggested the Town set a policy moving forward that covers what responsibilities the Town has vs. the homeowner for easements. Council member Surko asked why the Town is responsible for maintaining the easement at 5701/5703 Warwick. Town Attorney Ron Bolt explained that the Town maintains improved portions of the ROW, while residents are responsible for maintaining unimproved portions of the ROW. Because this easement is dedicated as an improved walkway, the Town is responsible for its maintenance.

7:30 p.m. Council Meeting Convenes

Mayor Slavin calls the meeting to order, and opens the floor for public comments.

7:31 p.m. Comments: Public Comment Period

There were no public comments.

7:33 p.m. Consent Agenda: Motion to consider approval of Bank Signature Card Reolutions for SunTrust Bank and Capital One Bank replacing Richard Charnovich with Matthew Trollinger

The Consent Agenda passed unanimously. No comments.

7:35 p.m. Non-Consent Agenda Town Manager Administrative and FY19 Fiscal Reports

Manager Trollinger gave his report (below).

Manager's Report July 2, 2019

Administrative Matters

• **Personnel:** Incoming Town Manager Matthew Trollinger began working in the office beginning on Monday June 3. Much of the month has involved getting new staff up-to-speed on current Town projects and processes. Thanks to outgoing Manager Rich Charnovich for his continued steady stewardship of the Town's administration, and his help and patience in training the new staff.

- **MML Summer Conference:** Manager Trollinger, mayor Slavin, and Council members Shaul and Surko attended the Maryland Municipal League Summer Conference. The conference is an opportunity to learn more about municipal issues throughout the state, meet other municipal staff and elected officials, and connect with vendors, utility representatives, and State officials.
- **Canon Contract**: The Village has signed a new contract with Canon to upgrade the Town Hall copier/printer/scanner. The new contract will save the Village roughly \$50 per month. Canon can also provide the Town with an eFile cloud-based storage system.
- **QuickBooks:** The Town has moved over to an online version of QuickBooks software to track its budgeting and finances. Town staff was given a tutorial and has transferred existing data into the online system. Although the system is up and running, the conversion required troubleshooting related to yearly budgeting calculations.
 - **Consultant:** Spoken to CPA at MML and via QuickBooks to look at our account, and give any advice on best practices moving forward, and suggestions on cleaning up the books.
- **Computers:** The Town has received quotes from H.P. for three new computers (one laptop and two desktops). The current computers are roughly ten years old; one has recently crashed, and the current Manager, Rich Charnovich has been forced to use his personal computer. Based on conversations with several vendors, it is recommended that the Town switch to PCs instead of Macs, which are currently in use. The cost of the three computers totals \$4,200. The Town currently has only \$3,000 budgeted for new office equipment for FY20. The Town may also consider adding Microsoft Office Suite and Adobe Acrobat to the new computers.
 - Quotes for Microsoft Office and Adobe: \$6,260.00
 - \$1470 Adobe
 - \$1005 Office
 - \$3785 Computers
 - Set-up: Come pre-loaded with Windows "Smart buy units".
- **File Storage:** Canon has a cloud-based storage system (see above). Staff also met with Amazon at the MML Conference, which offers a relatively low-cost cloud-based storage system as well. Staff is scheduling follow-up calls and conversations with the companies to get a better understanding of pricing and mechanics of the systems. *Staff hopes to bring a recommendation to the Council at the August meeting*.
- **Code Revisions:** Staff has been working with Council member Peale and Town Attorney Ron Bolt to gather and send individual resolutions and Code Amendments to General Code so a revised copy of the Code can be presented to and voted on by the Council, with a *goal of the August meeting presentation*.
- **Payroll:** As the new staff gets familiar with the payroll system, it may realize benefits from switching to a company such as ADP, which specializes in payroll. It integrates with QuickBooks; makes w-2 forms accessible to employees; makes retirement and health insurance distributions easier for employees; online clocking in/clocking out for maintenance staff, Linda, and police officers.
- **Bank:** The Council may need to vote to authorize Mr. Trollinger as a signer for the Town's bank account.
- **Composting at Pool:** The Town has switched over to larger composting bins at the pool to fit pizza boxes, at the request of the Pool Committee.

Community Events

- **Pool Opening:** The Town held its annual Summer Kickoff at the pool on Saturday, June 8. Hotdogs, hamburgers, and other picnic food were served for Village residents. The Town may consider scheduling future Kickoffs on the day of the first home swim meet of the year to increase turnout.
- **4**th **of July:** The Town will host its annual Fourth of July Celebration at the Town Hall, with the usual assortment of activities, including the Cupcake Contest, reading of the Declaration

of Independence, new swim team records announcements, etc. We also hope to have elected officials from the federal, state, county, and local level at the event, as in past years.

• **July 5:** The Town office will be closed on July 5th in observance of the state holiday, which the governor proclaimed on

Infrastructure

- **Emergency Tree Removal**: WSSC removed a large and hazardous tree in the public ROW in front of 5611 Warwick Place on Thursday, June 13. The tree roots had also damaged the water meter in front of the home, and repairs were made on Friday, June 28. WSSC will replace the tree with a Cherry, in consultation with the Town's Arborist and the resident at 5611.
- **Town Hall Renovations**: Staff has attended weekly Town Hall renovation update meetings. (See report from architect and project manager Lou Baledamas)

Contracting

- **Gardening Consultant**: The Town may be interested in contracting out services for a gardening consultant to assist maintenance staff with planting and care of Town green spaces.
- **Recycling**: The Environmental Committee has recommended the Town look into moving from single-stream to separated paper/cardboard from metal/glass/plastics. Town staff is investigating how the current contract might be affected, and whether Goode has the ability to handle recycling as such.

Building Administration

See worksheet from Town Building Administrator Doug Lohmeyer – included in packet. <u>Tree Updates</u> See report from Town Arborist, Dr. Tolbert Feather – included in packet.

Outgoing Manager Richard Charnovich gave the fiscal report. The Council asked for a general overview of the Town's fiscal outlook. Manager Trollinger suggested the Town could restructure its financial reports to cover a different timeframe than the calendar month (such as a cutoff of the 10th or 15th of the previous month) to more accurately reflect the timing.

7:58 p.m. Building Administrator Report

Town Building Administrator Doug Lohmeyer gave his report. He noted 5800 Deal Pl. was given a six-month permit extension at the last Council meeting. Mr. Lohmeyer also added that 5813 Surrey was required to fix their driveway per HPC. That work has not taken place yet. The Town still has an outstanding bond with the resident, although the permit is expired.

Council member Zeughauser asked about work progress at 5800 Deal Pl. and whether the Town could compel the resident to re-start work. Town Attorney Bolt suggested staff could send the resident a notice advising them to start as quickly as possible, explaining that Council might not grant another extension. Council member Zeughauser also asked Mr. Lohmeyer about the silt fence at 5800 Deal Pl. Mr. Lohmeyer responded that the Town Office has asked them to put the fence back up, although it was not required to be put up in the first place by either the Town or County. Council member Surko noted that the driveway apron at 5415 Trent has not been reduced. He also pointed out that the shrubbery was supposed to be put up as landscaping covering the retaining wall, but that it does not cover the wall. Town Attorney Bolt responded that the Council did not impose vegetative coverage requirements with the permit. Council member Zeughauser suggested that the drainpipe on the side of the driveway has been moved, and asked Mr. Lohmeyer to take a look.

8:05 p.m. Town Hall construction project update, including discussion and possible authorization of additional roof repair in the Council Meeting Room.

Town Hall Renovation Project Manager Lou Baledamas explained that the rafters in the Council Meeting Room are pushing out the sidewalls. Repairing will cost roughly \$25,000, although no definitive plan has been finalized.

Council member Zeughauser added that before the construction crew will be delayed if the roof repairs are not approved.

Council member Panner moved to approve up to \$25,000 to repair the roof, and that the money be diverted from streetlight funds in the budget. The motion failed for lack of a second.

Council member Zeughauser made a motion to allow the Town Manager to approve up to \$28,000 for roof repairs, and that the money be diverted from police officers. The motion failed for lack of a second.

Council member Zeughauser made a motion to allow the Town Manager to approve up to \$28,000 for roof repairs, and that the money be taken out of the contingency fund. Council member Surko seconded. Council members Shaul, Zeughauser, and Surko voted in favor; Council member Panner opposed. The motion passed 3-1.

8:20 p.m. Public Hearing/Discussion to consider approval of Balodemas Architects Invoice covering period of 1/1/2019 – 5/31/2019 in the amount of \$21,717.26

Council member Zeughauser asked why the Council must vote to approve the project manager invoices for the Town Hall renovation. Council member Panner responded that it is not a matter of trustworthiness on the part of the project manager, and that he believes Mr. Baledamas is both hard-working and honest, but that it is good practice for transparency's sake to have the bills be voted on and for the Council to have a good sense of how much it is costing.

Mr. Baledamas suggested the Council table the discussion and that he meet with the Town Manager to get a better understanding of the budgeting. The Council could then address at the next Council meeting. Council member Panner remarked that Mr. Baledamas should be paid on time for the work he has done. Town Attorney Bolt noted that a budget amendment may be needed to pay the full invoice, but that the Council could pay up to the budgeted amount for the fiscal year, and revisit the remainder at a later time. Council member Zeughauser moved to pay the full invoice and pull the money from the Town Hall construction line. Council member Shaul seconded. All in favor.

8:25 p.m. Public Hearing/Motion to consider approval of smoke alarm and security system installation in the Town Hall for a cost of \$2,485.00

Manager Trollinger explained that the work is to replace smoke alarms in the upstairs, and to add security in case doors/windows are broken into. The system would all work together and be installed by Splaine. Council member Zeughauser moved to approve the proposal, Council member Shaul seconded, all in favor.

8:26 p.m. Public Hearing/Motion to consider approval of a building permit at 4602 Dorset Avenue to construct a rear yard addition and install 2 HVAC units.

Building Adminstrator Doug Lohmeyer described the scope of the work to the Council, and recommended approval. The resident and architect also addressed the Council. Mayor Slavin asked the resident to remind the workers to be mindful of trash on site. Council member Shaul voted to approve the permit, Council member Zeughauser seconded, all in favor.

8:28 p.m. Public Hearing/Motion to consider confirmation approval of an emergency HVAC unit installation at 5510 Surrey Street.

Manager Trollinger reported that outgoing Manager Rich Charnovich and Mayor Slavin has signed off on approval to install a second story HVAC unit within the setbacks of the property.

Council member Surko asked why the Council votes on HVAC units, as new units do not make very much noise. Mayor Slavin responded that it is currently in the Town Code because of previous noise concerns. He suggested the Council earmark for future discussion. Council member Zeughauser voted to approve the HVAC unit, Council member Surko seconded, all in favor.

- 8:30 p.m. Public Hearing/Motion to consider removal of the following Town trees as recommended by the Town Arborist:
 - Spruce 12" at 4810 Essex Avenue 90% dead
 - Serviceberry 2" at 4909 Falstone Avenue dead
 - Dogwood 3" at 5501 Surrey treet dead
 - Pin Oak 30" at 5522 Warwick Place 50% dead

- Tulip Poplar 34" at 5522 Warwick Place (in the woods to the south) Hazardous to house
- Tulip Poplar 24" at 5522 Warwick Place (in the woods to the south) Hazardous to house
- Tulip Poplar 15" at 5522 Warwick Place (in the woods to the south) Hazardous to house
- Tulip Poplar 21" at 5522 Warwick Place (in the woods to the south) Hazardous to house

All sizes in inches diameter at 4.5' above ground level.

Town Arborist Dr. Feather also noted that two small trees had died since the list was submitted to the Council for approval: a 6" Cherry at 5820 Surrey Street, and a 3" Cherry at 5510 Trent Street.

Council member Shaul asked if there were plans for replacing the tree canopy. Town Arborist Dr. Feather responded that the Town does replace trees, but that the newly planted trees are much smaller when first planted and that it takes many years for them to grow back to full size. Council member Zeughauser added that she was concerned about the lack of canopy tree coverage. Mayor Slavin asked the Town Attorney if the Town would be liable if a tree were to fall. Attorney Bolt responded that generally the Town is only liable if it is shown to be negligent in taking care of the Town trees. In order to be considered negligent, the Town must be aware of a dead, dying, or diseased tree and not take appropriate care. Mayor Slavin suggested that the Town could take out dead branches at 5522 Warwick, but not remove the entire trees.

Council member Panner asked Dr. Feather if the Town pruned the trees at 5522 Warwick aggressively, could the Council postpone the decision to take them down? Dr. Feather answered that it would be possible, and that removal of the trees would cost the Town roughly \$20,000. He could instead add it to the list of trees to prune on July 16.

Council member Surko moved to remove all the dead trees, and prune the Poplars at 5522 Warwick. Council member Shaul seconded, all in favor.

8:40 p.m. Public Hearing/Motion to consider adoption of a Resolution approving the County 2018 Hazard Mitigation Plan.

Town Manager Trollinger explained that the County develps a uniform emergency response plan for all of its municipalities and unincorporated areas based on scheduled meetings with municipal officials. Council member Panner asked if Manager Trollinger recommended the Council approve. Manager Trollinger responded affirmatively. Council member Panner moved to approve the Hazard Mitigation Plan, Council member Surko seconded, all in favor. 8:41 p.m. Public Hearing/Motion to consider installation of signs encouraging residents to back in their cars at the pool parking spaces when possible.

Barbara Condos of the Pool Committee gave the recommendation to the Council, explaining that the signs would be or the parking spots that cross over the walking path near the pool (seven to the right, and three to the left). The Pool Committee recommended unanimously that signs be erected that encourages residents to back in (but that are not enforceable).

Council member Zeughauser asked the Town Attorney if the Town would be liable for any damage if signs were erected. Mr. Bolt responded that he did not believe the Town would be liable because the Town would not be creating a dangerous situation.

Council member Panner suggested that to infer that backing into the spaces is safer is speculative, because there is no data or professional analysis backing it up. Council member Surko agreed – he thanked the Pool Committee for their recommendation and remarked that he shares their safety concerns, but believes it prudent for the Town to hire a consultant to look at the situation before any signage is erected. Mayor Slavin remarked that there is not currently money in the FY20 budget for a consultant, but that the Town has traditionally gotten professional opinions before putting up any traffic signs. Council member Shaul noted that originally the Pool Committee had recommended money for a consultant be put in the FY20 budget, but the Council elected not to include it.

Ms. Condos reported that there have not been any accidents that she is aware of, but that she has heard of or observed a number of close calls. Town employee Linda Williams relayed a story about a child running in front of her car at the parking lot, but because she had backed in, she was able to see them.

Council member Shaul moved to erect signs on both sides that say, "For safety, please back in." The motion died for lack of a second.

Council member Shaul moved to use Town funds to hire a consultant at a price not to exceed \$5000. The money will be taken from budget line 62400 – Traffic Calming. Council member Zeughauser seconded. Council members Shaul, Zeughauser, and Surko voted in favor; Council member Panner opposed, and remarked that the money was meant for the Westbard project. The motion passed on a vote of 3-1.

8:55 p.m. Public Hearing/Motion to consider approval of three new office computers from HP (one laptop and two desktop computers) in the amount of \$4196.

Manager Trollinger updated that the quotes come to a total of \$6260 with Microsoft Office and Adobe Acrobat licenses. Council member Panner stated that the cost was high. Council member Zeughauser stated that it was important because the Town had held off for so many years, and that one of the Town's computers had already crashed. Manager Trollinger stated that new computers were needed, and that the prices from HP were similar to pries received from Apple, but that the Town could save by cutting back on the software licenses. Council member Panner asked what Adobe Acrobat would be used for. Manager Trollinger answered that it has the ability to edit PDFs, and create fill-able PDFs, which was suggested by the Communications Committee for Newcomer Forms, as an example.

Council member Surko suggested the Town only invest in Adobe on one of the computers, and the Town could re-evaluate later if it is not enough. Council member Shaul motioned to approve up to \$5300 for new computers, three Microsoft Office licenses, and one Adobe license. Council member Zeughauser seconded, all in favor.

9:05 p.m. Adjourn

Mayor Slavin suggested skipping the General Code Update until Council member Peale was back in town, and that his Mayor's Report could be skipped, as it will be included in the weekly Town announcements.

Council member Shaul motioned to adjourn. Council member Panner seconded, all in favor.



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> PROPOSAL TO PROVIDE PROFESSIONAL AUDITING SERVICES FOR TOWN OF SOMERSET FOR THE YEARS ENDING JUNE 30, 2018, 2019, AND 2020



ZELENKOFSKE AXELROD LLC 830 SIR THOMAS COURT, SUITE 100 HARRISBURG, PA 17109 PHONE: (717) 561-9200 FAX: (717) 561-9202

CONTACT PERSONS -- MICHAEL SAMSON, CPA, CGMA PARTNER <u>msamson@zallc.org</u> (717) 561-9200 x5018

> PATRICK KIRK, CPA, CGFM, CGMA PRINCIPAL <u>pkirk@zallc.org</u> (717) 561-9200 x5003

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PROFESSIONAL AUDITING SERVICES FOR TOWN OF SOMERSET

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May 2, 2018

Richard Charnovich Manager Town of Somerset 4510 Cumberland Avenue Chevy Chase, MD 20815

Dear Mr. Charnovich:

We are uniquely qualified to provide the requested services to the Town of Somerset (Town) for the reasons enumerated below:

- Firm: We are a regional CPA firm expanding into Maryland and certify that our firm is in compliance with the provisions of the Maryland Public Accountancy Act as codified in the Business Occupations and Professional Article, Title 2, of the Annotated Code of Maryland to practice in Maryland. We have a management team that has the Big 4 experience. Our partners and principals on this engagement have worked in Big 4 firms and have brought their experience to Zelenkofske Axelrod LLC to grow our audit practice to where it is today. In addition, Zelenkofske Axelrod is well known in the government and non-profit industry (the "Public Sector"), not only at the local level but also at the state level. We are a Strategic Partner with the Maryland Municipal League, a Corporate Partner with the Maryland GFOA.
- **Expertise:** We are experts in serving the Public Sector. ZA is a niche firm providing services to <u>only</u> the Public Sector. We provide services to governments and not-for-profits year-round, not just "outside of busy-season".
- **Specialized Staffing:** Our staff includes a group of individuals who, before joining our Firm, have worked in the governmental industry. They came to ZA to specialize in serving Public Sector clientele, and we have brought these individuals together to service the Town.
- **Proven Experience:** Our audit approach as described in detail later in this document is proven effective and efficient as we have successfully utilized this strategy in our Public Sector audits.
- Leadership: Our engagement leadership team has extensive experience with the complexity and magnitude of audits and financial statements qualifying for the GFOA Certificate of Achievement. Michael Samson, Engagement Partner, and Kimberly Stank, Concurring Partner, have extensive experience with governmental financial statements.
- **Knowledge:** The engagement team has substantial knowledge of systems and processes of governmental entities. This understanding will provide an audit with minimal disruption to the Town staff. This translates into significant savings to the Town by reducing the hidden costs and increased burdens on Town personnel necessary when systems, processes, functions, and activities need to be documented and are completed by individuals with little knowledge about Public Sector entities.





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Richard Charnovich Manager Town of Somerset April 30, 2018 Page 2

- **Locations:** ZA is a regional CPA firm with offices in Harrisburg, Jamison, Pittsburgh and Greensburg, Pennsylvania, as well as Dover, Delaware, and expanding into Maryland.
- **Quality:** The quality of our work is second-to-none, particularly in the Government and Notfor-Profit Industries. This fact is evidenced in many ways, but independently supported through our most recent Peer Review, which included review of specific governmental engagements and not-for-profit organizations, resulting in the highest rating of pass.
- **Reputation:** Members of our Firm are frequent presenters and attendees at industry and association conferences including the AICPA, PICPA, the County Commissioners Association of Pennsylvania, the Pennsylvania State Association of County Controllers, the Association of Government Accountants, the Government Finance Officers Association, Mid-Atlantic Inter-Governmental Audit Forum, Pennsylvania Department of Human Services, the Pennsylvania State Association of Township Supervisors, and PANO.
- We are not just auditors: We are trained and experienced business consultants and advisors. While conducting your audit, we identify opportunities to improve operations from several standpoints including control structure design and function as well as performance based measurements. These opportunities are delivered to you in well-structured communication with management, which can be used as a roadmap for the prioritization of corrective action.
- Year round availability: Communication throughout the year is an important aspect of the audit cycle. We are available throughout the year to answer any questions.

I, Michael Samson, as signer of this letter, am authorized to represent the firm, empowered to submit this proposal and authorized to contract with the Town. Please feel free to contact me or Patrick Kirk if you have any questions or additional needs. We look forward to committing the resources of our firm to service the Town of Somerset.

Sincerely,

michael Samson

Michael Samson, CPA Partner

> Michael Samson, CPA Partner Zelenkofske Axelrod LLC 830 Sir Thomas Court, Suite 100 Harrisburg, PA 17109 Phone (717) 561-9200 ext. 5018 Fax (717) 561-9202 Email <u>msamson@zallc.org</u>

Patrick Kirk, CPA, CGFM, CGMA Principal Zelenkofske Axelrod LLC 830 Sir Thomas Court, Suite 100 Harrisburg, PA 17109 Phone (717) 561-9200 ext. 5003 Fax (717) 561-9202 Email pkirk@zallc.org



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SERVICE FEE SCHEDULE

Our proposed all-inclusive maximum fee to provide the services requested by the RFP is listed below.

Year	Year	Year
Ending	Ending	Ending
6-30-18	6-30-19	6-30-20

<u>\$13,000</u> <u>\$13,390</u> <u>\$13,700</u>

Our fees for the requested services are based on the specifications in the RFP and our experience in providing services to the Public Sector as well as our extensive knowledge and understanding of the industry. Our invoices for these fees will be rendered as work progresses and will be billed monthly to the Town. Our Service Fee Schedule is based on anticipated cooperation from the Town personnel and access to the necessary personnel, documents and records to complete the requested services. If unexpected circumstances or delays are encountered, we will discuss them with you and determine whether additional time or costs may be necessary to complete the engagement. The above fees include our availability throughout the year to the Town to answer questions that do not require extensive research.

Should it become necessary for the Town to request us to render any additional services to either supplement the services requested in this RFP or to perform additional work as a result of the specific recommendations included in any report issued on this engagement, then such additional work shall be performed only if set forth in an addendum to the contract between the Town and our firm at the following standard hourly rates discounted for the type of engagement.

Level	Standard Hourly Rate
Partner/Principal	\$380
Manager	\$195
Supervisor	\$150
Senior	\$115
Staff	\$ 95



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QUALIFICATIONS AND EXPERIENCE OF FIRM

A. <u>Background Information</u>

Zelenkofske Axelrod LLC, (ZA) is regional CPA firm with offices in Harrisburg, Pittsburgh, Greensburg, Jamison, Pennsylvania and Dover, Delaware, that specializes in providing auditing, accounting and consulting services to Public Sector entities. We are currently expanding our Public Sector practice into Maryland. In those offices, we employ over 55 professional and supportive staff all of which spend 100% of their time servicing our Public Sector clients.

ZA's growth over the years has been through industry specialization, and the industry we have focused on is the Public Sector. ZA is unique in that we have the capabilities and resources to accommodate a broad range of quality services and deliver them in a timely, responsive and cost-effective manner. Moreover, we are truly "committed" to our clientele. Our hands on, get involved approach, combined with a keen sensitivity to our clients' needs, has proven a major factor in the development and success of both our firm and our clients' businesses.

Our Harrisburg office will be the primary location serving the Town. The engagement team will be comprised of two partners, one manager and a technical resource principal that will serve as the management team. The field team will be on-site for the audit and will consist of a senior and an associate assigned on a full time basis, with supervision from the manager. Engagement team continuity is an important aspect of an efficient audit and will be maintained as much as possible. The key engagement team is more detailed in the Partner, Supervisor, and Staff Qualifications and Experience Section of this proposal.

B. Range of Services

1) Audit Capabilities

We are leaders in providing accounting and auditing services to Public Sector entities of all types and that is why so many of these entities, large and small, engage our services. Not all CPA firms specialize in the accounting and auditing standards that govern these entities. **We do!**

Our engagement team members have completed at least 120 Continuing Professional Education (CPE) hours in the last three years in accounting and auditing, with at least 24 of those hours being in governmental auditing and accounting, in order to learn more about the governmental sector, and to comply with the continuing education requirements specified by *Government Auditing Standards* ("Yellow Book") for audits of organizations receiving federal financial assistance.

2) Management Consulting Capabilities

ZA's consultants can explore your particular management needs, problems and concerns. We can devise strategies to help you realize your goals. We can analyze your information systems and procedures to ensure their efficiency and cost-effectiveness. We can help you identify and resolve potential management or operational problems early on, before they



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become unmanageable. We can isolate existing problem areas and offer practical solutions.

3) Other Capabilities

Unlike many traditional accounting firms, ZA is unique in that we have a group of individuals who have actually worked in the Public Sector. They not only know the accounting and auditing aspects of Public Sector entities, they also know how they work. In addition, these individuals have been involved on the ground floor of such issues as performance measures and performance auditing within the Public Sector. This type of capability permits ZA to provide value added services to its Public Sector clients by allowing us to show them how to measure and manage the use of diminishing resources to ensure that desired services and outcomes are achieved.

C. Governmental and Not-for-Profit Services Structure

ZA's Practice has expanded over the years through its commitment to its clientele and name recognition in the Public Sector. ZA is unique in that we have the capabilities and resources to accommodate a broad range of quality services and deliver them in a timely, responsive and cost-effective manner. Moreover, we are truly "committed" to our clientele. Our hands on, get involved approach, combined with a keen sensitivity to our clients' needs, has proven a major factor in the development and success of both our firm and our clients' businesses.

Our firm believes that an engagement pertaining to a particular industry requires the engagement team assigned have the technical experience of the industry. Management and engagement personnel assigned to Public Sector engagements have worked in the Public Sector and are experienced and qualified to perform the engagements. The Town audits will be conducted by an engagement team from ZA that has the knowledge and practical experience that is unique to the government industry. Specifically, our staff has a working knowledge of the following:

- AICPA Publication, Audits of State and Local Governmental Units
- The Single Audit Act of 1984 (as amended 1996) and the Uniform Guidance Act
- GFOA Certificate of Achievement for Excellence in Financial Reporting
- The GAO Governmental Auditing Standards and amendments
- The GAO Guidelines for Financial and Compliance Audits of Federally Assisted Programs
- OMB Circular No. A-87 Cost Principles for State and Local Governments
- Compliance Supplement for Single Audits of State and Local Governments
- Pennsylvania Department of Human Services Single Audit Supplement
- Governmental Accounting Standards Board (GASB) pronouncements



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D. Government and Not-for-Profit Experience

ZA has extensive experience in consulting and audit services to Public Sector entities for over 20 years, including the following:

- Town of Hampstead (Financial Audit)
 Maryland Stadium Authority (Agreed-Upon Procedures)
- Town of Thurmont (Financial Audit)
- City of Havre de Grace (Financial Audit)
- City of Westminster (Financial Audit and CAFR)
- Town of New Windsor (Financial Audit)
- Pike County Conservation District (Financial Audit)
- Lebanon County Conservation District (Financial Audit)
- Schuylkill County Conservation District (Financial Audit)
- Chester County (Single Audit, Pension, and CAFR)
- Dauphin County Conservation District (Financial Audit)
- Westmoreland County (Single Audit, Pension, Nursing Home and CAFR)
- Armstrong County (Financial, Pension, and Single Audit and Nursing Home)
- Dauphin County (Single Audit, Pension, Nursing Home, Tax Collector Audits, District Court Audits, CAFR)
- Adams County (Financial and Single Audit, Nursing Home and Cost Plan)

Clarion County (Financial and Single Audit)

- Schuylkill County (Financial and Single Audit)
- Clinton County (Financial and Single Audit, Row Office Audits, Tax Collector Audits)
- Lawrence County (Financial, Pension, and Single Audit)
- Erie County (Single Audit and CAFR)
- Fayette County (Financial, Pension, and Single Audit)
- Fulton County (Financial, Pension, and Single Audit)
- Jefferson County (Financial, Pension, and Single Audit)
- Pike County (Financial, Pension, and Single Audit)

- Potter County (Financial, Pension, and Single Audit)
- Franklin County (Financial, Pension, and Single Audit)
- Tioga County (Financial, Pension, and Single Audit)
- Indiana County (Financial and Single Audit and Nursing Home)
- State of Delaware Drinking Water Revolving Loan Fund (Financial Audit)
- State of Delaware Hazardous Substance Cleanup Fund (Financial Audit)
- Lehigh County Authority (Financial Audit and CAFR)
- PA Turnpike Commission (CAFR)
- Swatara Township (CAFR and Financial Audit)
- Dauphin County Industrial Development Authority (Financial Audit)
 - Luzerne County MH/MR (Financial and Single Audit)
- Pennsylvania Infrastructure Authority (Financial Audit)
- Pennsylvania Industrial Development Authority (Financial Audit)
- Commonwealth Financing Authority (Financial Audit)
- Dauphin County Department of Community and Economic Development (Financial and Single Audit)
- Lower Paxton Township (Financial Audit)
- · Ross Township (Financial Audit)
- City of New Castle (Financial and Forensic Audit)
- East Hempfield Township (Financial Audit)

Chestnuthill Township (Financial Audit)

- York County (Financial, Pension, and Single Audits, CAFR, District Court Audits)
- Southeastern Pennsylvania Transportation Authority (SEPTA) (Financial and Single Audit)
- Dauphin County Housing Authority (Financial and Single Audit)
- Dauphin County Redevelopment Authority (Financial Audit)



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E. Grant Funding Experience

Federal and State grant funding is a major source of a government's funding, and we believe it is imperative to describe our knowledge related to these funding streams. Through our governmental and not-for-profit client base, we have extensive audit experience with respect to Children and Youth, Drug and Alcohol, Mental Health/Developmental Services, Domestic Relations, Aging, Community Development Block Grant, and Pennsylvania Department of Community and Economic Development grant programs.

Our staff is well versed in the operation of grant programs. We understand the regulations, the complex compliance issues, and we have assisted our clients in maximizing grant funding. In addition, we have been able to intercede on behalf of our clients with various granting agencies to resolve issues to the benefit of our clients. We take great pride in keeping up-to-date with the latest issues affecting our clients and we are currently assisting them with the changes necessary to operate in accordance with various grant programs.

Our experience and knowledge with respect to grant programs clearly sets us apart from our competition and demonstrates our commitment of the highest quality of services to our clients. We know and understand your operations, and as such, we can be far more than your auditors. We can be your financial advisors and consultants to assist you in carrying out your mission more effectively and efficiently.

F. Quality Control

ZA's quality control system entails various levels of review. The engagement partner and manager will monitor and review the audit work as the audit is being conducted. Before the audit report is released, a second partner that is experienced in the Public Sector will review the report and other documents to evaluate the professional excellence of the audit and then give concurrence as to the propriety of the accountants' reports. As part of our quality control process, ZA performs an internal inspection on a selection of engagements each year to determine they meet all industry and internal standards.

G. Professional Development

ZA provides a minimum of 40 hours of training seminars annually for our professional staff and our clients. In addition, specialized training in the area of governmental auditing and reporting is conducted to satisfy *Government Auditing Standards*. The professionals assigned to our audits have completed the required specialized training in governmental auditing and reporting for each of the last three years. This requirement includes completion of at least 120 hours of continuing professional education over the three (3) year period.

H. Federal and State Reviews

Audit reports filed with the state and other federal agencies in the past three years have been accepted with no material findings or comments. Also, there have been no disciplinary actions taken or pending against ZA during the past three (3) years by any state regulatory bodies or professional organizations.



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I. <u>Peer Review Report</u>

We have included on page 12 copy of our firm's most recent Peer Review for the year ended June 30, 2016, that included reviews of governmental and not-for profit engagements. The peer review resulted in the highest rating of pass.

J. <u>Proactive Resolution of Technical Issues</u>

ZA evaluates clients for any technical issues from the audit planning process throughout the finalization of the engagement. Any issues that are identified are researched and a resolution is presented to the client. In addition, constant communication is maintained between the audit team members and other issues identified during the audit are mutually resolved among the audit team. Resolution of client issues during the audit process is performed on a continuous basis and not at the end of the audit. Audit findings that arise during the audit are discussed with the Town management as audit work is performed in order to obtain resolution early in the audit process.

K. <u>Timelines</u>

ZA has various governmental clients that need to meet specific filing deadlines for federal and state funding purposes as well as the GFOA certificate of achievement program. ZA has strived to, and has met, these deadlines. This is supported by our retention of clients over the years. ZA will meet the deadlines listed in the RFP, for each year of the contract.

L. Communication and Cost Containment

Clear communication between the Town management and ZA helps us tailor professional services to your changing needs. We want to be aware of your concerns and encourage you to use us as a critical sounding board to obtain an independent perspective.

Frequent contact with management enables us to keep abreast of developments within the Town, the Public Sector and the broader economy. Our relationship with you is not an annual encounter, but rather a continuing relationship throughout the year. We encourage management to discuss issues with us as they arise, or if they prefer, at regular prearranged meetings.

As the audits progress, we may identify issues that affect your results or are important for your meeting objectives. By reporting these matters to the Town management and making appropriate recommendations, we enhance the value of our audit service. Frequent contact and communication with management on matters relevant to you is a prerequisite to providing valuable services.



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Our relationship depends on our engagement team maintaining regular contact with management. Through regular contact, we are better able to:

- Understand your needs and expectations
- Respond appropriately
- Maximize the value of our audit to you
- Contain costs

We do not bill extra fees for time spent providing advice. We do not bill, for example, for routine calls throughout the year to offer advice or for attending meetings with the client to help resolve an issue. However, we do follow the independence standards that do not allow us to provide certain services to audit clients. When an instance occurs where the Town may need services, we cannot provide due to independence standards, we will help give advice to the Town to ensure they receive the best services at a reasonable price.

M. Partner Involvement

We believe timely and active management team involvement is perhaps the most important factor for delivering top-quality services. ZA is known for having greater partner and manager involvement on its engagements than other larger firms. Partner and manager involvement with the Town is critical to our service delivery. No other firm can offer you the depth and experience of senior management devoted to the needs of the Town.

N. GASB Statements

ZA is a member of the AICPA Governmental Audit Quality Control Center and reviews all memoranda and exposure drafts that relate to governmental accounting and financial reporting. We hold in-house sessions to discuss these topics and the impact they may have on our clients. In addition, our governmental team is proactive in the implementation of new GASB Statements, and we work with our clients so that GASB Statements are implemented in accordance with the standards.

O. Membership

The American Institute of Certified Public Accountants (AICPA) is committed to helping its members achieve the highest standards in performing quality audits. To help CPAs meet the challenges of performing quality audits for clients in this complex area, the AICPA offers firmbased voluntary membership centers for firms that perform audits. Zelenkofske Axelrod LLC is a dedicated member of the following quality centers:

- AICPA Private Companies Practice Section (PCPS)
- AICPA Governmental Audit Quality Center
- AICPA Employee Benefit Plan Audit Quality Center
- AICPA/PCPS Center for Plain English Accounting



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P. Government Organizations

Since we specialize in the Public Sector, we are involved in many government and not-for-profit organizations not only as an associate member, but we also participate as presenters on various topics like Uniform Guidance and GASBs. The organizations are as follows:

- Government Audit Quality Center
- Pennsylvania GFOA
- Maryland GFOA
- Delaware League of Municipalities
- Maryland Association of Counties
- Pennsylvania County Commissioners
- Pennsylvania County Controllers
- Pennsylvania Association of Township Supervisors
- Association of Government Accountants
- Association of Pennsylvania Municipal Managers
- Mid-Atlantic Intergovernmental Audit Forum
- Maryland Municipal League
- Pennsylvania Associate of Nonprofit Organization

Q. GFOA Certificate Program

As detailed in Section D of the Firm Qualifications and Experience Section of our proposal, we perform audits of several governmental clients that have received the GFOA Certificate for Excellence in Financial Reporting including many Pennsylvania Counties. ZA has multiple team members who are members of the GFOA Certificate Program Special Review Committee.

R. Governmental Accounting Issues

ZA's philosophy pertaining to governmental accounting issues is to be proactive with our clients and make them aware of new GASB Pronouncements that will impact the financial reporting of the government in the future. ZA takes the lead in implementation of new GASBs and does the research to determine the impact on our governmental clients financial reporting. We have worked with financial advisors on the impact of swap transactions on financial reporting as well as actuaries to determine the impact of the pension and OPEB GASB Pronouncements on financial reporting.



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S. <u>References</u>

We have listed below some of our current and most significant governmental clients as references:

<u>Client</u>	Scope of <u>Work</u>	Date of <u>Work</u>	Client Contact
Dauphin County	Financial and Single Audit – GFOA Certificate of Achievement Program	Year End 12-31-12 To Present	Chad Saylor Chief Clerk 2 S. 2 nd St. Harrisburg, PA 17101 717-780-6338 csaylor@dauphinc.org
Bucks County	Financial and Single Audit – GFOA Certificate of Achievement Program	Year End 12-31-08 To Present	Kim Doran Deputy Controller 55 E. Court St. Doylestown, PA 18901 215-348-6781 kdoran@buckscounty.org
Westmoreland County	Financial and Single Audit – GFOA Certificate of Achievement Program	Year End 12-31-07 To Present	Regis Garris Deputy Controller 2 N. Main St Greensburg, PA 15601 724-830-3776 rgarris@co.westmoreland.pa.us
City of Havre de Grace	Financial Audit	Year End 6-30-16 To Present	George M. DeHority Finance Director 711 Pennington Ave. Havre de Grace, MD 21078 410-939-1800 george@havredegracemd.org
Town of Thurmont	Financial Audit	Year End 6-30-17 To Present	Linda Joyce CFO 615 East Main Street P.O. Box 17 Thurmont, MD 21788 301-271-7313 Ijoyce@thurmontstaff.com

We have included on pages 13 through 15 client recommendation letters.



First Financial Bank Building 400 Pine Street, Ste. 600, Abilene, TX 79601 325.672.4000 / 800.588.2525 / f: 325.672.7049 www.dkcpa.com

System Review Report

November 4, 2016

To the Members of **Zelenkofske Axelrod LLC** and the Peer Review Committee of the Pennsylvania Institute of CPAs

We have reviewed the system of quality control for the accounting and auditing practice of Zelenkofske Axelrod LLC (the firm) in effect for the year ended June 30, 2016. Our peer review was conducted in accordance with the Standards for Performing and Reporting on Peer Reviews established by the Peer Review Board of the American Institute of Certified Public Accountants. As a part of our peer review, we considered reviews by regulatory entities, if applicable, in determining the nature and extent of our procedures. The firm is responsible for designing a system of quality control and complying with it to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. responsibility is to express an opinion on the design of the system of quality control and the firm's compliance therewith based on our review. The nature, objectives, scope, limitations of, and the procedures performed in a System Review are described in the standards at www.aicpa.org/prsummary.

As required by the standards, engagements selected for review included engagements performed under *Government Auditing Standards* and audits of employee benefit plans.

In our opinion, the system of quality control for the accounting and auditing practice of **Zelenkofske Axelrod LLC** in effect for the year ended June 30, 2016, has been suitably designed and complied with to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Firms can receive a rating of *pass*, *pass with deficiency(ies)* or *fail*. **Zelenkofske Axelrod LLC** has received a peer review rating of *pass*.

Danie Kinard & Co, PC

Certified Public Accountants



City of Havre de Grace

711 PENNINGTON AVENUE, HAVRE DE GRACE, MARYLAND 21078 www.havredegracemd.com (410) 939-1800 (410) 575-7043

January 3, 2017

To Whom It May Concern:

The Certified Public Accounting and Audit firm Zelenkofske Axelrod LLC performed the annual financial statement audit of the City of Havre De Grace, Maryland (the "City") for the year ended June 30, 2016.

We have found the employees of the firm Zelenkofske Axelrod to be very professional and responsive. They clearly manage the engagement, scheduling their work to meet the various audit report deadlines and communicating in advance the information that they will need completed by the City's staff. They also made the transition from our prior auditing firm go smoothly with minimal disruptions.

The Zelenkofske Axelrod audit team, from engagement management to field staff, was both competent and very professional in their contacts with the various levels of City management. The audit team also proved very current technically, providing guidance concerning the implementation of new accounting pronouncements during the engagement.

The Zelenkofske Axelrod audit team management presented their final reports to the City Council in both timely and professional manner. There were positive comments by numerous elected officials concerning the performance of the Zelenkofske Axelrod audit team, both during the presentation and thereafter.

I highly recommend, without any reservation, the accounting firm Zelenkofske Axelrod LLC.

Sincerely, reage m

George M. DeHority Finance Director City of Havre de Grace Southeastern Pennsylvania Transportation Authority 1234 Market Street • Philadelphia, PA 19107-3780



March 8, 2017

To Whom It May Concern:

The Certified Public Accounting and audit firm Zelenkofske Axelrod LLC has been performing the annual financial statement audit of the Southeastern Pennsylvania Transportation Authority (the Authority) since 2005. In addition, Zelenkofske Axelrod LLC also audits several other reports that the Authority is required to file with various federal, state and local governmental agencies. Such audits include the Single Audit Report which incorporates the Pennsylvania Department of Transportation Operating Report, the National Transit Database agreed upon procedures filed with the Federal Transit Administration, and a special purpose lease basis report filed with the City of Philadelphia.

We have found the employees of the firm Zelenkofske Axelrod to be very responsive in scheduling their work to meet the various audit report deadlines as well as communicating in advance information or work that they will need completed by the Authority's staff. Their auditors were found to be competent and very professional in their contacts with various levels of Authority management. The auditors also attend and communicate their audit plan, audit status, and their final reports to the Authority Board members assigned to the Audit Committee at quarterly meetings. When requested by the Authority, the auditors have been very responsive in providing guidance concerning the implementation of new accounting pronouncements.

I highly recommend, without any reservation, the firm Zelenkofske Axelrod LLC.

Sincerely,

Cleophas Crasto Director, General Accounting

CC:aa

Shenandoah Valley School District 805 West Centre Street Shenandoah, PA 17976

PHONE: (570)462-1936

FAX: (570) 462-4611

Anthony P. Demalis Business Manager

March 23, 2017

To Whom It May Concern,

Zelenkofske Axelrod, LLC (ZA) has been the district's auditor since fiscal year ended June 30, 2012. The scope of their services has been to audit our basic financial statements including the General, Food Service, and Fiduciary Funds, and the Single Audit - Schedule of Federal Expenditures; while also preparing our PDE 2057 Annual Financial Report.

I have been the Business Manager since 2001, and have mainly dealt with Pat Kirk and his staff. I have found them to be professional, prompt, and flexible in working around our schedule. They continually made themselves accessible during the annual audit and answered any questions or concerns we had.

ZA has staffed our audit with experienced personnel in order to conduct the audit efficiently with minimum disruption to our office.

I have found their audit rates to be reasonable in the services they provide, and I would highly recommend Zelenkofske Axelrod, LLC to any school district seeking professional audit services.

Sincerely,

latty Demake

Anthony Demalis Business Manager Shenandoah Valley School District

"Blue Devils" An Equal Opportunity School District



CERTIFIED PUBLIC ACCOUNTANTS Experience. Expertise. Accountability.

PARTNER, SUPERVISORY, AND STAFF QUALIFICATIONS AND EXPERIENCE

Our staff includes professionals who have worked in the Public Sector and understand the technical requirements in addition to the accounting and reporting issues that make it such a specialized area of the accounting profession. Our firm has professionals with the knowledge and practical experience that is unique to the Public Sector. We have assembled a team of professionals who specialize in government and not-for-profit accounting, auditing, reporting, and consulting.

The following individuals are part of our engagement management team. Partners, Managers and other supervisory staff may be changed if those personnel leave the firm, are promoted or are assigned to another office. These personnel may also be changed for other reasons with the express prior written permission of the Town. However, in either case, the Town retains the right to approve or reject replacements. Other audit personnel may be changed at our discretion provided replacements have substantially the same or better qualifications or experience.

Michael Samson, CPA – Engagement Partner Kimberly Stank, CPA, CGMA – Concurring Partner Patrick Kirk, CPA, CGFM, CGMA – Technical Resource Principal Tim Mirra, CPA – Manager Monica Faber – Senior Associate

All of our CPAs are registered and licensed to practice as a Certified Public Accountant in Pennsylvania and also to practice in Maryland. In addition, all of our CPAs and, in fact, all of our professional staff members have accounting degrees from reputable 4-year universities.

Unlike many large firms, ZA Partners and Managers interact with our clients on a day-to-day basis to address accounting and audit issues and help to resolve the issues. Client relations are an important part of client service in our firm and, as a result, we have a good track record for client retention. We establish an open communication with each of our clients by being proactive on issues versus reactive.

Michael Samson, CPA, is a Partner in Zelenkofske Axelrod LLC's (ZA) Harrisburg office. As Engagement Partner, Mike is responsible for the audit team assigned to the audit, and for ensuring timely completion and review of audit fieldwork. Mike is the engagement partner on several similar governmental entities, including York County, Pike County, Town of Hampstead, Town of New Windsor, and Steelton Borough and has extensive experience with many of our CAFR clients.

Kimberly Stank, CPA, CGMA, is a Partner in Zelenkofske Axelrod LLC's (ZA) Harrisburg office. As Engagement Partner, Kim is responsible for independently reviewing the financial statements to verify that they are in conformity with applicable guidelines. Kim serves in this capacity for several similar governmental entities, including Bucks County, Dauphin County, City of Westminster, and Chester County and has extensive experience with our CAFR clients.





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Patrick Kirk, CPA, CGFM, CGMA, is a Principal in Zelenkofske Axelrod LLC's (ZA) Harrisburg office. As Technical Resource Principal, Pat will be available to address technical issues on the engagement. Pat serves in this capacity for numerous engagements including Chester County, Bucks County, Lower Paxton Township and Silver Spring Township and has experience with CAFR clients that receive the GFOA Certificate.

Tim Mirra, CPA, is a Manager and a Pennsylvania licensed CPA who practices public accounting, primarily based in Central Pennsylvania. As Manager on the engagement, Tim will be responsible for direct oversight of the audit team and will be on-site for select days of fieldwork. Tim is also the Manager on several similar audits, including Swatara Township, Franklin County, and Pike County and has clients that receive the GFOA certificate.

Monica Faber is a Senior Associate in our Harrisburg office. As a Senior Associate, Monica will be responsible for the day-to-day fieldwork of the audit, for supervision of the staff assigned to the engagement, and for the preparation of the financial statements and single audit report. Monica performs these functions for various clients throughout the year, including York City School District and Adams County.





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SPECIFIC AUDIT APPROACH

A. Understanding of the Engagement

1. Scope of Services

a. The Town desires us to audit and express an opinion on the fair presentation of its basic financial statements, and supplementary information in conformity with generally accepted accounting principles. We will also be responsible for performing certain limited procedures involving required supplementary information required by the Governmental Accounting Standards Board as mandated by generally accepted auditing standards.

We shall also be required to provide the following audit and reporting services in conjunction with the Town's annual audit and comprehensive annual financial reports:

- Prepare and present Town's Annual Financial Report and Supplemental Information
- Review and submit the State's Uniform Financial Report
- Management Letter

The audit shall be performed in accordance with generally accepted auditing standards as set forth by the American Institute of Certified Public Accountants, and the State of Maryland's audit requirements enumerated in Article 19, Section 19, and Section 40 of the Maryland Annotated Code.



3. <u>Reports to be Issued</u>

Following the completion of the audit of the fiscal year's financial statements, we shall issue:

a. A report on the fair presentation of the financial statements in conformity with generally accepted accounting principles of the United States including an opinion on the fair presentation of the supplementary information.

We shall be required to make a written report to the Town Council and the Town Manager to report any and all irregularities and illegal acts immediately upon discovery of such acts.

B. Audit Process

At Zelenkofske Axelrod, we use a risk-based audit methodology that emphasizes using knowledge of the entity to make the risk assessments required in connection with the financial statement audit. The more accurately an auditor assesses an entity's risks of material misstatement and noncompliance, the more likely the auditor will be to direct audit effort to those areas expected to contain risks of material misstatement and noncompliance, whether due to error or fraud, and the more assurance the auditor has that the procedures performed in response to the risk assessments will detect material misstatement and noncompliance.

Software: Our firm utilizes CCH ProSystem FX Engagement on engagements and therefore all staff auditors have the necessary tools to complete the required forms and checklists for this engagement. CCH's audit platform, Knowledge Coach, is a peer-reviewed platform that enables our audit team to efficiently and effectively complete the audit. Also, Microsoft Excel will be used to create spreadsheets for testing of transactions along with Microsoft Word will be used to modify the reporting document and to create other workpapers.

Sampling: ZA utilizes statistical sampling techniques as an engagement tool whenever they are cost effective and adds to the overall engagement efficiency. Due to the number of transactions, it is both impractical and uneconomical to examine every record. Statistical sampling overcomes this problem by enabling us to select, with mathematical precision, the appropriate number of transactions for examination. This makes statistical sampling a powerful engagement tool because it provides us with a scientific, rather than an arbitrary means of quantifying the uncertainty inherent in an engagement.

Workpapers: All audit programs, checklists and forms are completed through the CCH ProSystem fx Engagement software. We utilize Microsoft Excel and Word to supplement and customize audit workpaper documentation not available in CCH ProSystem fx Engagement in the areas of audit testing to address the specific risk assessment on this engagement.

Communication: ZA encourages and facilitates communication among the engagement team and client personnel. During the engagement, there is constant communication between staff members to discuss issues and arrive at a resolution. Issues are addressed as they arise during the engagement and not at the end. Partner and manager involvement is ongoing throughout



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the engagement, and therefore issues are resolved in a timely manner. Workpapers are reviewed at various levels as the engagement proceeds.

The primary drivers of our approach are:

- 1. Obtaining an understanding of the entity and its environment, including its internal control, sufficient to accurately assess the risks of material misstatement and noncompliance and provide a basis for designing an appropriate audit that responds to those risks.
- 2. Obtaining sufficient appropriate audit evidence about whether material misstatement and noncompliance or deficiencies in internal control exist through designing and performing audit procedures that are responsive to the risks identified.
- 3. Forming an opinion on the financial statement based on conclusions drawn from the audit evidence obtained.

Our methodology is presented as eight processes, as follows:

- 1. Preliminary Engagement Activities;
- 2. Risk Assessment Procedures: Obtaining an Understanding of the Entity and Its Environment;
- 3. Risk Assessment Procedures: Evaluating the Design of Internal Controls;
- 4. Assessing the Risks of Material Misstatement and Noncompliance;
- 5. Designing Audit Procedures in Response to Assessed Risks;
- 6. Performing Audit Procedures: Tests of the Operating Effectiveness of Internal Controls;
- 7. Performing Audit Procedures: Substantive Tests; and
- 8. Evaluating, Concluding, and Reporting Procedures.

The understanding obtained in each process affects the decisions made in the next. As such, we will continually review assessments made in an earlier process based on evidence obtained in later stages of the audit.

In general, our knowledge of the entity flows through the above eight processes and affects the audit as follows:

- 1. Knowledge gained from preliminary engagement activities and the determination of financial statement materiality is used to customize the audit plan for risk assessment procedures.
- 2. Knowledge gained from risk assessment and other procedures is used to identify and assess the risks of material misstatement.



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- 3. Knowledge gained from risk assessment procedures and the identification of risks of material misstatement is used to customize the audit plan for further audit procedures.
- 4. Evidence gained from further audit procedures is evaluated to determine whether audit risk has been reduced to an acceptably low level, and the appropriate auditor's reports are issued.

Reporting

Process: We will work closely with the Town's personnel in the preparation of the financial statements and will review "draft" financial statements with them prior to issuance. Before an audit partner signs the auditor's reports, a second partner will review the draft reports and other documents to evaluate the professional excellence of the audit. This partner will then give concurrence as to the propriety of the auditor's reports. Every effort will be made for early delivery of the reports to help ensure prompt and satisfactory professional service. Furthermore, any findings or questioned costs disclosed by our audit work will be discussed with the Town's designated official prior to any discussion of such findings with other interested parties.

Management letters: The issuance of management letters is equally as important as the expression of our opinion on the financial statements, and as a result, we devote considerable attention to developing the comments in these letters to management. As auditors for the Town, we will be interested in their overall success as an efficient, properly controlled and cost-effective entity. Therefore, the Town can expect us to contribute constructive management letter suggestions regarding internal accounting controls.

Letter to those charged with governance: Provide those charged with governance with timely observations arising from the audit that are significant and relevant to their responsibility to oversee the financial reporting process.

Project Management

We view project management as the continuous communications phase and it includes the exchange of ideas and advice as changes are considered or implemented during the engagement. Prior to the engagement starting, Zelenkofske Axelrod LLC will schedule an entrance conference. At the entrance conference, Zelenkofske Axelrod LLC will provide a time schedule for the engagement and a listing of information needed. Throughout the audit, we will keep the town manager and finance director updated on any issues encountered on the engagement in order to obtain resolution. We propose to have weekly meeting updates with the town manager, finance director and key employees of the Town to determine the status of the engagement and any issues that may delay the process and delivery of the report. At the conclusion of the audit, Zelenkofske Axelrod LLC will hold an exit conference with the Town's key personnel.



Accountants are not created equal...



Proposal to Provide Professional Accounting Services
Town of Somerset, MD

Prepared by

Weyrich, Cronin & Sorra, LLC

Certified Public Accountants and Business Consultants 20 Wight Avenue • Suite 210 Hunt Valley, MD 21030

Karen L. Dojan, CPA - Principal KarenD@wcscpa.com

410-339-6464 410-339-7272 (fax)

www.wcscpa.com



July 29, 2019

Accountants are not created equal...



Firm Qualifications and Experience1 - 3
Partner and Staff Qualifications & Experience 4 - 7
Proposed Services and Fee Schedule
References



Weyrich, Cronin & Sorra • A Firm That Provides Close Personal Attention



Firm Qualifications and Experience



We thank you for the opportunity to bid for these professional services. If we can be of further assistance to you, please do not hesitate to contact us. We welcome the opportunity to meet with the Town Council during your decision-making process.

To learn more about our firm, and our Governmental Services Team, please visit our website at www.wcscpa.com.



WC&S, established in 1979, is a regional full service accounting firm that offers a broad spectrum of services, including audit, tax, and consulting services. From the beginning, the goal of the founding partners was to establish an accounting practice built around proactive client service delivered through "Close Personal Attention." Now, four decades later, the tradition of excellent client service continues. According to the *Baltimore Business Journal's* annual *Book of Lists*, WC&S is one of the region's largest CPA and consulting firms. The firm has 8 partners, 45 professional, and 9 administrative staff located in three offices (Hunt Valley, Bel Air, and Elkton).

In 2011, the firm expanded its practice areas by establishing its Governmental Services Team to work with local municipalities and other organizations in the public sector.

The Team provides services to eighteen public sector clients throughout the State of Maryland, and the Maryland Municipal League. The majority of these organizations are local municipalities who utilize governmental (including special revenue, capital projects, and debt service funds), enterprise, and fiduciary fund accounting. We also audit many non-profit organizations who receive a significant portion of their funding from Federal Awards which subject them to the requirements of the Uniform Guidance (formerly OMB Circular A-133). Consequently, our engagement team has extensive experience in applying:

- US GAAP as established by the Governmental Accounting Standards Board (GASB pronouncements)
- US Generally Accepted Auditing Standards
- Government Auditing Standards
- Audit requirements of Title 2 US Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance), formerly OMB Circular A-133

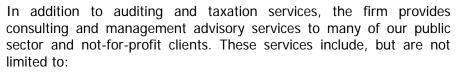






WC&S holds memberships in the following associations:

- American Institute of Certified Public Accountants
- Maryland Association of Certified Public Accountants
- American Institute of Certified Public Accountants Governmental Audit Quality Center
- American Institute of Certified Public Accountants Employee Benefit Plan Audit Quality Center
- Maryland Chapter of the Association of Certified Fraud Examiners
- Maryland Municipal League, Strategic Partner
- Maryland Nonprofits



- Outsourced accounting and CFO services to municipal and nonprofit organizations
- Consultations regarding annual budgets
- Consultations regarding internal control policies and procedures
- Consultations regarding implementation of the Uniform Guidance
- Indirect cost rate negotiations for commercial clients performing government contracts
- Consultations and training to other local public accounting firms related to implementation of updated federal audit guidelines related to Uniform Guidance and *Government Auditing Standards*

We operate as distinct practice groups; therefore, staff with specialized industry experience service each of our engagements. Our Governmental Services Team consists of 8 full-time employees. Each member has a wealth of industry specific experience and expertise to effectively and efficiently perform the proposed engagement. Because of the quality service that we provide, our Governmental Services practice group continues to expand.



Firm Qualifications and Experience

WC&S maintains the highest professional standards of excellence and integrity through our voluntary membership in the AICPA and their Governmental Audit and Employee Benefit Plan Audit Quality Centers. Membership in these organizations subjects us to their stringent Peer Review Program requirements. Attached is the firm's most recent System Review Report for the year ended August 31, 2018. The Report reflects a rating of Pass on WC&S's System of Quality Control. A Pass rating is the highest form of assurance that a firm can receive. WC&S has always received this rating since the inception of the program in 1981.

	Dergankov
REPORT ON THE FIRM'S SYSTEM OF	QUALITY CONTROL
February 11, 2019	
To the Partners of Weyrich, Cronin & S and the Peer Review Committee of th	
Weyrich, Cronin & Sorra LLC (the "Firm" review was conducted in accordance with t	ntrol for the accounting and auditing practice of) in effect for the year ended August 31, 2018. Our peer he Standards for Performing and Reporting on Peer Reviews e American Institute of Certified Public Accountants (the
Review as described in the Standards may includes an explanation of how engagement	, limitations of, and the procedures performed in a System be found at <u>www.aicpa.org/prsummary</u> . The summary also ts identified as not performed or reported in conformity with e evaluated by a peer reviewer to determine a peer review
Firm's Responsibility	
firm with reasonable assurance of performi standards in all material respects. The firm remediate engagements deemed as not perf	em of quality control and complying with it to provide the ng and reporting in conformity with applicable professional is also responsible for evaluating actions to promptly formed or reported in conformity with professional standards, knesses in its system of quality control, if any.
Peer Reviewer's Responsibility	
Our responsibility is to express an opinion compliance therewith based on our review.	on the design of the system of quality control and the firm's
Required Selections and Considerations	
	an engagement performed under <i>Government Auditing</i> der the Single Audit Act and audits of employee benefit plans.
As part of our peer review, we considered r applicable, in determining the nature and ex	eviews by regulatory entities as communicated by the firm, if stent of our procedures.
Opinion	
Cronin & Sorra LLC in effect for the year of complied with to provide the Firm with rea with applicable professional standards in al	ol for the accounting and auditing practice of Weyrich, ended August 31, 2018, has been suitably designed and sonable assurance of performing and reporting in conformity I material respects. Firms can receive a rating of pass, pass in & Sorra LLC has received a peer review rating of pass.
Bergan KDV, L	LC
0 BerganKDV, LLC	PROFESSIONAL SERVICES THE MIDWEST WAY Berganktiv, LLCI bergankdv.com I infotibergankdv.com







"The staff is readily available to answer our questions, provide us with proper instructions, and assist in any way possible. Working with a knowledgeable, friendly staff makes my job as Town Administrator easier; as I am confident that our records are accurate, that the required filing documents are accurate, and that there is always someone available to assist us."

> Elizabeth Jo Manning Town Administrator Sudlersville & Millington, MD

Weyrich Cronin & Sorra WC&S and assigned key professional staff are all Certified Public Accountants (CPAs) properly licensed to practice in the State of Maryland. Additionally, all individuals specified in this proposal have exceeded the Maryland licensing requirements for Continuing Professional Education (CPE) and there have been no complaints leveled by the State Board of Accountancy or other regulatory authority against the firm or any member of the engagement team.

What distinguishes us from other firms is our people. Our staff has a unique mix of skills, both technical accounting expertise and a wealth of industry specific knowledge regarding governmental organizations. This allows us to focus on effectively and efficiently meeting the needs of our clients. We recognize the value of timely service and have the ability to meet your scheduling needs.

We invest significant resources to keep all members of our staff, from Partners to Staff Accountants, abreast of the latest developments related to accounting and auditing pronouncements, including those issued by the GASB and the Office of Management and Budget related to Federal awards. Participation in CPE courses are fundamental to maintaining the skills necessary to provide the technical expertise our clients have come to expect. Our firm's System of Quality Control requires that all professional staff members receive a minimum of 40 hours of CPE in any given year, however, many of our staff members receive training which far exceeds this minimum level.

As a member firm of the AICPA Governmental Audit Quality Center, we receive regular updates on topics directly related to pronouncements by the GASB and implementation guidance related to the new standards; and audits performed under *Government Auditing Standards* and the Uniform Guidance. This is just one of the ways that we empower our staff to maintain the resources and knowledge necessary to provide the highest quality service and technical expertise to our clients. We as a firm are proud of the fact that we provide such resources and opportunities for professional growth.

Karen Dojan will serve as the engagement partner, and will have overall responsibility for the engagement. She will be assisted by experienced staff members Nicole DeJarnette and Gray Farquharson, who will work directly with the Town throughout the engagement.

Karen Dojan

Certified Public Accountant, Principal

PROFESSIONAL EXPERIENCE



Karen Dojan, Principal at Weyrich, Cronin & Sorra, LLC, has over 25 years of public accounting experience. She joined the firm in 2011 as a Senior Manager. Karen is the leader of our governmental services team, with extensive experience regarding audits in the public sector and not-for-profit organizations. She also has significant experience performing audits under *Government Auditing Standards* and the Single Audit Act (Uniform Guidance). As an active corporate partner of the Maryland Municipal

League, Karen has provided training for members at their annual summer conference. She has also provided training at the MACPA's Annual Government and Not-for-Profit Conference, and is a certified trainer for the Certified Nonprofit Accounting Program (CNAP), a nationally recognized certificate program for non-profit financial professionals.

FUNCTIONAL DISCIPLINE

Karen has served on all engagements performed under *Government Auditing Standards* and The Single Audit Act for the firm since 2011, either as a Senior Manager, Quality Control Reviewer or Partner.

CONTINUING PROFESSIONAL EDUCATION

Karen has received 142 hours of CPE in the past three years related to core competencies in accounting and auditing. Of these hours, 81 were directly applicable to performing audits under *Government Auditing Standards*, with 34 focused on State and Local Government reporting.

EDUCATION

Bachelor of Business Administration in Accounting, Loyola College of Maryland

PROFESSIONAL AFFILIATIONS

Member of American Institute of Certified Public Accountants Member of Maryland Association of Certified Public Accountants Member of Government Financial Officers Association Certified Nonprofit Accounting Professional (CNAP) Trainer



NICOLE DEJARNETTE

Certified Public Accountant, Certified Fraud Examiner, Supervisor

PROFESSIONAL EXPERIENCE



Nicole DeJarnette has over 10 years of public accounting experience. Nicole joined WC&S in January 2015, after several years with a smaller accounting practice. Since joining the firm, she has become an important member of our governmental services team, with extensive experience regarding audits and taxation of public sector and not-for-profit organizations. Nicole has served as Supervisor on numerous engagements, including engagements performed under *Government Auditing Standards* and the

Single Audit Act. Nicole has also achieved the AICPA's Cybersecurity for Finance and Accounting Certificate.

FUNCTIONAL DISCIPLINE

Nicole specializes in not-for-profit organizations and local governments along with federal regulations governing organizations receiving federal funds such as OMB Uniform Grant Guidance. Nicole works closely with our clients, supervises junior staff in the field, and performs detailed reviews of audit workpapers.

CONTINUING PROFESSIONAL EDUCATION

Nicole has received 158 hours of CPE in the past three years related to core competencies in accounting and auditing. Of these hours, 81 were directly applicable to performing audits under *Government Auditing Standards*, with 38 focused on State and Local Government reporting.

EDUCATION

Bachelor of Science in Financial Economics and a Certificate in Pre-Professional Studies in Accounting, University of Maryland, Baltimore County

PROFESSIONAL AFFILIATIONS

Member of American Institute of Certified Public Accountants Member of Maryland Association of Certified Public Accountants Member Association of Certified Fraud Examiners Member of Government Financial Officers Association



GRAY FARQUHARSON

Staff Accountant

PROFESSIONAL EXPERIENCE



Gray Farquharson, Staff Accountant at Weyrich, Cronin & Sorra, LLC, joined the firm in May 2018. Since then, he has become an integral member of our governmental services team, participating on several audits of our municipal clients. In addition, he has also participated in other accounting and auditing engagements, including those performed under *Government Auditing Standards* and the Uniform Guidance. Gray is actively pursuing his CPA license.

FUNCTIONAL DISCIPLINE

Gray specializes in governmental organizations and non-profits receiving federal awards subject to Uniform Guidance. He works closely with our clients, under the direct supervision of a senior staff member in the field, performing detailed audit testing procedures. Since joining the firm, Gray has received intensive training which has equipped him to participate in audits of governmental organizations, audits performed under *Government Auditing Standards*, and Single Audit engagements. He continues to gain knowledge and practical experience specifically related to this practice area.

CONTINUING PROFESSIONAL EDUCATION

Gray has received 46 hours of CPE since May 2018 related to core competencies in accounting and auditing. Of these, 27 hours were directly applicable to performing audits under *Government Auditing Standards*, with 4 focused on State and Local Government reporting.

EDUCATION

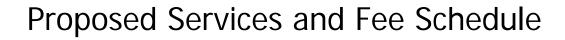
Bachelor of Business Administration in Accounting, University of South Carolina

Currently pursuing his Masters in Accounting and Business Advisory Services, Towson University

PROFESSIONAL AFFILIATIONS

Member of American Institute of Certified Public Accountants







"WC&S provided critical analysis where it was needed, but also provided helpful insight into where we needed to be policy wise and how to get there. "

> Calvin Bonenberger, Jr. Town Administrator Rising Sun, MD

WC&S proposes the following services to assist in preparing the Town for its annual audit for the year ended June 30, 2019:

- Review and reconciliation of all bank and investment accounts for the year
- Review of transactions to ensure proper recording of revenues, expense and payroll items for the year
- Preparation of all required year-end adjusting journal entries, including all receivables and payables as of June 30th
- Technical accounting assistance including guidance on implementation of new GASB pronouncements and reporting requirements, as needed
- Annual audit assistance, to include preparation of required schedules and workpapers requested by the auditor and general facilitation of the audit process

We will also work closely with the Town Manager to review current internal controls, and assist in establishing appropriate internal control policies and procedures to reduce the risks associated with the size of the Town's staff.

If requested by the Town, we are also available to provide ongoing accounting assistance throughout the upcoming year. These services may include:

- Preparation and review of monthly, quarterly and annual financial statements
- Assistance with preparation of required general journal entries
- Preparation of monthly bank and investment reconciliations
- Quarterly verification of subsidiary ledgers and other supporting documentary evidence
- Assistance with annual budget preparation and amendments
- Annual audit assistance, to include preparation of required schedules and workpapers requested by the auditor and general facilitation of the audit process
- Meet at least quarterly with the Town Manager
- Meet with the Mayor and Town Council, upon request



Proposed Services and Fee Schedule

Our current governmental services rates, which are reduced from our standard hourly rates, are presented in the table below.

STAFF LEVEL	Rate
Partner	\$280
Supervisor	\$210
Staff	\$125

We estimate that the services required to prepare the books and records of the Town for its 2019 audit and an initial internal control consultation will range from \$5,000-\$7,000.

WC&S' policy is to invoice our clients monthly as work progresses and invoices are due upon receipt. Providing a high level of value for the price you pay is integral to our basic engagement philosophy.

A fee estimate for on-going assistance may be obtained once the 2019 services have been completed.



We provide quality services, offering our clients the highest value for their resources.



Accountants are not created equal...

Current Municipal Engagements



The following are some of WC&S's clients who would be willing to share their experiences in working with our firm, staff, and processes:

Town of Charlestown

Wilbur "Wib" Pumpaly, Town Administrator 241 Market Street, Charlestown MD 21914 410-287-6173 • townadmin21914@comcast.net

Town of Edmonston

Rodney Barnes , Town Administrator 5005 52nd Avenue, Edmonston, MD 20781 301-633-8806 • rbarnes@edmonstonmd.gov

Town of Galena

Barbara Shaw, Clerk/Treasurer 101 S. Main Street, PO Box 279, Galena, MD 21635 410-648-6937 • <u>bshaw@townofgalena.com</u>

Town of Millington

Elizabeth Jo Manning, Town Manager 402 Cypress Street, PO Box 330, Millington, MD 21651 410-928-3880 • townadmin@atlanticbbn.net

Town of North East

Kendrick Natale, II, Director of Finance 106 S. Main Street, North East, MD 21901 410-287-5801 • <u>knatale@northeastmd.org</u>



H	leartland				hawna Bieger Customer Success Relation (405) 724-4504	SDR: 1	Talia (Collins	
	COMPANY IN	FORM	IATIO	N					
	Town Of Somerset 4510 Cumberland Ave,		P: (301) 65 F: (800) 55		Primary: Best Time To Call:	Matthe N/A	w Tro	llinger P: (301) 657-32	211
	Chevy Chase, MD 2081		r. (000) 33	3-3355	Type of Business:	MUNIC	CIPALI	TIES	
	Legal:				Type of Ownership: Corporate:	Govern	nment		
	Town of Somerset				Colporate.				
	4510 Cumberland Ave, Chevy Chase, MD 2081	5							
	P: (800) 555-5555		F: (800) 55	5-5555	P: (800) 555-5555	F: (800)) 555-5	555	
-Å	PAYROLL DET	AILS							
	Package Type:		Heartland	d Payroll + HR	New/Existing But		Exist	ing	
	Federal Tax ID:		52600325	53	Paid W2 Wages:		Yes		
	Input Method:		Internet		First Check Date:		000	9/2019	
	Starting Check Numb Location:		1 C		Payment Method	is:	Dire	t Deposit	
<u>ش</u>	TAX DETAILS								
	State:	Unempl	ID:	Unempl Ra	te: Withholdin	g ID:		Withholding Frequ	lency:
	MD	APPLIE	D FOR	0%	APPLIED F	OR		-	-
	PREVIOUS PRO	DCES	SOR II	NFORMA	TION				
	Current Payroll Provid	der:	Other	:: Suntrust Banl	e l				
ů	CONTACTS &	AUTH	IORIZ	ED PAYR	OLL USERS				
	Name:	Phone:		Email:		Sig	gner:	Role:	Auth User
	Matthew Trollinger	(301) 65 as been p		manager@tov d by: Email	wnofsomerset.com	Ye	s	AuthorizedSigner	Yes

Name: Name On Account:	Address:	Routing	#: Account #:	Account:
PAYROLL PRICING				
Package Type: Conversion Fee:	Heartland Payroll + HR \$0.00	Delivery Meth	od: Printback (Online / No Delivery
Bi-Weekly 10 Frequency # of Checks	\$72.00 Base Fee	\$4.00 Per Check To	\$112.00 tal Per Pay Period	\$150.00 Setup Fee
Additional Add-Ons				
My 401k Pay		My HR On-Demand	d (ACA Bundle Inc	luded)

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Туре:	Base Fee:	Per Employee:	Frequency:
W-2 / 1099	\$55	\$5	Annual
W-2 / 1099 Reprints	\$8 each	N/A	Per Occurrence
W-2 / 1099 Shipping	\$25	N/A	Annual
Quarterly Return Shipping	\$10*	N/A	Quarterly
Payroll Delivery - Printback Online / No Delivery	**	N/A	Per Occurrence
State Tax Reconciliations	\$15 (Per State After First Two)	N/A	Quarterly
Local Tax Reconciliations	\$15 (Unlimited Locals)	N/A	Quarterly
Quarterly Reprints	\$25 per Form	N/A	Per Occurrence
NSF Fee	5% of NSF (\$50 min, \$250 max)	N/A	Per Occurrence
Tipped Employee Tax Reporting (8027/8846)	\$50 each	N/A	Annual
Check Stock (Package of 400)	\$35 + shipping	N/A	Per Occurrence
ACA Bundle***	\$20	N/A	Monthly
1094-C / 1095-C***	\$75	\$7.25	Annual
1094-C / 1095-C SHIPPING***	\$25	N/A	Annual
Invalid / Missing SSN	\$25	N/A	Quarterly
Multi-location Sorting	\$5 per Addl Location + Shipping	N/A	Per Occurrence
Applicant Tracking Service***	\$999	N/A	Annual
Prior Quarter Adjustment Fee	\$250	N/A	Per Occurrence
Heartland Check Stop Payment	\$18 (Per Check)	N/A	Per Occurrence
Check Image Request	\$5 each (First 15 Free)	N/A	Per Occurrence
Direct Deposit Reversal	\$2	N/A	Per Occurrence
Minimum Monthly Fee	\$45	N/A	Per Occurrence
WOTC Process***	\$299	N/A	Per Occurrence
·····			

*Fee waived if receiving returns online. **Based on carrier and service level

***If applicable

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CLIENT acknowledges that CLIENT has fully read, understands and agrees to the conditions stated in this Application and Agreement, the Terms and Conditions found on the reverse, and any supplemental forms or addendum(s) provided to CLIENT pursuant to this contract. CLIENT further acknowledges that this Application and Agreement will not be binding unto COMPANY until accepted by authorized personnel at the COMPANY's operating location (noted at the top of page 1). **The individual/individuals below certifies that they are duly authorized to execute this agreement.**

Owner / Officer / Auth	v Trollinger Sign Here	Date
Matthew Trollinger		
AuthorizedSigner		
	vorized Signer	Date
Owner / Officer / Auth	ionzad orginal.	Date
Owner / Officer / Auth		
Owner / Officer / Auth	The Term of this Agreement is 36 Months	Date
Owner / Officer / Auth		Date

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Pre-Funding: Debit Transactions generated through the ACH network will be subject to Pre-Funding whereby ACH debit withdrawals are taken from the employer's checking account at least 24 hours prior to the check (payroll) date. Heartland requires 24 hour pre-funding for ACH service. The pre-funding timeframe may be increased from time to time to maintain compliance with the risk policies of the Originating Financial Institution and/or the risk policies of Heartland. Client will be notified, in advance, of any change in the pre-funding timeframes.

ACH Services: Client acknowledges that Client is considered an Originator as defined by NACHA Rules and, therefore, is bound by those Rules and assumes the responsibilities of an Originator under those Rules. Client further acknowledges that transactions that violate the laws of the United States may not be initiated through HPC's systems.

I (we) hereby authorize Heartland Payment Systems, Inc. and/or its subsidiary company(s), hereinafter called HEARTLAND, to initiate debit entries to the following checking account and the following named depository, hereinafter called DEPOSITORY, in accordance with the Terms and Conditions contained herein.

This authority shall remain in full force and effect until HEARTLAND and DEPOSITORY have received written notification from signor(s) below of the termination in such time and such manner as to afford HEARTLAND and DEPOSITORY a reasonable opportunity to act upon it and all outstanding moneys due HEARTLAND, pursuant to this agreement, have been paid in full. Back to atlas

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HEARTLAND PAYROLL SOLUTIONS, INC. TERMS & CONDITIONS

1. PROVISION OF SERVICES.

- a. Subject to the terms and conditions contained herein, Heartland Payroll Solutions, Inc. ("Heartland Payroll Solutions") agrees to provide the Client with payroll processing services ("Payroll Processing Services") and tax filing services ("Tax Filing Services") (collectively, the "Services"). This Agreement shall be effective as of the earlier of (i) the date upon which Client commencing use of the Services, or (ii) the acceptance of this Agreement by Heartland as described herein.
- b. Client acknowledges that the Services herein are solely for processing of payroll and tax payments and associated reporting. The Services do not consist of advisory or consultative services of any form, including those related to payroll taxes and labor laws or unclaimed property compliance. Client shall be solely responsible for Client's compliance with federal, state, and local labor laws and state unclaimed property laws.
- c. The Client Set-Up Questionnaire, the No Prior Wage Statement (if applicable), the Time Keeping Account Signup Form (if applicable), and any other forms or documents that may be required by the applicable federal and state agency (including without limitation any tax exempt authorizations, depositor confirmations, or agency payment information forms) (collectively, the "Ancillary Forms") are incorporated by reference herein as if set forth expressly. In the event that any terms in the Ancillary Forms contradict the terms herein, the term set forth in this Agreement shall govern.

2. CLIENT RESPONSIBILITY.

- Conversion: Client shall provide all items required for activation of the Services prior to the activation of the Services.
- b. Review: Client shall review all payroll reports to verify accuracy of checks issued and shall notify Heartland Payroll Solutions of any inaccuracies prior to the next payroll processing date. Heartland Payroll Solutions shall not be liable for any inaccuracies that are not reported to Heartland Payroll Solutions prior to the next regularly scheduled payroll processing date.
- c. Refunds: Any refund due to Client shall be contingent on verification that sufficient funds were originally received by Heartland Payroll Solutions from Client's bank account to cover any and all relevant amounts due, transferred or paid by Heartland Payroll Solutions. Heartland Payroll Solutions reserves the right

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to withhold any refund amounts, in whole or in part, in order to satisfy any outstanding amounts owed to Heartland Payroll Solutions by Client.

- d. Funds-Availability: Client shall have the required amounts to cover all payroll transactions, payroll fees, taxes and other related items specified on the payroll reports. If funds are insufficient or uncollectable for any reason, a resulting Non- Sufficient Funds ("NSF") fee will be charged, unless prohibited by applicable law. Client shall be assessed a "NSF fee" by Heartland Payroll Solutions and shall be subject to immediate cancellation of Heartland Payroll Solutions' Services, in Heartland Payroll Solutions' sole discretion. In the event the Client's total liability (including payroll, payroll taxes, and billing) exceeds the Client's predetermined ACH protection limit, the Client will be required to submit the amount of the total liability to Heartland Payroll Solutions via wire transfer of immediately available funds at least two (2) days prior to the applicable payroll check date. If sufficient collected funds are not in Client's designated deposit account, Heartland Payroll Solutions may elect to terminate this Agreement immediately, in its sole discretion, whereupon Client will be responsible for the administration and delivery of all tax deposits and filings then or thereafter due together with any related penalties and interest. Heartland Payroll Solutions may require Client to pay Client's outstanding, and all future payroll funding amounts to Heartland Payroll Solutions hereunder by ACH, wire transfer or other method designated by Heartland Payroll Solutions as a condition of Client's receipt of the Heartland Payroll Solutions' Services. Upon the expiration or termination of this Agreement for any reason, all fees due and owing to Heartland Payroll Solutions shall be immediately due and payable, and Heartland Payroll Solutions shall debit Client's designated deposit account for all such amounts. In the event that sufficient funds are not in Client's designated deposit account, Heartland Payroll Solutions, in its sole discretion, may send Client's account to third-party collections, which may result in additional fees owed by Client related to such collections activity.
- e. Instructions and Accuracy: Client shall be solely liable for the instructions Client provides to Heartland Payroll Solutions and any results of such instructions, as well as the accuracy of any input information supplied by Client to Heartland Payroll Solutions. Client acknowledges they are required to process payroll 48 hours prior to check date. If Client wishes to process payroll less than 48 hours prior to check date, Client shall sign a required release of liability prior to the processing of payroll. Client further acknowledges that should any

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issues arise due to their processing of payroll less than 48 hours prior to check date, Heartland shall not be liable for any errors, omissions, fees, hardship or employee communication resulting from Client's failure to adhere to the foregoing time frame, including without limitation any delayed transfer of payroll funds or delivery by courier service.

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- f. Policies: Client agrees that it will use the Services in accordance with any policies established by Heartland Payroll Solutions from time to time and documented in any materials furnished by Heartland Payroll Solutions to Client, as well as any other instructions for the use of the Services provided by Heartland Payroll Solutions to Client.
- g. Client Use: Client agrees that, except as otherwise permitted in writing by Heartland Payroll Solutions, Client will use the Services only for its own internal business purposes and will not sell or otherwise provide, directly or indirectly, any of the Services or any portion thereof to any third party.
- 3. OWNERSHIP, LICENSES, CONFIDENTIALITY AND NON-DISCLOSURE. Client acknowledges and agrees that all computer programs, tutorial and related documentation made available, directly or indirectly, by Heartland Payroll Solutions to Client as part of the Services are the exclusive property of Heartland Payroll Solutions or the third party or parties from whom Heartland Payroll Solutions has secured the right to use such computer programs and documentation (the "Property"). Heartland Payroll Solutions and such third parties shall retain all rights and title, to the extent of their respective interest, to all copyrights, trademarks, service marks, trade secrets, and other proprietary rights contained within the applicable Property.

4. LAWS AND GOVERNMENT REGULATIONS.

Client shall be responsible for (a) compliance with all applicable law, rule, and regulation, and (b) any use Client may make of the Services to assist Client in complying with such laws and governmental regulations. Except for Heartland Payroll Solutions' responsibilities as they relate to Tax Filing Services, as set forth herein, Heartland Payroll Solutions shall not have any responsibility relating thereto (including without limitation, any obligation to advise Client of Client's responsibilities in complying with any law, rule, or regulation applicable to Client's business).

5. DIRECT DEPOSIT AND TRUST ACCOUNT CLIENTS.

 The Services shall not be activated until Heartland Payroll Solutions has evaluated and approved Client's credit.

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- b. Heartland Payroll Solutions' provision of the Services will be subject at all times to the terms set forth in Paragraph 2(d) of this Agreement entitled "Funds-Availability". In the event that a stop payment is required for a check drawn on the Heartland Payroll Solutions trust account (*i.e.*, the check is lost and must be replaced), a "Heartland Check Stop Payment" fee per occurrence will be imposed on Client's next payroll invoice.
- TAX FILING SERVICES. In the event Client elects to receive Tax Filing Services, Client acknowledges and agrees that:
- a. Heartland Payroll Solutions shall be responsible for the timely payment and filing of all payroll taxes/forms related to payroll processed by Heartland Payroll Solutions on behalf of Client, subject at all times to (i) Client ensuring that sufficient funds are available for collection no less than two business days prior to each check date, (ii) Client submitting accurate and complete payroll information to Heartland Payroll Solutions in a timely manner. For the avoidance of doubt, Heartland Payroll Solutions shall not be liable for any payroll taxes, or penalties for failing to timely remit payroll taxes, with respect to payroll processed by any other entity prior to or subsequent to the Term of this Agreement.
- b. Client acknowledges that Tax Filing Services do not include preparation of state unclaimed property reports.
- c. Client shall be responsible for immediately informing Heartland Payroll Solutions of any changes in deposit frequency, tax ID number or tax rate. Failure to inform Heartland Payroll Solutions of changes to the tax rates and/or deposit frequencies may result in penalty and interest for which the Client will be entirely liable.
- d. Client will, within seventy-two (72) hours of receipt, provide Heartland Payroll Solutions copies of any and all notices that Client receives from taxing authorities, including without limitation any unemployment rate changes, state and local rate changes, tax coupons, and/or delinquency notices. Client acknowledges that time is of the essence in resolving tax issues and agrees to hold Heartland Payroll Solutions harmless for Client's failure to provide any such notifications to Heartland Payroll Solutions in accordance with this paragraph.
- e. According to the IRS Rev. Proc. 2012-32, Heartland Payroll Solutions must advise Client as Client's Reporting Agent that Client is responsible for the timely filing of employment tax returns and the timely payment of employment taxes for Client's employees, even if Client has authorized a third party to file the returns and make the payments on Client's behalf. Therefore, the Internal Revenue Service recommends that Client enroll in the U.S. Treasury Department's Electronic Federal Tax Payment System (EFTPS) to monitor Client's account and

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ensure that timely tax payments are being made for Client. Client may enroll in the EFTPS online at www.eftps.gov, or call 800-555-4477 for an enrollment form. Client should contact the applicable state tax authorities to determine whether a similar state-level program is available to Client to verify state tax payments.

- f. Tax Filing Services are based upon information supplied by Client or on behalf of Client by agents or third parties (including proof of federal, state and local tax identification numbers). Client is solely responsible for the accuracy of all such information and the verification of payroll dates and agrees to hold Heartland Payroll Solutions harmless for any damages, liens, or other such penalties incurred by Client as a result of inaccurate or incomplete information provided by Client directly, or on behalf of client by an agent or third party, to Heartland Payroll Solutions. Client must report payroll data pursuant to the scheduled payroll dates, even if no payroll dollars are paid.
- g. In order to receive Tax Filing Services, Client shall execute a Limited Power of Attorney and/or Reporting Authorization Form in the form provided by Heartland Payroll Solutions; Heartland Payroll Solutions shall not be liable for any disruption of Tax Filing Services that results from Client's failure to timely execute such documents.
- h. Client shall, at all times during which it receives Tax Filing Services, maintain sufficient collected funds in its designated deposit account to cover its tax-related charges. Heartland Payroll Solutions' provision of Tax Filing Services will be subject at all times to the terms set forth in Paragraph 2(d) of this Agreement entitled "Funds-Availability". Client shall immediately reimburse Heartland Payroll Solutions for all payments made by Heartland Payroll Solutions hereunder, on Client's behalf, to any governmental authority in anticipation of receiving sufficient funds from Client's designated deposit account; Client shall immediately pay any and all fees and charges invoiced by Heartland Payroll Solutions to Client relating to any such payment.
- i. In the event Client's Federal Income Tax and FICA deposit will exceed \$100,000 in any federal deposit cycle, Client must process payroll at least two (2) business days prior to the check date. Heartland Payroll Solutions will not be held responsible for next day funding of Federal Tax Deposits in which the preceding requirements are not adhered to.
- Heartland Payroll Solutions reserves the right to withhold any tax deposits held by Heartland Payroll Solutions on behalf of Client, in whole or in part, in order to satisfy any outstanding amounts owed to Heartland Payroll Solutions by Client.
- 7. FEES.

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- a. The fees for the Services provided to Client hereunder ("Fees") are set forth in the Application portion of this Agreement. Heartland Payroll Solutions may increase Fees or introduce new Fees in accordance with Section 13(b) of this Agreement.
- <u>Non-Processing Fee.</u> If Client does not process payroll during any given calendar month during the Term, Client will be billed a "Minimum Monthly Fee" for each such month.
- c. Shipping and handling fees, which are costs associated with common carrier, land delivery, express delivery, extra-heavy package, other special handling, packing materials, and direct labor are subject to change without notice.

8. TERM AND TERMINATION.

- a. This Agreement shall continue in full force and effect for an initial term of thirty-six (36) months from the first payroll process date (the "Initial Term"). Thereafter, the Agreement will automatically renew for additional twelve (12) month periods (each a "Renewal Term"), unless terminated by any party upon thirty (30) days written notice prior to the end of any term. Collectively, the Initial Term and any Renewal Term(s) shall be referred to herein as the "Term".
- b. Heartland Payroll Solutions reserves the right to terminate this Agreement immediately upon the occurrence of any of the following events (each an "Event of Default"):
 - Client shall default in any material respect in the performance of observance of any term, covenant, or agreement contained in this Agreement, including, but not limited to a reasonable belief by Heartland Payroll Solutions that Client will constitute a risk to Heartland Payroll Solutions by failing to meet the terms of this agreement;
 - ii. if Client does not process payroll during any two (2) consecutive calendar months during the Term;
 - a material adverse change in the business, financial condition, or business procedure of Client;
- any information contained in the Client set-up forms was or is incorrect in any material respect when made or is incomplete or omits any information necessary to make such information and statements not misleading to Heartland Payroll Solutions;

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v. any assignment or transfer of control of Client or its parent;

- vi. any voluntary or involuntary bankruptcy or insolvency proceedings involving Client; or
- vii. any other condition which would cause Heartland Payroll Solutions to deem Client to be financially insecure.

Upon the occurrence of an Event of Default, all amounts payable herein by Client to Heartland Payroll Solutions shall be immediately due and payable in full without demand or other notice, all of which are expressly waived by Client.

- c. In the event that Client terminates this Agreement during the Initial Term, or in the event that Heartland Payroll Solutions terminates this Agreement due to an Event of Default, Heartland Payroll Solutions reserves the right to assess an early termination fee of \$295 ("Early Termination Fee").
- Client 9. CLIENT INDEMNIFICATION. shall indemnify, defend, and hold Heartland Payroll Solutions and its successors and assigns harmless from any and all claims, losses, damages, expenses (including reasonable attorneys and other professional fees and court costs), or liability arising from or in connection with (i) any claims by a third party, including without limitation, any employees of Client, in connection with or related to the provision of the Services hereunder or otherwise at the direction of Client, (ii) Client's use of the Services in a manner inconsistent with this agreement, (iii) Client's failure to properly access the Services in the manner prescribed by Heartland Payroll Solutions, (iv) Client's failure to supply accurate input information to Heartland Payroll Solutions, and (v) all other claims arising out of any act or omission by Client or its employees or agents in connection with or related to the Services.

10. LIMITATION OF LIABILITY.

- a. Heartland Payroll Solutions' sole liability to Client or any third party for claims, notwithstanding the form of such claims, (e.g. contract, negligence or otherwise), arising out of errors or omissions in the Services, other than Tax Filing Service provided or to be provided by Heartland Payroll Solutions hereunder, whether caused by Heartland Payroll Solutions or by a third party vendor, shall be to furnish a corrected report or the correct data and to correct the Client files, provided that Client has notified Heartland Payroll Solutions of the error in accordance with Paragraph 2(b) of this Agreement.
- b. Heartland Payroll Solutions' sole liability to Client or any third party for claims arising out of the availability of the Heartland Payroll Solutions system or the software or the

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interruption in or delay of the Services for any reason, shall be to use its best efforts to make the Heartland Payroll Solutions system or the software available and to resume the Service, as promptly as reasonably practicable.

- c. Heartland Payroll Solutions shall not be liable for any damages to Client arising from any decision to refrain from or delay originating debit / credit entries in connection with Heartland Payroll Solutions' evaluation of Client's creditworthiness, or (b) because Heartland Payroll Solutions or its authorized vendor has not received timely funds from Client as required under Paragraph 2(d) of this Agreement.
- d. With respect to Tax Filing Services only, based upon the information supplied by Client and provided that Client has fully complied with its obligations pursuant to Paragraphs 1(b) 2(d), and 6(d) herein, Heartland Payroll Solutions shall be responsible for all applicable deposits, filings and reconciliation; except as provided herein. Heartland Payroll Solutions' sole liability to Client or any third party for claims notwithstanding the form of such claims (e.g. contract, negligence or otherwise) arising out of error or omission (other than interpretive errors or omissions) in Tax Filing Services provided or to be provided by Heartland Payroll Solutions hereunder, shall be to furnish a correct report or data and to correct any Client Files or tax agency filings. In the event of an error or omission, Client shall be responsible for any additional taxes and Heartland Payroll Solutions shall be responsible for any penalties or similar charges, directly resulting from such error or omission. Heartland Payroll Solutions shall be responsible for interest charges at a rate defined by the taxing agency during the time period the funds were held by Heartland Payroll Solutions only if Heartland Payroll Solutions had debited the Client's designated deposit account for the associated taxes and is holding such monies prior to the occurrence of such error or omission. Client shall be responsible for penalties or similar charges and interest charges in all other situations.
- e. Except as otherwise set forth in Paragraph 10(d) or
- 10(f), Heartland Payroll Solutions shall have no liability under this Agreement for any damages resulting from claims made by Client or any third party arising from or related to any and all causes covered by Paragraph 10(a), 10(b), 10(c), 10(d), and
- 10 (f) or arising from or related to any pre-packaged third party software. Heartland Payroll Solutions' sole liability under this Agreement for damages (monetary or otherwise) resulting from claims made by Client or any third party arising from or related to any and all causes not covered by Paragraphs 10(a), 10(b), 10(c), 10(d) and 10(f) shall be limited to (i) the amount of the actual damages incurred by Client or (ii) an amount which will not exceed one month's average actual total monthly charges paid by Client to Heartland Payroll Solutions for the specific

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Services on which Client's claim is based during the twelve months preceding the month in which the damages or injury is alleged to have occurred (or such lesser number of months if Client has not received twelve months of such specific Services), whichever is less.

- f. Heartland Payroll Solutions' sole liability under this Agreement for monetary damages resulting from claims by Client arising from or related to fraudulent or dishonest acts or omissions of Heartland Payroll Solutions Tax Filing Services hereunder shall be limited to the loss of funds caused solely by such fraudulent or dishonest acts or omissions.
- g. IN NO EVENT WILL HEARTLAND PAYROLL SOLUTIONS BE RESPONSIBLE FOR SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING COSTS AND ATTORNEY'S FEES, WHICH CLIENT MAY INCUR BY ENTERING INTO OR RELYING ON THIS AGREEMENT, EVEN IF HEARTLAND PAYROLL SOLUTIONS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- h. The foregoing provisions of Section 10 set forth the full extent of Heartland Payroll Solutions' liability under this Agreement (monetary or otherwise) for any cause or action, regardless of the form in which any such claim or action may be asserted against Heartland Payroll Solutions (e.g. contract, negligence or otherwise) and set forth Client's sole remedies.
- 11. CREDIT CHECK AUTHORIZATION. Client grants Heartland Payroll Solutions permission to obtain a business credit report from a qualified credit reporting bureau. The individual signing this Agreement on behalf of Client is authorized by Client to grant such permission. Should Heartland Payroll Solutions determine that the report does not provide sufficient information to make a credit decision, Heartland Payroll Solutions may request consumer information on the principals of Client in Heartland Payroll Solutions' sole discretion.

12. DATA SECURITY AND CONFIDENTIALITY.

- Heartland Payroll Solutions will take reasonable measures to minimize the risk of disclosure of Client's confidential information.
- b. Heartland Payroll Solutions will take reasonable measures to prevent loss of or alteration to the Client's information.
- c. Heartland Payroll Solutions shall notify Client in a timely manner following its internal confirmation that Client's confidential information has been involved in a security breach, provided however that such notification will not conflict with or compromise Heartland Payroll Solutions' efforts to (i) cooperate with law enforcement, (ii) protect

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confidential information belonging to Client, itself, or any third party, or (iii) remediate and/or further mitigate the breach, and further provided that Heartland Payroll Solutions shall notify Client at the same time that Heartland Payroll Solution notifies other similarly situated and similarly impacted clients. In the event that the security breach was the direct result of Heartland Payroll Solutions' breach of its obligations under this Agreement, Heartland Payroll Solutions will be financially responsible for any legally required notice to affected parties. Heartland Payroll Solutions shall take appropriate remedial action with respect to the integrity of its security systems and processes.

- d Client is responsible for retaining detailed Client records for any period required by law.
- e. Client shall protect the security of any login credentials used by Client to access the Services, including without limitation any email accounts used to communicate with Heartland Payroll Solutions regarding the Services. Client shall be entirely liable for the use of any such login credentials with respect to the Services, including without limitation the communication to Heartland Payroll Solutions of any changes in pay rates frequency, or direct deposit information.

13. GENERAL.

- a. Entire Agreement. This Agreement, including any attachments hereto, contains the entire understanding between the Parties with respect to the subject matter hereof and supersedes all prior and contemporaneous written or oral negotiations and agreements between them regarding the subject matter hereof.
- b. Amendments. Heartland Payroll Solutions may change the terms of or add new terms to this Agreement at any time and any such changes or new terms shall be effective when notice thereof is given by Heartland Payroll Solutions through written communication. Notwithstanding anything herein to the contrary, all Fees charged to Client hereunder may be changed immediately and without prior written notice to Client, provided that Heartland Payroll Solutions will notify Client of any such changes as soon as reasonably practicable.
- c. Assignment. Client may not assign or attempt to assign this Agreement or any of Client's rights or obligations under this Agreement without the prior written consent of Heartland Payroll Solutions. Heartland Payroll Solutions may assign this Agreement and all of its rights hereunder at any time.
- d. Notices. All notices and other communications required or permitted to be sent to Client under this Agreement may be made by: (1) written communication sent to the

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Client at the address stated on the Ancillary Forms or as updated by the Client thereafter; (2) electronic communication sent to the Client at the electronic mail address stated on the Ancillary Forms or as updated by the Client thereafter; (3) an electronic posting or notification on Heartland Payroll Solutions' website located at https://www.heartlandpayroll.com; or (4) an electronic posting or notification accessible to the Client on its Client account portal (which may be known as the "Client Landing Page"). All notices and other communications required or permitted to be sent to Heartland Payroll Solutions under this Agreement shall be in writing, shall be sent by overnight carrier or registered mail, and shall be effective upon actual receipt by the Corporate Secretary of Heartland Payroll Solutions, Inc., 3550 Lenox Road NE, Suite 3000, Atlanta, Georgia 30326. Any notices sent to Client shall be effective upon the earlier of (1) actual receipt, (2) upon the sending of such notice to the email or physical address provided by Client in the Ancillary Forms or to any other e-mail or physical address to which notices, statements and/or other communications are sent to the Client hereunder, or (3) upon the actual posting thereof on Heartland Payroll Solutions' website identified above and/or the Client account portal. The parties hereto may change the name and address of the person to whom notices or other documents required under this Agreement may be sent at any time by giving written notice to the other party.

- e. In the event that any provisions of this Agreement (or any portion thereof) shall be held to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remainder of the Agreement shall not in any way be affected or impaired thereby.
- f. The failure by either Heartland Payroll Solutions or Client to insist upon the performance of any of the provisions contained herein shall in no way constitute a waiver of any of its rights as set forth herein, at law or equity, or a waiver by either Heartland Payroll Solutions or Client of any other provision or subsequent default any of the terms and conditions set forth herein.
- g. The headings in the Agreements are intended for convenience of reference and shall not affect its interpretation.
- h. Client acknowledges, confirms and agrees that other than Heartland Payroll Solutions' obligation to Client hereunder, Heartland Payroll Solutions has no obligation to any third party, (including but not limited to Client's employees, customers and/or taxing authorities) by virtue of this Agreement.
- h. Client acknowledges, confirms and agrees that it is responsible for compliance with Workers Compensation, Disability, State Unemployment Insurance and insurance regulations as required by the states where

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Client's business is conducted.

- Force Majeure. Heartland Payroll Solutions shall not be liable for failure to fulfill its obligations under this Agreement if such failure is due to any cause or condition beyond such Party's reasonable control, such as: natural disaster, acts of God, strikes, fire, floods, war, riot, electrical power failure, decrees of governmental bodies or communications failure.
- i. Miscellaneous No waiver of compliance with any provision or condition of this Agreement and no consent provided for herein, shall be effective unless evidenced by an instrument in writing duly executed by the Party sought to be charged with that waiver. If any provision of this Agreement is determined to be invalid or unenforceable, the provision shall be deemed to be severable from the remainder of this Agreement and shall not cause the invalidity or unenforceability of the remainder of this Agreement. This Agreement shall be governed by and construed in accordance with the laws of the State of Georgia, without regard to principles of conflicts of law. Each Party agrees to take such further actions and execute and deliver such further agreements and other instruments as the other Party may reasonably request in furtherance of the provisions of this Agreement. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

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Instructions

What's New

Fax number. The fax number for Form 8655 is changed to 855-214-7523. When faxing Forms 8655, please send no more than 25 forms in a single transmission. If possible, please send faxes directly from your computer instead of from a fax machine.

Updated instructions for lines 15 and 16. The instructions for lines 15 and 16 have been clarified and now appear at the lines themselves. Please use the "YYYY/MM" format instead of the "MM/YYYY" format.

Former line 17a removed. The authorization agreement at the bottom of the form provides the disclosure authority previously covered by line 17a.

Increasing or decreasing authority. The instructions with regard to increasing or decreasing authority have been clarified. See Authority Granted.

Termination and Revocation. The instructions have been updated to distinguish between these terms and to explain the procedure for each. See Terminating or Revoking an Authorization.

Purpose of Form

Use Form 8655 to authorize a reporting agent to:

 Sign and file certain returns. Reporting agents must file returns electronically except as provided under Rev. Proc. 2012-32. You can find Rev. Proc. 2012-32 on page 267 of Internal Revenue Bulletin 2012-34 at www.irs.gov/pub/irs-irbs/irb12-34.pdf. See Pub. 3112, IRS e-file Application and Participation, for information about e-filing and getting the reporting agent PIN;

 Make deposits and payments for certain returns. Reporting agents must make deposits and payments electronically, generally through the Electronic Federal Tax Payment System (EFTPS,gov). See Pub. 4169, Tax Professional Guide to EFTPS, and Rev. Proc. 2012-33;

 Receive duplicate copies of tax information, notices, and other written and/ or electronic communication regarding any authority granted; and

 Provide IRS with information to aid in penalty relief determinations related to the authority granted on Form 8655.

Note. An authorization does not relieve the taxpayer of the responsibility (or from fability for failing) to ensure that all tax returns are filed timely and that all federal tax deposits (FTDs) and federal tax payments (FTPs) are made timely. A reporting agent must notify its client of that fact and must recommend that it enroll in the Electronic Federal Tax Payment System (EFTPS) to view EFTPS deposits and payments made on the client's behalf. A reporting agent must provide this notification, in writing, upon entering into an agreement with the client and at least quarterly thereafter for as long as it provides services to that client. Sample language and other details may be found in Rev. Proc. 2012-32, Section 5.05.

Authority Granted

Once Form 8655 is signed, any authority granted is effective beginning with the period indicated on lines 15, 16, 18a, 18b, and/or 18c and continues indefinitely unless terminated or revoked by the taxpayer or reporting agent. No authorization or authority is granted for periods prior to the period(s) indicated on Form 8655.

Where authority is granted for any form, it is also effective for related forms such as the corresponding non-English language form, amended return, (Form 941-X, 941-X/PR), 943-X, 945-X, or CT-1X), or payment voucher. For example, form 855 can be used to provide authorization for Form 944-SP using the entry spaces for Form 944. The form also can be used to authorize a reporting agent to make deposits and payments for other returns in the Form 1120 series, such as Form 1120-C, using the entry space for Form 1120 on line 16.

Disclosure authority is effective upon signature of taxpayer and IRS receipt of Form 8655. Any authority granted on Form 8655 does not revoke and has no effect on any authority granted on Forms 2848 or 8821, or any third-party designee checkbox authority.

To increase the authority granted to a reporting agent by a Form 8655 already in effect, submit another signed Form 8655, completing lines 1–14 and any line on which you want to add authority. To decrease the authority granted to a reporting agent by a Form 8655 already in effect, send a signed, written request to the address under Where To File. The preceding authorization remains in effect except as modified by the new one.

Where To File

Send Form 8655 to:

Internal Revenue Service Accounts Management Service Center MS 6748 RAF Team 1973 North Rulon White Blvd. Ogden, UT 84404

You can fax Form 8655 to the IRS. The number is 855-214-7523. When faxing Forms 8655, please send no more than 25 forms in a single transmission. If possible, please send faxes from your computer instead of a fax machine.

Additional Information

Additional information concerning reporting agent authorizations may be found in:

 Pub. 1474, Technical Specifications Guide for Reporting Agent Authorization and Federal Tax Depositors.

+ Rev. Proc. 2012-32.

Substitute Form 8655

If you want to prepare and use a substitute Form 8655, see Pub. 1167, General Rules and Specifications for Substitute Forms and Schedules. If your substitute Form 8655 is approved, the form approval number must be printed in the lower left margin of each substitute Form 8655 you file with the IRS.

Terminating or Revoking an Authorization

If you have a valid Form 8655 on file with the IRS, the filing of a new Form 8655 indicating a new reporting agent terminates the authority of the prior reporting agent beginning with the period indicated on the new Form 8655. However, the prior reporting agent is still an authorized reporting agent and retains any previously granted disclosure authority for the periods prior to the beginning period of the new reporting agent's authorization unless specifically revoked.

If the taxpayer wants to revoke an existing authorization, such that the reporting agent would no longer be authorized to act or receive information for previously authorized tax periods, send a copy of the previously executed Form 8655 to the IRS at the address under Where To File, above. Re-sign the copy of the Form 8655 under the original signature. Write "REVOKE" across the top of the Form. If you do not have a copy of the authorization you want to revoke, send a statement to the IRS. The statement of revocation must indicate that the authority of the reporting agent is revoked and must be signed by the taxpayer. Also, list the name and address of each reporting agent whose authority is revoked.

A reporting agent may terminate its authority by filing a statement with the IPS, either on paper or using a delete process. A reporting agent warning to revoke its authority must submit the request in writing. The statement must be signed by the reporting agent (if filed on paper) and identify the name and address of the taxpayer and authorization(s) from which the reporting agent is withdrawing. For information on the delete process, see Pub. 1474.

Who Must Sign

Electronic signature. For guidance on optional electronic signature methods, including approved methods of authentication and signature and additional items that must appear on the Form 8655, see Pub. 1474, section 01.03.

Sole proprietorship. The individual owning the business.

Corporation (including a limited liability company (LLC) treated as a corporation). Generally, Form 8655 can be signed by: (a) an officer having legal authority to bind the corporation, (b) any person designated by the board of directors or other governing body, (c) any officer or employee on written request by any principal officer, and (d) any other person authorized to access information under section 6103(e).

Partnership (including an LLC treated as a partnership) or an unincorporated organization. Generally, Form 8655 can be signed by any person who was a member of the partnership during any part of the tax period covered by Form 8655.

Single member LLC treated as a disregarded entity. The owner of the LLC.

Trust or estate. The fiduciary.

Matthew Trollinger has 2 fields to sign.

Privacy Act and Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. Our authority to request this information is Internal Revenue Code sections 6011, 6061, 6109, and 6302 and the regulations thereunder. We use this information to identify you and record your reporting agent authorization. You are not required to authorize a reporting agent to act on your behall. However, if you choose to authorize a reporting agent, you are required to provide the information requested, including your identification number. Failure to provide all the information requested may prevent or delay processing of your authorizetion; providing failse or fraudulent information may subject you to penalties.

Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation, and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nortax criminal laws, or to federal law enforcement agencies and intelligence agencies to combat terrorism. You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law.

The time needed to complete and file Form 8655 will vary depending on individual circumstances. The estimated average time is 1 hour, 7 minutes.

If you have comments concerning the accuracy of this time estimate or suggestions for making Form 8655 simpler, we would be happy to hear from you. You can send us comments from www.irs.gov/formspubs. Click on More information and then click or Give us feedback. Or you can send your comments to Internal Revenue Service, Tax Forms and Publications Division, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. **Do not** send Form 8655 to this address. Instead, see Where *To File*, earlier.

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FINAL DRAFT (Jul 2019)

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[HISTORY: Adopted effective 3-10-1959. Amendments noted where applicable.]

ARTICLE I General Corporate Powers and Corporate Limits

Section 83-1. General corporate powers.

Section 83-1

The inhabitants of the Town of Somerset, in Montgomery County, within the corporate limits legally established from time to time, are hereby constituted and continued a body corporate by the name of "The Town of Somerset" with all the powers and privileges of a body politic and corporate, by that name to sue and be sued, to plead and be impleaded in any court of law or equity, to have and use a common seal, to hold real, personal, and mixed property when the best interests of the town so demand, and to have perpetual succession, unless the Charter and the corporate existence are legally abrogated. (Mont. Co. Code 1965, § 59-1.)

Section 83-2. Corporate limits.

A description of the corporate boundaries of the town at all times shall be on file with the clerk-treasurer and with such other officials and agencies as required by law. The corporate boundaries are as follows:

Being a piece or parcel of land in the Bethesda (7th) District of Montgomery County, Maryland; and being more particularly described as follows:

Beginning for the same at a point at the end of the North 65° 17' 45" East 489.53 foot plat line of Lot 12 as shown on a plat of subdivision entitled "Lot 12, Block B, Friendship Heights" and recorded among the Land Records of Montgomery County, Maryland, in Plat Book 77 as Plat 7779, said point also being South 72° 09' 20" West 1415 feet, more or less, from a stone marked I.T.5F.V. found at the end of the South 52° 45' 05" West 372.42 foot plat line as shown on a plat of subdivision entitled "Parcel 'A', Block 9, Somerset Heights" and recorded among the aforesaid Land Records in Plat Book 78 as Plat 7813; and running

thence reversely with the aforesaid 489.53 foot plat line in the meridian of the aforesaid plat recorded in Plat 7813.

- 1. South 60° 31' 05" West, 489.53 feet to a point; thence.
- 2. South 10° 30' 20" East, 98.50 feet to a point on the northerly right of way line of Willard Avenue; thence running along said right of way line.
- 3. South 79° 29' 40" West, 107.57 feet to a point on the first deed line as described in a deed from Lester B. Cook, et ux, to the Town of Somerset, Maryland, dated December 30, 1965, and recorded among the aforesaid Land Records in Liber 3582 at Folio 429; thence with said deed line.
- 4. North 71° 58' 00" West, 203.20 feet to a point on the easterly line of extension of the South 71° 13' 55" West 361.31 foot plat line as shown on a plat of subdivision entitled "Part of Block 'H', Somerset Heights" and recorded among the aforesaid Land Records in Plat Book 76 as Plat 7548; thence running with part of said line of extension.
- 5. South 72° 09' 20" West, 273.93 feet to a point at the northerly most corner of Lot 25, Block H, as shown on a plat of subdivision entitled "Lots 25 and 26, Block 'H', Somerset Heights" and recorded among the aforesaid Land Records in Plat Book 105 as Plat 12136; thence running along the outlines of said Lot 25 and also along Lot 26, Block H, as shown on said plat, six (6) following courses and distances.
- 6. South 17° 50' 41" East, 70.00 feet to a point; thence.
- 7. South 37° 06' 00" West, 155.11 feet to a point; thence.
- 8. North 56° 47' 12" West, 77.90 feet to a point; thence.
- 9. North 48° 12' 21" West, 18.02 feet to a point; thence.
- 10. South $55^{\circ} 46' 33''$ West, 180.31 feet to a point; thence.
- 11. North 34° 13' 27" West, 139.46 feet to a point on the aforesaid 361.31 foot plat line; thence running with part of said plat line.
- 12. South 72° 09' 20" West, 232.17 feet, more or less, to a point on the northeasterly edge of River Road; thence running along said edge.
- 13. North 50° 11' 40" West, 406 feet, more or less, to a point on the fourth deed line as described in a deed from Thomas Hyde, Trustee, to John E. Beall and Ralph Walsh, dated March 1, 1890, and recorded among the aforesaid Land Records in Liber J.A. 17 at Folio 151; thence running reversely with said deed line.
- 14. North 08° 52' 10" West, 2800 feet, more or less, to a stone at the foot of a blazed cedar tree, said stone also being at the southwesterly corner of the land now or formerly owned by General R.C. Drum; thence running along a line dividing the said Drum land from that land as described in the aforesaid deed recorded in Liber J.A. 17 at Folio 151.
- 15. South 82° 59' 40" East, 3650 feet, more or less, to a point on the westerly right of way line of Wisconsin Avenue (U.S. Route 240); thence running approximately along said right of way line.

- South 11° 41' 35" East, 840 feet, more or less, to a point at the end of the North 69° 50' 54" East 152.10 foot plat line as shown on the aforesaid plat recorded in Plat Book 78 as Plat 7813; thence running reversely with said plat line.
- 17. South 69° 50' 54" West, 152.10 feet to a point; thence continuing to run along the outline of Parcel A as shown on the aforesaid plat recorded in Plat Book 78 as Plat 7813, the seven (7) following courses and distances.
- 18. South 79° 25' 45" West, 174.60 feet to a point; thence.
- 19. North 75° 31' 40" West, 95.50 feet to a point; thence.
- 20. North 81° 43' 42" West, 391.35 feet to a point; thence.
- 21. South 08° 38' 20" West, 200.00 feet to a point; thence.
- 22. South 09° 00' 40" East, 230.87 feet to a point; thence.
- 23. South 50° 40' 40" West, 248.94 feet to a point; thence.
- 24. South 08° 38' 20" West, 470.00 feet to a point on the South 72° 09' 20" West, 1865.89 foot plat line as shown on the aforesaid plat recorded in Plat Book 78 as Plat 7813, 966.16 feet from the beginning thereof; thence running with part of said plat line
- 25. South 72° 09' 20" West, 448.84 feet to the place of beginning; containing approximately 172 acres of land.

(Mont. Co. Code 1965, § 59-2, Res. R-3-79, 4-19-1979; Res. R-4-80, 6-24-1980; Res. R-9-87/Ch. Am. No. 1-88, 4-28-1988.)

ARTICLE II

The Council

Section 83-3. Number, election, term of office and salaries. [Amended 10-2-2017 by Res. No. 1-17, eff. 11-21-2017]

The legislative powers of the town shall be vested in a council, consisting of five council members who shall be elected at large as hereinafter provided, and who shall hold office for a term of two (2) years or until their successors take office. The regular term of council members shall commence on the first Monday following their election. Council members shall receive no salary for their services. (Mont. Co. Code 1965, § 59-3.)

Section 83-4. Qualifications of council members. [Amended 10-2-2017 by Res. No. 2-17, eff. 11-21-2017]

Council members shall (1) be citizens of the United States, (2) have resided in the town for at least eighteen months immediately preceding their election, and (3) be qualified voters of the Town of Somerset and of the State of Maryland. (Mont. Co. Code 1965, § 59-4, Res. R-5-79, 7-24-1979.)

SOMERSET CODE

Section 83-5. Meetings of the council. [Amended 10-2-2017 by Res. No. 3-17, eff. 11-21-2017]

The council shall meet on the first Monday following the election of new members, or on such other date as the council may determine, for the purpose of organization, after which the council shall meet regularly at such times as may be prescribed by its rules but not less frequently than once each month. Special meetings shall be called by the town manager upon the request of the mayor or a majority of the members elected to the council. All meetings, regular and special, of the council shall be public meetings and open to the public at all times, and residents of the town shall have a reasonable opportunity to be heard at such meeting in regard to any town matter, except that the council may hold work sessions at which comments may be prohibited and special purpose meetings at which comments may be restricted to subjects on the meeting agenda. Nothing contained herein shall be construed to prevent the holding of an executive session, but no ordinance, resolution, rule, or regulation shall be finally adopted at such an executive session. (Mont. Co. Code 1965, § 59-5.)

Section 83-6. Chair and president of council. [Amended 10-2-2017 by Res. No. 4-17, eff. 11-21-2017]

- (a) The mayor shall serve as chair of the council. The mayor may take part in all discussions, but the mayor shall have no vote except in case of a tie.
- (b) The council shall each year, at its regular meeting following the election of new members, elect a president of the council from among its members, who shall act as chair of the council in the absence of the mayor.

(Mont. Co. Code 1965, § 59-6.)

Section 83-7. Quorum.

A majority of the members elected to the council shall constitute a quorum for the transaction of business, but no ordinance shall be approved without the favorable votes of at least three members of the council. (Mont. Co. Code 1965, § 59-7.)

Section 83-8. Procedure of council.

The council shall by resolution determine its own rules and order of business. It shall keep a record of its proceedings and enter therein the yeas and nays upon final action on any ordinance, resolution, rule, or regulation, and if required by any one member, on any other subject. The record shall be reasonably available for public inspection. (Mont. Co. Code 1965, § 59-8.)

Section 83-9. Ordinances — Adoption.

No ordinance shall be passed at the meeting at which it is introduced, nor shall it be acted upon until notice of its introduction and title has been published as provided in section 83-87 of this Charter. At any regular or special meeting of the council held not less than six nor more than sixty days after the meeting at which an ordinance was introduced, it shall be

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passed; or passed as amended, or rejected, or its consideration deferred to some specified future date. In cases of emergency, all the above requirements in this section may be suspended by the affirmative votes of at least four members of the council. Every ordinance, unless it be passed as an emergency ordinance, or unless it is an ordinance adopting a budget, making appropriations, or levying property taxes or special benefit assessments, shall become effective at the expiration of thirty-six calendar days following approval by the mayor or passage by the council over his veto. An emergency ordinance, or an ordinance adopting a budget, making appropriations, or levying property taxes or special benefit assessments, shall become effective on the date specified in the ordinance, but no ordinance shall become effective until approved by the mayor or passed over his veto by the council. Each ordinance or a summary thereof shall be published as provided in section 83-87 of this Charter within twenty days after its approval by the mayor or passage over his veto. (Mont. Co. Code 1965, § 59-9; Res. R-4-95, 12-26-1995.)

Section 83-10. Same — Veto. [Amended 10-2-2017 by Res. No. 5-17, eff. 11-21-2017]

All ordinances, resolutions, rules and regulations passed by the council shall be delivered within three (3) days by the town manager to the mayor for his or her approval or disapproval. If the mayor approves any ordinance, resolution, rule, or regulation, the mayor shall sign it; if the mayor disapproves it, the mayor shall not sign it. The mayor shall return all ordinances, resolutions, rules and regulations to the town manager within six (6) days after delivery to the mayor (including the days of delivery and return and excluding Sunday) with the mayor's approval or disapproval. Any ordinance, resolution, rule, or regulation disapproved by the mayor shall be returned with a message stating the reasons for the mayor's disapproval. Any disapproved ordinance, resolution, rule, or regulation shall not become a law unless subsequently passed by a favorable vote of at least four (4) members of the council within thirty-five (35) calendar days from the time of its return. If the mayor fails to return any ordinance, resolution, rule, or regulation shall be delivery as aforesaid, it shall be deemed to be approved by the mayor and shall become law in the same manner as if signed by the mayor. (Mont. Co. Code 1965, § 59-10; Res. R-4-95, 12-26-1995.)

Section 83-11. Same — Referenda. [Amended 10-2-2017 by Res. No. 6-17, eff. 11-21-2017]

If, before the expiration of thirty-six (36) calendar days following approval of any ordinance by the mayor or passage of any ordinance over the mayor's veto, a petition is filed with the town manager containing the signatures of not less than twenty per centum (20%) of the qualified voters of the town and requesting that the ordinance, or any part thereof, be submitted to a vote of the qualified voters of the town for their approval or disapproval, the council shall have the ordinance, or the part thereof requested for referendum, submitted to a vote of the qualified voters of the town at the next regular town election or, in the council's discretion, at a special election occurring before the next regular election. No ordinance, or the part thereof requested for referendum, shall become effective following the receipt of such petition until and unless approved at the election by a majority of the qualified voters voting on the question, except that an emergency ordinance or the part thereof requested for referendum, shall continue in effect for sixty (60) days following receipt of such petition. If the question of approval or disapproval of any emergency ordinance, or any part thereof, has

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not been submitted to the qualified voters within sixty (60) days following receipt of the petition, then the operation of the ordinance, or the part thereof requested for referendum, shall be suspended until approved by a majority of the qualified voters voting on the question at any election. Any ordinance, or part thereof, disapproved by the voters shall stand repealed. The provisions of this section shall not apply to any ordinance adopting a budget, making appropriations, or levying property taxes or special benefit assessments. (Mont. Co. Code 1965, § 59-11; Res. R-4-95, 12-26-1995.)

Section 83-11A. Recall of elected officials. [Amended 10-2-2017 by Res. No. 7-17, eff. 11-21-2017]

The mayor or any council member may be dismissed from office by the qualified voters of the town in accordance with the procedure set forth in the following subsections.

- (a) A petition seeking the recall of the mayor or any town council member shall state the reasons for the recall and must be signed by not less than twenty percent (20%) of the registered voters of the town. The petition shall be addressed to the town council and filed with the town manager.
- (b) The town manager shall immediately notify the chair of the board of supervisors of elections of the filing of a petition for recall, and shall deliver the petition to the board. The board shall, within fourteen (14) days of the filing of the petition, ascertain whether the petition is signed by the requisite number of voters, and shall attach to the petition a certificate showing the results of its examination. If the board finds the petition to be sufficient, the town manager shall submit the petition to the council for action at its next regularly-scheduled meeting, if such meeting is scheduled within fifteen (15) days of the date of certification. If the next regularly-scheduled council meeting is scheduled for sixteen (16) or more days from the date of certification, the town manager shall schedule a special town council meeting to be held within fifteen (15) days of the date of certification.
- (c) Upon receipt of a properly-certified petition, the council shall order a special election to be held on a date not more than sixty (60) days from the date of the certification by the board of supervisors of elections; provided, however, that if any town election is scheduled within ninety (90) days of the date of the board's certification, the council, at its option, may order that the recall vote be included on the general election ballot; provided, further, that if the term of the elected official who is the subject of a recall petition expires within ninety (90) days of the date of the certification by the board, no recall election shall be held.
- (d) In its discretion, the council may hold a hearing on the recall petition, such hearing to take place not less than fifteen (15) days before the election.
- (e) The recall election ballot shall read: "Shall (name of official) be continued in the office of (title)?" Following this question shall be the words "Yes" and "No" on separate lines, with a space to the right of each, in which the voter shall indicate a vote for or against recall. The question of recall shall be decided by a simple majority of votes cast.
- (f) Within not more than twenty-four (24) hours after the closing of the polls, the board of supervisors of elections shall determine the vote cast on the recall question and shall

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certify the results of the election to the town manager who shall record the results in the minutes of the council.

- (g) Any person whose recall is sought shall continue in office pending certification of the election results by the board of supervisors of elections to the town manager. The official's term of office shall terminate upon receipt by the town manager of the board's certifications that the official has been recalled.
- (h) No recall petition shall be filed against any person until that person shall have been in office for at least three (3) months, nor shall any recall petition deal with more than one (1) public official.
- (i) Any vacancy created by the recall of an elected official shall be filled in the manner prescribed in section 83-34 of this Charter.

(Res. R-7-88, 12-27-1988.)

Section 83-12. File of ordinances. [Amended 10-2-2017 by Res. No. 8-17, eff. 11-21-2017]

Ordinances shall be permanently filed by the town manager and shall be reasonably available for public inspection. (Mont. Co. Code 1965, § 59-12.)

ARTICLE III

The Mayor

Section 83-13. Selection and term.

The mayor shall be elected as hereinafter provided and shall hold office for a term of two years or until his successor takes office. The regular term of the mayor shall commence on the first Monday following his election. The mayor holding office at the time this Charter becomes effective shall continue to hold office for the term for which he was elected and until his successor takes office under the provisions of this Charter. (Mont. Co. Code 1965, § 59-13.)

Section 83-14. Qualifications.

The mayor shall (1) be a citizen of the United States, (2) have resided in the town for at least eighteen months immediately preceding his election, and (3) be a qualified voter of the Town of Somerset and of the State of Maryland. (Mont. Co. Code 1965, § 59-14; Res. R-5-79, 7-24-1979.)

Section 83-15. Salary.

The mayor shall receive no salary unless the council by ordinance provides for such a salary in a specified amount. Any ordinance providing for such a salary or making a change therein shall apply only to the terms of mayors elected after such ordinance has become effective. (Mont. Co. Code 1965, § 59-15.)

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Section 83-16. Powers and duties. [Amended 10-2-2017 by Res. No. 9-17, eff. 11-21-2017]

- (a) The mayor shall see that the ordinances, resolutions, rules, and regulations of the town are faithfully executed and shall be the chief executive officer and the head of the administrative branch of the town government.
- (b) The mayor, with the approval of the council, shall appoint the nonelective officers of the town government as established by this Charter or by ordinance. All such officers, except the town manager and town attorney, shall serve at the pleasure of the mayor. All other employees of the town government shall be appointed and removed by the mayor.
- (c) The mayor each year shall report to the council the condition of town affairs and make such recommendations as the mayor deems proper for the public good and the welfare of the town.
- (d) The mayor shall have the power to veto ordinances, resolutions, rules, and regulations passed by the council, as provided in section 83-10 of this Charter.
- (e) The mayor shall have complete supervision over the financial administration of the town government. The mayor shall prepare or have prepared annually a budget and submit it to the council. The mayor shall supervise the administration of the budget as adopted by the council. The mayor shall supervise the disbursement of all moneys and have control over all expenditures to assure that budget appropriations are not exceeded.
- (f) The mayor shall have such other powers and perform such other duties as may be prescribed by this Charter or as may be required of the mayor by the council, not inconsistent with this Charter.
- (g) In the absence or incapacity of the mayor, the president of the council shall act as mayor and may exercise all the powers of the office of mayor. In the absence or incapacity of both the mayor and the president of the council, the council shall have the power to elect from among its members a mayor pro-tem who shall act as mayor and may exercise all the powers of the office of mayor.

(Mont. Co. Code 1965, § 59-16, R-3-79, 4-24-1972.)

ARTICLE IV

The Powers of the Town

Section 83-17. General powers.

The town shall have the power to adopt all such ordinances, resolutions, rules, and regulations not contrary to the Constitution and laws of the State of Maryland or this Charter as it may deem necessary for the good government of the town; for the protection and preservation of the town's property, rights, and privileges; for the preservation of peace and good order; for securing persons and property from violence, danger, or destruction; and for the protection and promotion of the health, safety, comfort, convenience, welfare, and happiness of the residents of the town and visitors thereto and sojourners therein. (Mont. Co. Code 1965, § 59-17.)

Section 83-18. Specific powers.

The town shall have, in addition to its general powers, the power to adopt ordinances, resolutions, regulations, and rules not contrary to the Constitution and laws of the State of Maryland, for the following specific purposes:

- (1) Advertisement [Advertisement] and publication. To provide for advertisement and publication for the purposes of the town, for printing and publishing statements as to the business of the town, and for publishing a Somerset Town Journal.
- (2) Aisles. To regulate and prevent the obstruction of aisles in public halls, churches, and places of amusement, and to regulate the construction and operation of the doors and means of egress therefrom.
- (3) Amusements. To provide in the interest of the public welfare for licensing, regulating, or restraining theatrical or other public amusements.
- (4) Appropriations. To appropriate town moneys for any purpose within the powers of the town.
- (5) Auctioneers. To regulate the sale of all kinds of property at auction within the town and to license auctioneers.
- (6) Band. To establish a town band, symphony orchestra, or other musical organization, and to regulate by ordinance the conduct and policies thereof.
- (7) Billboards and signs. To license, tax, regulate, restrain, or prohibit the erection, placing, or maintenance of billboards, signs, bills, and posters of every kind and description on any building, fence, post, billboard, pole, or other place within the town.
- (8) Bridges. To erect and maintain bridges.
- (9) Buildings, structures and improvements. To make reasonable regulations in regard to buildings, structures, and other improvements to be erected, constructed, or reconstructed in the town, and to grant building permits for the same; to formulate a building code and a plumbing, heating, and electrical code, to appoint inspectors, and to require reasonable charges for permits and inspections; to authorize and require the inspection of all buildings, structures, and other improvements, and to authorize the condemnation thereof in whole or in part when dangerous or insecure, and to require that such buildings, structures, and other improvements be made safe or be taken down or removed.
- (10) Cemeteries. To regulate and prohibit the interment of bodies within the town and to regulate cemeteries.
- (11) Codification. To provide for the codification of all ordinances which have been or may hereafter be passed.
- (12) Community services. To provide, maintain, and operate community and social services for the preservation and promotion of the health, recreation, welfare, and enlightenment of the inhabitants of the town.

- (13) Cooperation with other bodies. To make agreements with other municipalities, counties, districts, bureaus, commissions, and governmental authorities for the joint performance of or for cooperation in the performance of any governmental or proprietary functions.
- (14) Curfew. To prohibit the youth of the town from being in the streets, lanes, alleys, or public places at unreasonable hours of the night.
- (15) Dangerous conditions. To compel persons about to undertake dangerous improvements to execute bonds with sufficient sureties conditioned that the owner or contractor will pay all damages resulting from such work which may be sustained by any persons or property.
- (16) Departments. To create, change, and abolish nonelective offices, departments, or agencies of the town government, including the nonelective offices, departments, and agencies established by this Charter; and to assign additional functions or duties to offices, departments, or agencies.
- (17) Dogs and cats. To regulate, license, or prohibit the keeping or presence of dogs or cats in the town, and to provide for their disposition or removal from the town.
- (18) Elevators. To require the inspection and licensing of elevators and to prohibit their use when unsafe or dangerous or without a license.
- (19) Expenses of officials. To provide by resolution for reimbursing the mayor, councilmen, and other officials of the town for reasonable expenses incurred, and compensating them for time lost from their regular employment, in carrying out the necessary business of the town.
- (20) Explosives and dangerous weapons. To regulate or prevent the storage of gunpowder, oil, or any other explosive or combustible matter, to regulate or prevent the use or possession of firearms, air guns or other dangerous weapons, projectiles, fireworks, bonfires, explosives, or any other similar things which may endanger persons or property.
- (21) Filth. To compel the owners or occupants of any premises or buildings in the town, when the same have become filthy or unwholesome, to abate or cleanse the condition; and after reasonable notice to the owners or occupants to authorize such work to be done by the proper officers and to assess the expense thereof against such property, making it collectible by taxes or against the occupant or occupants.
- (22) Finances. To levy, assess, and collect ad valorem property taxes and special benefit assessments; to expend town funds for any public purpose; to have general management and control of the finances of the town; and to borrow necessary funds for any public purpose.
- (23) Fire. To suppress fires and prevent the dangers thereof and to establish and maintain a fire department; to contribute funds to volunteer fire companies serving the town; to inspect buildings for the purpose of reducing fire hazards, to issue regulations concerning fire hazards, and to forbid and prohibit the use of fire-hazardous buildings and structures permanently or until the conditions of town fire-hazard regulations are met; to install and maintain fire plugs where and as necessary, and to regulate their use; and to take all other measures necessary to control and prevent fires in the town.

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- (24) Food. To inspect and require the condemnation of, if unwholesome, and to regulate the sale of, any food products.
- (25) Franchises. To grant and regulate franchises to water companies, electric light companies, gas companies, telegraph and telephone companies, transit companies, taxicab companies and any others which may be deemed advantageous and beneficial to the town, subject, however, to the limitations and provisions of the Constitution and laws of the State of Maryland. No franchise shall be granted for a longer period than fifty years.
- (26) Gambling. To restrain and prohibit gambling.
- (27) Garbage. To prevent the deposit of any unwholesome substance either on private or public property, and to compel its removal to designated points; to require slops, garbage, ashes, and other waste or other unwholesome materials to be removed to designated points, or to require the occupants of the premises to place them conveniently for removal; to make contracts for the removal of garbage and rubbish.
- (28) Grants-in-aid. To accept gifts and grants of federal or state funds from the federal or state governments or any agency thereof, and to expend the same for any lawful public purpose, agreeably to the conditions under which the gifts or grants were made.
- (29) Hawkers. To license, tax, regulate, suppress, and prohibit hawkers and itinerant dealers, peddlers, pawnbrokers, and all other persons selling any articles or services on the streets of the town, and to revoke such licenses for cause.
- (30) Health. To protect and preserve the health of the town and its inhabitants; to appoint a public health officer, and to define and regulate his powers and duties; to prevent the introduction of contagious diseases into the town; to establish quarantine regulations, and to authorize the removal and confinement of persons having contagious or infectious diseases; to prevent and remove all nuisances; to inspect, regulate, and abate any buildings, structures, or places which cause or may cause unsanitary conditions or conditions detrimental to health; provided, that nothing herein shall be construed to affect in any manner any of the powers and duties of the state board of health, the county board of health, or any public, general or local law relating to the subject of health.
- (31) House numbers. To regulate the numbering of houses and lots and to compel owners to renumber the same or in default thereof to authorize and require the same to be done by the town at the owner's expense, such expense to constitute a lien upon the property collectible as tax moneys.
- (32) Insurance. To obtain hazard and liability insurance of such kinds and in such amounts as the council may determine.
- (33) Jail. To establish and regulate a station house or lock-up for temporary confinement of violators of the laws and ordinances of the town or to use the county jail for such purpose.
- (34) Land and building regulations. To provide for the preparation and revision of a plat of said town upon which shall be shown all streets, roads, and public ways, whether projected or already laid out, and by which all lots and real property in said town may

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be thereafter described, said plat to be prepared and recorded in plat books in the office of the clerk of the circuit court for Montgomery County and of the county surveyor of said county; to control the subdivision or resubdivision of all land and real property within the corporate limits of said town and to make reasonable regulations in regard to buildings to be erected in said town, and to grant permits for same.

- (35) Licenses. Subject to any restrictions imposed by the laws of the State of Maryland, to license and regulate all persons beginning or conducting transient or permanent business in the town for the sale of any goods, wares, merchandise, or services, to license and regulate any business, occupation, trade, calling or place of amusement or business; to establish and collect fees and charges for all licenses and permits issued under the authority of this Charter.
- (36) Liens. To provide that any valid charges, taxes or assessments made against any real property within the town shall be liens upon such property, to be collected as municipal taxes are collected.
- (37) Lights. To provide for the lighting of the town.
- (38) Livestock. To regulate or prohibit the keeping of cattle, horses, swine, fowl, sheep, goats, dogs, or other animals; to authorize the impounding, keeping, sale, and redemption of such animals when found in violation of such regulations or prohibitions.
- (39) Maintenance of private property. To require all owners or occupants to maintain their properties in decent, clean, and presentable condition.
- (40) Markets. To obtain by lease or rent, own, construct, purchase, operate, and maintain public markets within the town.
- (41) Minor privileges. To regulate or prevent the use of public ways, sidewalks, and public places for signs, awnings, posts, steps, railings, entrances, racks, posting handbills and advertisements, and display of goods, wares, and merchandise.
- (42) Noise. To regulate or prohibit unreasonable noises.
- (43) Nuisances. To prevent or abate all nuisances in the town which are so defined at common law, by this Charter, or by the laws of the State of Maryland, whether the same be herein specifically named or not; to regulate, to prohibit, to control the location of, or to require the removal from the town of all trading in, handling of, or manufacture of any commodity which is or may become offensive, obnoxious, or injurious to the public comfort or health. In this connection the town of such things as stockyards, slaughterhouses, cattle or hog pens, tanneries, and renderies. This listing is by way of enumeration, not limitation.
- (44) Obstructions. To remove all nuisances and obstructions from the streets, lanes, and alleys, and from any lots adjoining thereto, or any other places within the limits of the town.
- (45) Parking facilities. To license and regulate, and to establish, obtain by purchase, condemnation, or lease, own, construct, operate, and maintain parking lots and other facilities for off-street parking.

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- (46) Parking meters. To install parking meters on the streets and public places of the town in such places as the council shall determine, and to prescribe rates and provisions for the use thereof; except, that the installation of parking meters on any street or road maintained by the state roads commission of Maryland as part of the state road system must first be approved by the commission.
- (47) Parks and recreation. To establish and maintain public parks, gardens, playgrounds, and other recreational facilities and programs to promote the health, welfare, and enjoyment of the inhabitants of the town.
- (48) Planning and zoning. To exercise all powers of planning, zoning, and the control of subdivision or resubdivision which are not contrary to the Constitution and laws of the State of Maryland.
- (49) Police force and marshals. To establish, operate, and maintain a police force or appoint a town marshal and deputy marshal. All town policemen, the marshal and deputy marshals shall, within the town, have the powers and authority of constables in this state.
- (50) Police powers. To prohibit, suppress, and punish within the town all vice, gambling, and games of chance; prostitution and solicitation therefore and the keeping of bawdy houses and houses of ill fame; all tramps and vagrants; all disorder, disturbances, annoyances, disorderly conduct, obscenity, public profanity, and drunkenness. To enforce all ordinances relating to disorderly conduct and the suppression of nuisances equally within the limits of the town and beyond those limits for one-half mile, or for so much of this distance as does not conflict with the powers of another municipal corporation.
- (51) Property. To acquire by purchase, condemnation, gift, bequest, devise, lease, or otherwise real, personal, or mixed property, within or without the corporate limits of the town, for any public purposes; to erect and equip buildings, and structures and make other improvements thereon for the benefit of the town and its inhabitants; to regulate their use; to convey or lease any property when no longer needed for the public use, after having given at least twenty days' public notice to the proposed conveyance or lease; and to control, protect and maintain public buildings, grounds, and property of the town.
- (52) Quarantine. To establish quarantine regulations in the interest of the public health.
- (53) Regulations. To adopt and enforce within the corporate limits police, health, sanitary, fire, building, plumbing, heating, electrical, traffic, speed, parking, and other similar regulations not in conflict with the laws of the State of Maryland or with this Charter.
- (54) Rubbish. To regulate or prevent the throwing or depositing of rubbish, lawn, garden, or tree refuse, sweepings, dust, ashes, offal, garbage, paper, handbills, dirty liquids, or other unwholesome materials into any public way or onto any public or private property in the town.
- (55) Sidewalks. To regulate the use of sidewalks and all structures in, under, or above the same; to require the owner or occupant of premises to keep the sidewalks in front thereof free from ice, snow, dirt, and other obstructions.

- (56) Taxicabs. To license, tax, and regulate public hackmen, taxicab men, draymen, drivers, cabmen, porters, and expressmen, and all other persons pursuing like occupations.
- (57) Trees, shrubs and grass. To protect, enhance, and maintain the natural beauty of the town property, and to conserve the trees, shrubs, and grass on the public ways.
- (58) Vehicles. To regulate the use, operation, speed, weight, direction of travel, parking, or keeping of vehicles of every kind, including but not limited to automobiles, trucks, tractors, trailers, wagons, motorcycles, scooters, and bicycles, to the extent that such regulation by the town is not contrary to the Constitution and laws of the State of Maryland.
- (59) Voting machines. To purchase, lease, borrow, install, and maintain, voting machines for use in town elections.

The enumeration of powers in this section and in section 83-17 of this Charter is not to be construed as limiting the powers of the town to the several subjects mentioned. (Mont. Co. Code 1965, § 59-18.)

Section 83-19. Exercise of powers.

For the purpose of carrying out the powers granted to the town in this Charter, the council may adopt all necessary ordinances, resolutions, rules, or regulations. All the powers of the town shall be exercised in the manner prescribed by this Charter, or, if the manner be not prescribed, then in such manner as may be prescribed by ordinance, resolution, rule, or regulation. (Mont. Co. Code 1965, § 59-19.)

Section 83-20. Enforcement.

(a) To ensure the observance of the ordinances, resolutions, rules, and regulations of the town, the council shall have the power to provide that violation thereof shall be a misdemeanor, and shall have the power to affix thereto such penalties as may be authorized by state law. The council may provide that, where the violation is of a continuing nature and is persisted in, a conviction for one violation shall not be a bar to a conviction for a continuation of the offense subsequent to the first or any succeeding conviction.

(b)

- (1) As an alternative to declaring violation of a particular ordinance, resolution, rule, or regulation of the town to be a misdemeanor, the council shall have the power to provide that such violation shall be a municipal infraction, unless state law expressly prohibits said violation from being treated as a municipal infraction.
- (2) A municipal infraction is a civil offense. An adjudication that a person has committed a municipal infraction is not a criminal conviction for any purpose, nor does it impose any of the civil disabilities imposed by a criminal conviction.

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(3) A fine not to exceed the maximum amount established by state law may be imposed for each commission of a municipal infraction. Each day a violation continues shall constitute a separate offense.

(Mont. Co. Code 1965, § 59-20; Res. R-3-80, 6-24-1980; Res. No. R-3-87, 7-21-1987; Res. No. R-4-87, 7-21-1987; Res. No. 1-05, 6-22-2005.)

ARTICLE V

Registration, Nominations and Elections

Section 83-21. Voters. [Amended 10-2-2017 by Res. No. 10-17, eff. 11-21-2017]

Every person who (1) is at least eighteen years of age, (2) has resided within the corporate limits of the town for fourteen days next preceding any election, and (3) is registered in accordance with the provisions of this Charter, shall be a qualified voter of the town. Every qualified voter of the town shall be entitled to vote at any or all town elections. (Mont. Co. Code 1965, § 59-21; Res. 2-2-76, § 1; Res. R-3-93, 7-28-1993.)

Section 83-22. Board of supervisors of elections — Membership; appointment, term of office, qualifications and compensation of members; chair; filling vacancies. [Amended 10-2-2017 by Res. No. 11-17, eff. 11-21-2017]

- (a) There shall be a board of supervisors of elections, consisting of five (5) members who shall be appointed by the mayor, with the approval of the council. Members shall serve staggered three-year terms.
- (b) Members of the board of supervisors of elections shall be qualified voters of the town and shall not hold or be candidates for any elective office during their tenure of office. The board shall appoint one of its members as chair. Vacancies on the board shall be filled by the mayor, with approval of the council, for the remainder of the unexpired term. Members of the board of supervisors of elections shall receive no compensation for their services.

(Mont. Co. Code 1965, § 59-22; Res. 4-14-84, Char. Am. 5-84, 12-25-1984; Res. 1-06, 2-22-2006.)

Section 83-23. Same — Removal of members.

Any member of the board of supervisors of elections may be removed for good cause by the mayor, with the approval of the council. Before removal, the member of the board of supervisors of elections to be removed shall be given a written copy of the charges against him and shall have a public hearing on them before the council if he so requests within ten days after receiving the written copy of the charges against him. (Mont. Co. Code 1965, § 59-23.)

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Section 83-24. Same — Duties.

The board of supervisors of elections shall be in charge of the registration of voters, nominations, and all town elections. The board may appoint election clerks or other employees, whose compensation, if any, shall be fixed by the council, to assist it in any of its duties. (Mont. Co. Code 1965, § 59-24.)

Section 83-25. Notice of elections. [Amended 10-2-2017 by Res. No. 12-17, eff. 11-21-2017]

The board of supervisors of elections shall give at least two (2) weeks' notice of every election by publication as provided in section 83-87 of this Charter. The notice shall include instructions for voter registration. (Mont. Co. Code 1965, § 59-25.)

Section 83-26. Registration of voters. [Amended 10-2-2017 by Res. No. 13-17, eff. 11-21-2017]

Any person who meets the qualifications to vote as set forth in this Charter may register at the town office prior to fourteen (14) days before an election. There shall also be voter registration by mail prior to fourteen (14) days before an election. A resident of the town registered to vote with the Montgomery County Board of Elections shall be deemed registered for elections in the town. Registration shall be permanent, and no person shall be entitled to vote in town elections unless he is registered. It shall be the duty of the board of supervisors of elections to keep the registration list up to date by striking from the lists persons known to have died or to have moved out of the town. The council is hereby authorized and directed to adopt and enforce any rules and regulations necessary to establish and maintain a system of permanent registration and to provide for a reregistration when necessary. (Mont. Co. Code 1965, § 59-26; Res. 2-2-76, § 1; Res. R-4-85, 5-21-1985; Res. R-3-93, 7-28-1993.)

Section 83-27. Appeals from action of board of supervisors of elections.

If any person shall feel aggrieved by the action of the board of supervisors of elections in refusing to register or in striking off the name of any person, or by any other action, such person may appeal to the council. Any decision or action of the council upon such appeals may be appealed to the circuit court for Montgomery County within thirty days of the decision or action of the council. (Mont. Co. Code 1965, § 59-27.)

Section 83-28. Nominations. [Amended 10-2-2017 by Res. No. 14-17, eff. 11-21-2017]

Candidates at the regular elections shall be nominated at a town meeting to be held on a date at least four (4) weeks prior to the date set for the municipal election. Additional candidates may be nominated after such meetings by written petition signed by at least twenty (20) voters and filed with the town manager not less than twenty-one (21) days before the election. No nominations will be accepted thereafter. Write-in candidates who have not been nominated according to this section will not be eligible for election. The names of nominees who meet the qualifications for election and who accept the said nominations, all as determined by the board of supervisors of elections, together with such other information as

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is called for by the council, shall be published not less than fourteen (14) days before the election as provided in section 83-87 of this Charter. (Mont. Co. Code 1965, § 59-28; Res. R-5-85, 5-21-1985; Res. No. R-11-87, 12-22-1987.)

Section 83-29. Election of mayor and council members. [Amended 10-2-2017 by Res. No. 15-17, eff. 11-21-2017]

In every even-numbered year, the qualified voters of the town shall elect one (1) person as mayor and two persons as council members to serve for terms of two (2) years, and in every odd numbered year shall elect three (3) persons as council members to serve for terms of two (2) years. The election shall be on the second Tuesday in May or such other date as may be recommended by the board of supervisors and approved by the council. (Mont. Co. Code 1965, § 59-29; Res. R-6-85, 5-21-1985; Res. No. R-10-87, 11-24-1987.)

Section 83-30. Conduct of elections. [Amended 10-2-2017 by Res. No. 16-17, eff. 11-21-2017]

- (a) It shall be the duty of the board of supervisors of elections to provide for each special and general election a suitable place or places for voting and suitable ballot boxes and ballots or voting machines. The ballots or voting machines shall show the name of each candidate nominated for elective office in accordance with the provisions of this Charter, arranged in alphabetical order by office with no party designation of any kind.
- (b) Qualified voters who are incapacitated or who will be absent may vote by absentee ballot according to rules and regulations recommended by the board of supervisors and approved by the council.

(Mont. Co. Code 1965, § 59-30.)

Section 83-31. Special elections.

All special town elections shall be conducted by the board of supervisors of elections in the same manner, as far as practicable, as regular town elections. (Mont. Co. Code 1965, § 59-31.)

Section 83-32. Vote count. [Amended 10-2-2017 by Res. No. 17-17, eff. 11-21-2017]

Within not more than twenty-four (24) hours after the closing of the polls, the board of supervisors of elections shall determine the vote cast for each candidate or question and shall certify the results of the election to the town manager who shall record the results in the minutes of the council. The candidate for mayor with the highest number of votes shall be declared elected as mayor. The candidates for council members with the highest number of votes shall be declared elected as council members. In the event of a tie vote in any election or on any question, there shall be a special election three weeks later to break the tie. (Mont. Co. Code 1965, § 59-32; Res. 2-2-76, § 1.)

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Section 83-33. Preservation of ballots.

All ballots used in any town election shall be preserved for at least three months from the date of the election. (Mont. Co. Code 1965, § 59-33.)

Section 83-34. Vacancies. [Amended 10-2-2017 by Res. No. 18-17, eff. 11-21-2017]

- (a) Whenever any vacancy exists in the office of mayor or on the council by reason of a recall pursuant to section 83-11A of this charter, the council shall order a special election to fill such vacancy for the unexpired term pursuant to section 83-31 of this charter; the special election shall be held on a date not less than thirty (30) days but not more than forty-five (45) days from of the certification of election results by the board of supervisors of elections;¹ provided, however, that if any town election is scheduled within ninety days from the date of certification of the recall election results, the council may, in its discretion, order that the vacancy be filled at the general election.
- (b) In case of a vacancy in the office of mayor or on the council for any reason other than recall, including failure of a newly elected mayor or council members to take office, the council shall, in its discretion, either elect some qualified person or call a special election to fill such a vacancy for the unexpired term. The results of any such vote or election shall be recorded in the minutes of the council.

(Mont. Co. Code 1965, § 59-34; Res. R-9-88, 2-8-1989.)

Section 83-35. Reserved²

Section 83-36. Regulation and control.

The council shall have the power to provide by resolution in every respect not covered by the provisions of this Charter for the conduct of registration, nomination, and town elections and for the prevention of fraud in connection therewith, and for a recount of ballots in case of doubt or fraud. (Mont. Co. Code 1965, § 59-36.)

Section 83-37. Penalties.

Any person who (1) fails to perform any duty required of him under the provisions of this article or any ordinances passed thereunder, (2) in any manner wilfully or corruptly violates any of the provisions of this article or any resolutions passed thereunder, or (3) wilfully or corruptly does anything which will or will tend to affect fraudulently any registration, nomination, or town election, shall be deemed guilty of a misdemeanor and shall be subject to the maximum penalties authorized by Section 83-20 of this Charter. Any officer or employee of the town government who is convicted of a misdemeanor under the provisions of this section shall immediately upon conviction thereof cease to hold such office or employment. (Mont. Co. Code 1965, § 59-37; Res. R-3-80, 6-24-1980.)

^{1.} Editor's Note: So in original.

^{2.} Editor's Note: Former Sec. 83-35, Women (Mont. Co. Code 1965, § 59-35), was repealed 10-2-2017 by Res. No. 19-17, eff. 11-21-2017.

CHARTER ARTICLE VI **Finance**

Section 83-38. Town manager. [Amended 10-2-2017 by Res. No. 20-17, eff. 11-21-2017]

The town manager shall be the chief financial officer of the town. The financial powers of the town, except as otherwise provided by this Charter, shall be exercised by the town manager under the direct supervision of the mayor. (Mont. Co. Code 1965, § 59-38.)

Section 83-39. Powers and duties of clerk-treasurer.

Under the supervision of the mayor, the clerk-treasurer shall have authority and shall be required to:

- (1) Prepare under the direction of the mayor an annual budget to be submitted by the mayor to the council.
- (2) Supervise and be responsible for the disbursement of all money and have control over all expenditures to assure that budget appropriations are not exceeded.
- (3) Maintain a general accounting system for the town in such form as the council may require, not contrary to state law.
- (4) Submit at the end of each fiscal year, and at such other times as the council may require, a complete financial report to the council through the mayor.
- (5) Ascertain that all taxable property within the town is assessed for taxation.
- (6) Collect all taxes, special benefit assessments, license fees, liens, and all other revenues (including utility revenues) of the town, and all other revenues for whose collection the town is responsible, and receive any funds receivable by the town.
- (7) Have custody of all public money, belonging to or under the control of the town, except as to funds in the control of any set of trustees, and have custody of all bonds and notes of the town.
- (8) Do such other things in relation to the fiscal or financial affairs of the town as the mayor or the council may require or as may be required elsewhere in this Charter.

(Mont. Co. Code 1965, § 59-39.)

Section 83-40. Fiscal year.³

The town shall operate on an annual budget. The fiscal year of the town shall begin on the first day of July and shall end on the last day of June in the following year. Such fiscal year shall constitute the tax year, the budget year, and the accounting year. (Mont. Co. Code 1965, § 59-40.)

^{3.} For state law as to fiscal year for all towns, see Anno. Code of Md., 1957, Art. 81, § 29A.

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Section 83-41. Budget. [Amended 10-2-2017 by Res. No. 21-17, eff. 11-21-2017]

The mayor, on such date as the council shall determine, but at least twenty days before the beginning of any fiscal year shall submit a budget to the council. The budget shall provide a financial plan for the budget year and shall contain estimates of anticipated revenues and proposed expenditures (including an allowance for contingencies) for the coming year. The budget may provide funds for major construction projects, exclusive of routine maintenance and repair. Such provision of funds in the budget will be termed the "capital account." The budget shall provide that the total expenditures shall not exceed total revenues, borrowings, and reserves, including balances from prior years. The budget shall be a public record in the office of the clerk-treasurer and shall be reasonably available for public inspection.

Section 83-42. Budget adoption.

Before adopting the budget the council shall hold a public hearing thereon after at least ten days' notice published as provided in section 83-87 of this Charter, which notice shall include the proposed budget or a summary thereof. The council may insert new items or may increase or decrease the items of the budget so long as the proposed expenditures do not exceed the anticipated revenues. The budget shall be prepared and adopted in the form of an ordinance before the beginning of the fiscal year. A favorable vote of at least three members of the council shall be necessary for adoption. (Mont. Co. Code 1965, § 59-42.)

Section 83-43. Appropriations. [Amended 10-2-2017 by Res. No. 22-17, eff. 11-21-2017]

No public money may be expended without having been appropriated by the council. From the effective date of the budget the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes named therein. The council may appropriate funds from the reserve provided in the budget from time to time during the fiscal year to meet extraordinary or unanticipated expenditures that may occur. (Mont. Co. Code 1965, § 59-43.)

Section 83-44. Transfer of funds. [Amended 10-2-2017 by Res. No. 23-17, eff. 11-21-2017]

Any transfer of funds between major appropriations for different purposes must be approved by the council as required by State law. (Mont. Co. Code 1965, § 59-44.)

Section 83-45. Over-expenditure forbidden.

No officer or employee shall during any budget year expend or contract to expend any money or incur any liability or enter into any contract which by its term involves the expenditure of money for any purpose, in excess of the amounts appropriated for or transferred to that general classification of expenditure pursuant to this Charter. Any contract, verbal or written, made in violation of this Charter shall be null and void. Nothing in this section contained, however, shall prevent the making of contracts or the spending of money for capital acquisitions or improvements to be financed in whole or in part by the issuance of bonds or bond anticipation notes, nor the making of contracts of lease or for services for a period

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exceeding the budget year in which such contract is made when such contract is permitted by law. (Mont. Co. Code 1965, § 59-45.)

Section 83-46. Lapse of appropriations and treatment of surplus.

All appropriations shall lapse at the end of the budget year to the extent that they shall not have been expended or lawfully encumbered. Any unexpended and unencumbered funds shall be considered a surplus at the end of the budget year and shall be included among the anticipated revenues for the next succeeding budget year. (Mont. Co. Code 1965, § 59-46.)

Section 83-47. Deposit or investment of funds.

All money of the town, except a petty cash fund of such amount as the council by resolution provides, shall be deposited with such banks or other depositories or shall be invested, as the council by resolution determines, in accordance with the laws of the State of Maryland. All checks or other evidences of withdrawal shall be issued and signed or investments be liquidated as the council by resolution provides. (Mont. Co. Code 1965, § 59-47.)

Section 83-48. Taxable property and assessments.

All real property and all tangible personal property (other than personal and household goods, personal office fixtures, and personal automobiles) within the corporate limits of the town shall be subject to taxation for town purposes, and the assessment used, when applicable, shall be the same as that for state and county taxes. No authority is given by this section to impose taxes on any property which is exempt from taxation under the laws of the State of Maryland. (Mont. Co. Code 1965, § 59-48.)

Section 83-49. Budget authorizes levy.

From the effective date of the budget, the amount stated therein as the amount to be raised by the property tax shall constitute a determination of the amount of the tax levy in the corresponding tax year. (Mont. Co. Code 1965, § 59-49.)

Section 83-50. Reserved⁴

Section 83-51. When taxes are overdue.

The taxes provided for in section 83-49 of this Charter shall be due and payable on the first day of July in the year for which they are levied and shall be overdue and in arrears on the first day of the following October. They shall bear interest while in arrears at the rate of one-half of one per centum for each month or fraction of a month until paid. All taxes not paid and in arrears after the first day of the following January shall be collected as provided in section 83-52 of this Charter. (Mont. Co. Code 1965, § 59-51.)

^{4.} Editor's Note: Former Sec. 83-50, Notice of tax levy (Mont. Co. Code 1965, § 59-50), was repealed 10-2-2017 by Res. No. 24-17, eff. 11-21-2017.

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Section 83-52. Sale of tax delinquent property. [Amended 10-2-2017 by Res. No. 25-17, eff. 11-21-2017]

All property on which the town taxes have not been paid and which are in arrears may be sold for taxes in the manner prescribed by State law.⁵ (Mont. Co. Code 1965, § 59-52.)

Section 83-53. Fees.

All fees received by an officer or employee of the town government in his official capacity shall belong to the town government and be accounted for to the town. (Mont. Co. Code 1965, § 59-53.)

Section 83-54. Fines, forfeitures and penalties.

All fines, forfeitures and penalties imposed pursuant to any ordinance, resolution, rule or regulation of the town may be recovered in the corporate name of the town before a trial magistrate, as small debts are recovered, and the money arising therefrom shall be paid to the town for its use. (Mont. Co. Code 1965, § 59-54.)

Section 83-55. Audit. [Amended 10-2-2017 by Res. No. 26-17, eff. 11-21-2017]

The financial books and accounts of the town shall be audited annually by a certified public accountant and reviewed by an auditing committee appointed by the council. Such committee shall render its report to the mayor and council before the end of the calendar year. (Mont. Co. Code 1965, § 59-55.)

Section 83-56. Tax anticipation notes.

The town may at any time pursuant to ordinance borrow funds and issue tax anticipation notes as evidence of such borrowing, by any of the applicable methods and procedures authorized from time to time by the laws of Maryland and subject to the applicable limitations set forth therein; provided, however, that if the ordinance or ordinances authorizing the issuance of said tax anticipation notes shall so specify, said tax anticipation notes may be sold at private sale without advertisement or publication of notice of sale or solicitation of competitive bids. (Mont. Co. Code 1965, § 59-56; Res. R-8-81, 9-8-1981.)

Section 83-57. Bonds.

The town may at any time pursuant to ordinance borrow funds and issue bonds as evidence of such borrowing, by any of the applicable methods and procedures authorized from time to time by the laws of Maryland and subject to the applicable limitations set forth therein; provided, however, that if the ordinance or ordinances authorizing the issuance of said bonds shall so specify, said bonds may be sold at private sale without advertisement or publication of sale or solicitation of competitive bids. (Mont. Co. Code 1965, § 59-57; Res. R-8-81, 9-8-1981.)

^{5.} For state law as to tax sales, see Anno. Code of Md., 1957, Art. 81, § § 70 to 123.

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Section 83-58. Bond anticipation notes.

In anticipation of the issuance of bonds which have theretofore been authorized by ordinance the town may pursuant to resolution borrow funds and issue or re-issue bond anticipation notes as evidence of such borrowing, by any of the methods and procedures authorized from time to time by the laws of Maryland and subject to the applicable limitations set forth therein; provided, however, that if the resolution or resolutions authorizing the issuance of said bond anticipation notes shall so specify, said bond anticipation notes may be sold at private sale without advertisement or publication of notice of sale or solicitation of competitive bids. (Mont. Co. Code 1965, § 59-58; Res. R-8-81, 9-8-1981.)

Section 83-58A. Loans.

The town may at any time pursuant to ordinance borrow funds by commercial private loan on terms and in such amounts determined by the Town Council to be advantageous or desirable to the town and to evidence such borrowing by executing a loan promissory note containing such terms and amounts; provided, however, that any such funds so borrowed by be used only for a public purpose as set forth in Article IV; and further provided that if the ordinance or ordinances authorizing such loan shall so specify, said loan may be consummated without advertisement or publication of notice of such loan or solicitation of competitive bids. (Res. R-3-92, 10-29-1992.)

Section 83-59. Payment of indebtedness.

The power and obligation of the town to pay any and all bonds, notes, or other evidences of indebtedness issued by it under the authority of this Charter or state law shall be unlimited and the town shall levy ad valorem taxes upon all the taxable property of the town for the payment of such bonds, notes, or other evidences of indebtedness and interest thereon, without limitation of amount. The faith and credit of the town is hereby pledged for the payment of the principal of and the interest on all bonds, notes, or other evidences of indebtedness, hereafter issued under the authority of this Charter or state law, whether or not such pledge be stated in the bonds, notes, or other evidences of indebtedness, or in the ordinance or resolution authorizing their issuance. (Mont. Co. Code 1965, § 59-59.)

Section 83-60. Purchasing and contracts. [Amended 10-2-2017 by Res. No. 27-17, eff. 11-21-2017]

All purchases and contracts for the town government shall be made by the town manager under the supervision of the mayor, but purchases or contracts involving more than such amount as the council may by resolution specify, shall require the prior approval of the council. The council may adopt regulations regarding the use of competitive bidding and contracts for town purchases and contracts, including the power to reject any or all bids. The town at any time in its discretion may employ its own forces for the construction or reconstruction of public improvements without advertising for (or readvertising for) or receiving bids. All contracts may be protected by such bonds, penalties, and conditions as the town may require. (Mont. Co. Code 1965, § 59-60.)

SOMERSET CODE ARTICLE VII Personnel

Section 83-61. Town manager. [Amended 10-2-2017 by Res. No. 28-17, eff. 11-21-2017]

There shall be a town manager appointed by the mayor, with the approval of the council, at the last regular council meeting in each fiscal year to serve for the next ensuing fiscal year. The town manager may be removed at any time by the mayor, with the approval of the council, and a successor be appointed by the mayor, with the approval of the council, to serve for the balance of the fiscal year. The compensation of the town manager shall be determined by the council. The town manager shall serve as clerk to the council. The town manager shall attend every meeting of the council and keep a full and accurate record of the proceedings of the council. The town manager shall keep such other records and perform such other duties as may be required by this Charter or the council. (Mont. Co. Code 1965, § 59-61.)

Section 83-62. Town attorney. [Amended 10-2-2017 by Res. No. 29-17, eff. 11-21-2017]

The mayor, with approval of the council, may appoint a town attorney at the last regular council meeting in each fiscal year to serve for the next ensuing fiscal year. The town attorney may be removed at any time by the mayor, with the approval of the council, and a successor be appointed by the mayor, with the approval of the council, to serve for the balance of the fiscal year. The town attorney shall be a member of the bar of the Maryland Court of Appeals. The town attorney shall be the legal advisor of the town and shall perform such duties in this connection as may be required by the council or the mayor. His compensation shall be determined by the council. The mayor, with the approval of the council, shall have the power to employ such legal consultants as he deems necessary from time to time. (Mont. Co. Code 1965, § 59-62.)

Section 83-63. Authority to employ personnel.

The town shall have the power to employ such officers and employees as it deems necessary to execute the powers and duties provided by this Charter or other state law and operate the town government. (Mont. Co. Code 1965, § 59-63.)

Section 83-64. Retirement system.

The town shall have the power to do all things necessary to include its officers and employees, or any of them, within any retirement system or pension system under the terms of which they are admissible, and to pay the employer's share of the cost of any such retirement or pension system out of the general funds of the town. (Mont. Co. Code 1965, § 59-64.)

Section 83-65. Reserved⁶

^{6.} Editor's Note: Former Sec. 83-65, Compensation of employees (Mont. Co. Code 1965, § 59-65), was repealed 10-2-2017 by Res. No. 30-17, eff. 11-21-2017.

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Section 83-66. Employee benefit programs.

The town shall have the power to do all things necessary to provide for or participate in hospitalization or other forms of benefit or welfare programs for its officers and employees, and to expend public moneys of the town for such programs. (Mont. Co. Code 1965, § 59-66.)

ARTICLE VIII Public Ways and Utilities

Section 83-67. Definition of "public ways."

The term "public ways," as used in this Charter, shall include all streets, avenues, roads, highways, public thoroughfares, lanes, alleys, rights-of-way, and sidewalks, and all areas dedicated in connection therewith. (Mont. Co. Code 1965, § 59-67.)

Section 83-68. Control of public ways.

- (a) The town shall have control of all public ways in the town except such as may be under the jurisdiction of the Maryland State Roads Commission. Subject to the laws of the State of Maryland and this Charter, the town may do whatever it deems necessary to establish, operate, maintain in good condition, and regulate the use of the public ways of the town.
- (b) The town may require that a permit be obtained from it and a reasonable deposit to safeguard the town be made before any cuts or openings are made in any street, curb, or sidewalk.

(Mont. Co. Code 1965, § 59-68.)

Section 83-69. Powers of town as to public ways generally.

The town shall have the power:

- (1) To establish, regulate, and change from time to time the grade lines, width, and construction materials of any town public way or part thereof, bridges, curbs, and gutters.
- (2) To grade, lay out, construct, open, extend, and make new town public ways.
- (3) To grade, straighten, widen, alter, improve, or close up any existing town public way or part thereof.
- (4) To pave, surface, repave, or resurface any town public way or part thereof.
- (5) To install, construct, reconstruct, repair, and maintain curbs and gutters along any town public way or part thereof.
- (6) To construct, reconstruct, maintain, and repair bridges.
- (7) To name town public ways.

(8) To have surveys, plans, specifications, and estimates made for any of the above activities or projects or parts thereof.

(Mont. Co. Code 1965, § 59-69.)

Section 83-70. Powers of town as to sidewalks.

The town shall have the power:

- (1) To establish, regulate, and change from time to time the grade lines, width, and construction materials of any sidewalk or part thereof on town property along any public way or part thereof.
- (2) To grade, lay out, construct, reconstruct, pave, repair, extend, or otherwise alter sidewalks on town property along any public way or part thereof.
- (3) To require that the owners of any property abutting on a sidewalk keep the sidewalk clear of all ice, snow, dirt, and other obstructions.
- (4) To require and order the owner of all property abutting on any public way in the town to perform any projects authorized by this section at the owner's expense according to reasonable plans and specifications. If, after due notice, the owner fails to comply with the order within a reasonable time, the town may do the work, and the expense shall be a lien on the property and shall be collectible in the same manner as are town taxes or by suit at law.

(Mont. Co. Code 1965, § 59-70.)

Section 83-71. Powers of town as to storm water drainage system.

The town shall have the power:

- (1) To construct, operate, and maintain a storm water drainage system including storm water sewers.
- (2) To construct, maintain, reconstruct, enlarge, alter, repair, improve, or dispose of all parts, installations, and structures of the above system.
- (3) To have surveys, plans, specifications, and estimates made for any of the above systems or parts thereof or the extension thereof.
- (4) To do all things it deems necessary for the efficient operation and maintenance of the above system.

(Mont. Co. Code 1965, § 59-71.)

Section 83-72. Placing structures in public ways.

Any public agency, public service corporation, company, or individual, before beginning any construction of or placing of or changing the location of any main, conduit, pipe, pole, wires, or other structure in the public ways of the town, shall submit plans to the town and obtain

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written approval upon such conditions and subject to such limitations as may be imposed by the town. Any public service corporation, company, or individual violating the provisions of this section shall be guilty of a misdemeanor. If any unauthorized main, conduit, pipe, pole, wires or other structure interferes with the public ways or sidewalks of the town or with the operation of the water, sewerage, or storm water systems, the town may order it removed. (Mont. Co. Code 1965, § 59-72.)

Section 83-73. Obstructions.

Any public agency, public service corporation, company, or individual having mains, conduits, pipes, poles, wires or other structures, in, on, or over any public way in the town or in the county which impede the establishment, construction, or operation of any public ways or sidewalks of the town or any water, sewer, or storm water drainage system shall, upon reasonable notice, remove or adjust the obstructions at their own expense to the satisfaction of the town. If necessary to carry out the provisions of this section, the town may use its condemnation powers provided in section 83-82 of this Charter. (Mont. Co. Code 1965, § 59-73.)

Section 83-74. Entering on county public ways.

The town may enter upon or do construction in, on, or over any county public way for the purpose of installing or repairing any equipment or doing any other things necessary to establish, operate, and maintain the storm water drainage system provided for in this Charter. Unless required by the county, the town need not obtain any permit or pay any charge for these operations, but it must notify the county of its intent to enter on the public way and must leave the public way in a condition not inferior to that existing before. (Mont. Co. Code 1965, § 59-74.)

Section 83-75. Connections.

When any water main or sanitary sewer is declared ready for operation the town may require all abutting property owners after reasonable notice to connect all fixtures with the water or sewer main. The town may require that, if it considers existing fixtures unsatisfactory, satisfactory ones be installed and may require that all cesspools [cesspools], sink drains, and privies be abandoned, filled, removed or left in such a way as not to injure public health. All wells found to be polluted or a menace to health may be ordered to be abandoned and closed. (Mont. Co. Code 1965, § 59-75.)

Section 83-76. Private systems.

The town may provide that no water supply, sewerage, or storm water drainage system, and no water mains, sewers, drains, or connections therewith, shall be constructed or operated by any person or persons, firm, corporation, institution, or community, whether upon private premises or otherwise, and may provide that cesspools or other private methods of sewage disposal shall be operated and maintained in such a manner that they do not and will not be likely to affect adversely the public comfort and health, and any cesspool or other private method of sewage disposal affecting or likely to affect adversely the public comfort and

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health may be deemed a nuisance and may be abated by the town. (Mont. Co. Code 1965, § 59-76.)

Section 83-77. Extensions beyond boundaries.

The town shall have the power to extend its storm water drainage system beyond the town limits. (Mont. Co. Code 1965, § 59-77.)

Section 83-78. Right of entry.

Any employee or agent of the town, while in the necessary pursuit of his official duties in regard to the storm water drainage system operated by the town, shall have the right of entry, for access to water or sewer installations, at all reasonable hours, and after reasonable advance notice to the owner, tenant, or person in possession, upon any premises and into any building in the town or in the county served by the town's storm water drainage system. Any restraint or hindrance offered to such entry by any owner, tenant, or person in possession, or the agent of any of them, may, by ordinance, be made a misdemeanor. (Mont. Co. Code 1965, § 59-78.)

ARTICLE IX Special Benefit Assessments

Section 83-79. Power.

- (a) The town shall have the power to levy and collect taxes in the form of special benefit assessments upon property in a limited and determinable area for special benefits conferred upon such property by the installation or construction of a storm water drainage system, curbs, and gutters, and by the construction and paving of public ways and sidewalks or parts thereof, and to provide for the payment of all or any part of the above projects out of the proceeds of such special benefit assessments. The cost of any such project may include the direct cost thereof, the cost of any land acquired for the project, the interest on bonds, notes, or other evidences of indebtedness issued in anticipation of the collection of special benefit assessments, a reasonable charge for the services of the administrative staff of the town, and any other item of cost which may reasonably be attributed to the project.
- (b) Special benefit assessments shall be assessed according to the front foot rule of apportionment or some other equitable basis determined by resolution of the council.
- (c) The amount assessed against any property for any project or improvement shall not exceed the value of the benefits accruing to the property therefrom, nor shall any special assessment be levied which shall cause the total amount of special assessments levied by the town and outstanding against any property at any time, exclusive of delinquent installments, to exceed twenty-five per centum of the assessed value of the property after giving effect to the benefit accruing thereto from the project or improvement for which assessed.

- (d) When desirable, the affected property may be divided into different classes to be charged different rates, but, except for this, any rate shall be uniform.
- (e) Special benefit assessments may be made payable in a lump sum or in annual or more frequent installments over such period of time, not to exceed ten years, and in such manner as the council may determine. The council shall determine on what date installments shall be due and payable. Interest may be charged on installments at the rate to be determined by the council.

(Mont. Co. Code 1965, § 59-79.)

Section 83-80. Procedure.

- Before determining to proceed with any project to be paid for in whole or in part by (a) special benefit assessments, the council shall hold a public hearing. The clerk-treasurer shall cause notice to be given stating the nature and extent of the proposed project, the estimated cost of the project, the portion of the cost to be assessed, the number of installments in which the assessment may be paid, the method to be used in apportioning the cost, and the limits of the proposed area of assessment. The notice shall also state the time and place at which all persons interested, or their agents or attorneys, may appear before the council and be heard concerning the proposed project and special assessment. Such notice shall be given by sending a copy thereof by mail to the owner of record of each parcel of property proposed to be assessed and to the person in whose name the property is assessed for taxation and by publication of a copy of the notice at least once as provided in section 83-87 of this Charter. The clerktreasurer shall present at the hearing a certificate of publication and mailing of copies of the notice, which certificate shall be deemed proof of notice, but failure of any owner to receive the mailed copy shall not invalidate the proceedings. The date of hearing shall be set at least ten or not more than thirty days after the clerk-treasurer shall have completed publication and service of notice as provided in this section. Following the hearing the council, in its discretion, may by ordinance authorize the carrying out of the project.
- (b) When the costs of the project are determined the council shall by ordinance levy the special benefit assessments to be paid in connection therewith.
- (c) All special benefit assessments shall be billed and collected by the clerk-treasurer.
- (d) All special benefit assessment installments shall be overdue six months after the date on which they become due and payable. All special benefit assessments shall be liens on the property and all overdue special assessments shall be collected in the same manner as town taxes or by suit at law.

(Mont. Co. Code 1965, § 59-80.)

SOMERSET CODE ARTICLE X Town Property

Section 83-81. Acquisition, possession and disposal.

The town may acquire real, personal, or mixed property, within or without the corporate limits of the town, for any public purpose by purchase, condemnation, gift, bequest, devise, lease, or otherwise; and may sell, lease, or otherwise dispose of any property belonging to the town. All municipal property, funds, and franchises of every kind belonging to or in the possession of the town at the time this Charter becomes effective are vested in the town, subject to the terms and conditions thereof. (Mont. Co. Code 1965, § 59-81.)

Section 83-82. Condemnation.

The town shall have the power to condemn property of any kind, or interest therein or franchise connected therewith, in fee or as an easement, within or without the corporate limits of the town, for any public purpose. Any activity, project, or improvement authorized by the provisions of this Charter or any applicable law of the State of Maryland shall be deemed to be a public purpose. The manner of procedure in case of any condemnation proceeding shall be that described in the Annotated Code of the Public General Laws of Maryland, as in force on the date of adoption of this Charter. (Mont. Co. Code 1965, § 59-82.)

Section 83-83. Town buildings, structures and improvements.

The town shall have the power to acquire, to obtain by lease or rent, to purchase, construct, equip, operate, and maintain all buildings, structures, or improvements it deems necessary for the operation of the town government, or for any other public purpose of the town. (Mont. Co. Code 1965, § 59-83.)

Section 83-84. Protection, administration and operation of town property.

The town shall have the power to do whatever may be necessary to protect town property, to keep all town property in good condition, to administer and operate it for any public purpose of the town, and to make such charges for the use of town property as the council by resolution may determine. (Mont. Co. Code 1965, § 59-84.)

ARTICLE XI General Provisions

Section 83-85. Oath of office. [Amended 10-2-2017 by Res. No. 31-17, eff. 11-21-2017]

(a) Before entering upon the duties of their offices, the mayor, the council members, the town manager, the members of the board of supervisors of elections, and all other persons elected or appointed to any office of profit or trust in the town government shall take and subscribe the following oath or affirmation: "I ______, do swear (or affirm, as the case may be), that I will support the Constitution of the United States; and that I will be faithful and bear true allegiance to the State of

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Maryland, and support the Constitution and laws thereof; and that I will, to the best of my skill and judgment, diligently and faithfully, without partiality or prejudice, execute the office of ______, according to the Constitution and laws of this State."

(b) The mayor shall take and subscribe this oath or affirmation before his predecessor or before the town manager. All other persons taking and subscribing the oath shall do so before the mayor.

(Mont. Co. Code 1965, § 59-85.)

Section 83-86. Official bonds. [Amended 10-2-2017 by Res. No. 32-17, eff. 11-21-2017]

The town manager and such other officers or employees of the town as the council may require, shall give bond in such amount and with such surety as the council by resolution may require. The premiums of such bonds shall be paid by the town. (Mont. Co. Code 1965, § 59-86.)

Section 83-87. Publication and notices. [Amended 10-2-2017 by Res. No. 33-17, eff. 11-21-2017]

Any publication or general notice required by this Charter or by State law shall be given in a manner calculated to provide reasonable notice, in accordance with applicable law. (Mont. Co. Code 1965, § 59-87.)

Section 83-88. Municipal Infractions and Misdemeanors.

- (a) Municipal Infractions. Every act or omission which, by ordinance, resolution, rule, or regulation is made a municipal infraction under the authority of this Charter, unless otherwise provided, shall be subject to such civil liabilities as may be authorized by state law.
- (b) Misdemeanors. Every act or omission which, by ordinance, resolution, rule, or regulation is made a misdemeanor under the authority of this Charter, unless otherwise provided, shall be punishable upon conviction by such penalties as may be authorized by state law, in the discretion of the court. The party aggrieved shall have the right to appeal as is now provided under the general laws of the State of Maryland. Where the act or omission is of a continuing nature and is persisted in, a conviction for one offense shall not be a bar to a conviction for a continuation of the offense subsequent to the first or any succeeding conviction.

(Mont. Co. Code 1965, § 59-88; Res. R-3-80, 6-24-1980; Res. 2-05, 6-22-2005.)

Section 83-89. Prior rights and obligations.

All right, title, and interest held by the town or any other person or corporation at the time this Charter is adopted, in and to any lien acquired under any prior Charter of the town, are hereby preserved for the holder in all respects as if this Charter had not been adopted,

SOMERSET CODE

together with all rights and remedies in relation thereto. This Charter shall not discharge, impair, or release any contract, obligation, duty, liability, or penalty whatever existing at the time this Charter becomes effective. All suits and actions, both civil and criminal, pending, or which may hereafter be instituted for causes of action now existing or offenses already committed against any law or ordinance repealed by this Charter, shall be instituted, proceeded with, and prosecuted to final determination and judgment as if this Charter had not become effective. (Mont. Co. Code 1965, § 59-89.)

Section 83-90. Effect of Charter on corporate status and on existing ordinances, resolutions, rules and regulations.

- (a) Neither the adoption of this Charter nor any provision thereof shall be construed to alter or impair in any respect the continued corporate status and existence of the Town of Somerset as heretofore established.
- (b) All ordinances, resolutions, rules, and regulations in effect in the town at the time this Charter becomes effective which are not in conflict with the provisions of this Charter shall remain in effect until changed or repealed according to the provisions of this Charter.
- (c) All ordinances, resolutions, rules, and regulations in effect in the town at the time this Charter becomes effective which are in conflict with the provisions of this Charter shall be and the same hereby are repealed to the extent of such conflict.

(Mont. Co. Code 1965, § 59-90.)

Section 83-91. Amendments of Charter.

This Charter may be amended at any time by any of the methods and procedures permitted by the laws of the State of Maryland. (Mont. Co. Code 1965, § 59-91.)

Section 83-92. Saving clause.

The enumeration of particular powers in this Charter shall not be held or deemed to be exclusive, and the town shall have such other powers as are incident to those specifically mentioned or as are a necessary consequence of the powers mentioned or as are a necessary consequence of the powers enumerated in this Charter, the town shall have all powers, rights and privileges now or hereafter granted by the Constitution and laws of the State of Maryland. (Mont. Co. Code 1965, § 59-92.)

Section 83-93. Separability.

If any section or part of section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter nor the context in which such section or part of section so held invalid shall appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply. (Mont. Co. Code 1965, § 59-93.)

THE CODE

FINAL DRAFT (Jul 2019)

PART I

ADMINISTRATIVE LEGISLATION

FINAL DRAFT (Jul 2019)

Chapter 1

GENERAL PROVISIONS

ARTICLE III

Violations and Penalties

§ 1-17. Classes of misdemeanor

§ 1-18. Municipal infractions.

violations.

ARTICLE I Adoption of Code

§ 1-1. through § 1-15. (Reserved)

ARTICLE II Definitions; Rules of Interpretation

§ 1-16. Definitions.

[HISTORY: Adopted by the Town Council of the Town of Somerset as indicated. Amendments noted where applicable.]

ARTICLE I

Adoption of Code

[An ordinance to adopt the 2019 Code of the Town of Somerset is currently before the Town Council. Upon adoption, the ordinance will be included as Article I of this chapter.]

§ 1-1. through § 1-15. (Reserved)

ARTICLE II Definitions; Rules of Interpretation

§ 1-16. Definitions.

In the construction of this Code and of all ordinances, the following definitions and rules shall be observed, unless such definitions and rules would be inconsistent with the manifest intent of the Town Council:

CHARTER — The Charter of the Town of Somerset.

COMPUTATION OF TIME — The time within which an act is to be done shall be computed by excluding the first day and including the last day; and if the last day is Sunday or a legal holiday, that day shall be excluded.

COUNTY — Montgomery County, Maryland.

EMPLOYEE — All salaried employees of the Town of Somerset other than public officials.

GENDER — Words importing masculine gender shall include the feminine and neuter.

§ 1-16

JOINT AUTHORITY — All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

KEEPER AND PROPRIETOR — Includes persons, firms, associations, corporations, clubs and copartnerships, whether acting by themselves or through a servant, agent or employee.

MONTH — A calendar month.

NUMBER — Words used in the singular include the plural number; and the plural includes the singular number.

OATH — Shall be construed to include an affirmation or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

OWNER — As applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or a part of such building or land.

PERSON — Includes persons, firms, partnerships, corporations, estates, trusts, associations, and government institutions or agencies.

PROPERTY — Includes real and personal property.

PUBLIC OFFICIAL — The Mayor, members of the Town Council, and any and all other persons appointed to their position by the Mayor with the approval of the Town Council, whether or not compensated.

SIDEWALK — A path or way, paved or unpaved, whether publicly or privately owned, intended for public use by pedestrians.

SIGNATURE OR SUBSCRIPTION — Includes a mark when the person cannot write, his name being written near it and witnessed by a person who writes his own name as witness.

STATE — The State of Maryland.

STREET — Includes any public ways, roads, highways, and avenues within the Town.

TENANT; OCCUPANT — As applied to a building or land, shall include any person who occupies the whole or a part of such building or land, whether alone or with others.

TIME — Words used in the past or present tense include the future as well as the past and present.

TOWN — The Town of Somerset, in the County of Montgomery and State of Maryland, except as otherwise provided.

TOWN ATTORNEY — The attorney retained by the Town to serve as the Town's chief legal advisor. The Mayor shall appoint the Town Attorney with the approval of the Town Council.

TOWN PARK — The property owned by the Town and designated as a Town park under this Code.

[Ord. No. 2-89, eff. 4-24-1989; amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 1, § 1-106, of the 1989 Code)]

ARTICLE III Violations and Penalties¹

§ 1-17. Classes of misdemeanor violations.

Violations of Town laws identified in this Code as Class A, B or C misdemeanors are criminal offenses, and upon conviction thereof before a court of competent jurisdiction shall be punishable by fine or imprisonment, or both, as follows:

- A. Class A misdemeanors. Class A misdemeanors shall be punishable by a fine of not less than \$100 nor more than \$1,000, or imprisonment not exceeding six months, or both such fine and imprisonment.
- B. Class B misdemeanors. Class B misdemeanors shall be punishable by a fine not exceeding \$500, or imprisonment not exceeding 30 days, or both such fine and imprisonment.
- C. Class C misdemeanors. Class C misdemeanors shall be punishable by a fine not exceeding \$100.
- D. Each day a separate offense. Each and every day that a violation continues shall constitute a separate offense.

[Ord. No. 2-89, eff. 4-24-1989 (formerly Ch. 1, § 1-201, of the 1989 Code)]

§ 1-18. Municipal infractions.

- A. Any person, organization, or corporation violating any of the provisions of this Code of Ordinances for the Town of Somerset shall be deemed liable for a municipal infraction or guilty of a misdemeanor.
- B. Unless otherwise specified, violation of any provision or requirements of this Code shall constitute a municipal infraction. Upon citation for a municipal infraction for which a penalty is not assigned elsewhere, the violator, any person, including an owner of property, any authorized or unauthorized agent, any contractor for such owner, and any person performing work on or about the owner's property, who violates a provision of the Code, and any property owner who allows a violation of any provision of the Code on his or her property, shall be subject to a fine of \$100 for a first violation and \$200 for a second violation of the same provision of this Code within a twelve-month period.
- C. Each violation shall constitute a separate infraction. Each day that a violation exists shall constitute a separate violation.

^{1.} Editor's Note: The following sections of the 1989 Code, which were formerly included in this article, were repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I): § 1-203, Municipal Infractions - Default Penalty; § 1-204, Penalties for Repeat Offenses; § 1-205, Issuance of Citation; § 1-206, Payment of Fine; § 1-207, No Formal Hearing by Town; § 1-208, Choice to Contest Citation in Court; § 1-209, Failure to Pay Fine; § 1-210, Prosecution of Municipal Infraction Cases; § 1-211, Court Proceedings and Rights of Defendants; § 1-212, Abatement of Violations; and § 1-213, Issuance of Warning Letters.

§ 1-18

- D. Upon conviction for a misdemeanor, the violator shall be fined or imprisoned or be both fined and imprisoned as specified in the particular provision or article violated. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.
- E. Notwithstanding the above and the declaration of any violation of this Code to be a misdemeanor, the Town may prosecute any violation of any provision of the Code as a municipal infraction, in the Town's discretion, and, except as otherwise specified in the Code, such violations shall be punishable by a fine not to exceed \$100 for a first violation and \$200 for a second violation of the same provision within a twelve-month period.
- F. In addition to any other fine, penalty or remedy, the Town may seek, in a court of competent jurisdiction, to enjoin any violation of any section of this Code of Ordinances and may recover from any violator the costs of such action, including reasonable attorney's fees.
- G. In addition to any other fine, penalty, or remedy, any person or persons violating or failing to comply with any provision of the Code, in whole or in part, shall take such action as may be necessary to remedy a condition which violates the provisions, and if such remedy is not completed within 10 days from the date of notification of violation, or such other period as the Council or Code may specify, the Council may by contract or otherwise remove the violation and the cost thereof shall be paid immediately by such person or persons upon request of the Council. The Town may collect the cost:
 - (1) As a lien against the land on the property tax bill;
 - (2) In an action at law; or
 - (3) In any other way legally available for collection of debts owed to the Town.

[Ord. No. 2-87, eff. 9-30-1987; amended Ord. No. 2-89, eff. 4-24-1989; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 1, Art. II, of the 1989 Code)]

Chapter 5

ADMINISTRATION OF GOVERNMENT

ARTICLE I Town Personnel

§ 5-1. Appointment of personnel.

§ 5-2. Clerk-Treasurer.

- § 5-3. Town Manager.
- § 5-4. Mayor's salary.
- § 5-5. Personnel Policies Manual.

ARTICLE II

Defense and Indemnification of Public Officials and Employees

§ 5-6. Definitions.

- § 5-7. Duty to defend; legal representation.
- § 5-8. Investigation before providing defense in civil cases.
- § 5-9. Reimbursement of legal expenses.
- § 5-10. Employment of special counsel.
- § 5-11. Agreement between Town and public official or employee.
- § 5-12. Sovereign immunity not waived.
- § 5-13. Payment of settlement or judgment.
- § 5-14. Criminal actions.

ARTICLE III Town Hall

§ 5-15. Designation of Town Hall.

§ 5-16. Use regulations.

ARTICLE IV Public Information and Finances

- § 5-17. Availability of records.
- § 5-18. Town Journal.
- § 5-19. Disbursements.
- § 5-20. Five-year fiscal plan.

ARTICLE V Council Procedures

- § 5-21. Rules of procedure.
- § 5-22. Council agenda.
- § 5-23. Open meetings.

ARTICLE VI Ethics

- § 5-24. Conflicts of interest.
- § 5-25. Neutrality of officials with election functions.

[HISTORY: Adopted by the Town Council of the Town of Somerset as indicated. Amendments noted where applicable.]

GENERAL REFERENCES

Definitions and rules of interpretation — See Ch. 1, Art. Committees — See Ch. 13. II.

ARTICLE I

Town Personnel¹

§ 5-1. Appointment of personnel.

The Town may employ, upon appointment by the Mayor and with approval of the Town Council where required by the Town Charter, personnel necessary to provide services to the residents of the Town.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

§ 5-2. Clerk-Treasurer.

There shall be created the Office of Clerk-Treasurer for the Town. The Clerk-Treasurer shall be appointed by the Mayor, with the approval of the Council. The Clerk-Treasurer shall carry out the duties set forth in the Charter.

[Ord. No. 3-88, eff. 4-17-1988 (formerly Ch. 2, § 2-101, of the 1989 Code)]

§ 5-3. Town Manager.²

The Mayor may hire a Town Manager who shall:

- A. Prepare permits and licenses issued by the Town, all of which shall be signed by the Mayor and countersigned by the Clerk-Treasurer.
- B. Whenever requested by the Mayor or three members of the Council, issue in writing a call for the Council to assemble.
- C. Process applications for short-term use of the Town Hall.
- D. Supervise maintenance of the Town Hall and grounds.
- E. Supervise the Town maintenance force.
- F. Perform such other duties as required by the Charter or as the Council or Mayor may prescribe.

[Res. No. R-5-80, eff. 6-2-1980; amended by Ord. No. 3-88, eff. 4-17-1988; Res. No. R-8-98, eff. 7-7-1998; Ord. No. 14-06, eff. 1-10-2007; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 2, § 2-102, of the 1989 Code)]

^{1.} Editor's Note: See also Charter Art. VII, Personnel. The following sections of the 1989 Code, which were formerly included in this article, were repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I): § 2-103, Disbursements; § 2-105, Town Attorney; § 2-106, Additional Personnel.

^{2.} Editor's Note: See also Charter Sec. 83-61, Town manager.

§ 5-4 ADMINISTRATION OF GOVERNMENT § 5-7

§ 5-4. Mayor's salary.³

The Mayor of the Town may be paid a salary in an amount set by ordinance.

[Ord. No. 3-88, eff. 4-17-1988; amended by Ord. No. 1-92, eff. 4-1-1992; Ord. No. 1-98, eff. 4-7-1998; Ord. No. 2-02, eff. 4-1-2002; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 2, § 2-104, of the 1989 Code)]

§ 5-5. Personnel Policies Manual.

The Clerk-Treasurer may maintain a Personnel Policies Manual for the Town employees. Changes to the manual will be approved by the Town Council.

[Res. No. 1-97, eff. 1-7-1997; amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 2, § 2-107, of the 1989 Code)]

ARTICLE II

Defense and Indemnification of Public Officials and Employees

§ 5-6. Definitions.

As used in this article, the following terms shall have the meanings indicated:

ACTUAL MALICE — Ill will or improper motivation, and has the same meaning as in the Maryland Local Government Tort Claims Act (Courts and Judicial Proceedings Article of the Annotated Code of Maryland, § 5-301 et seq.).

EMPLOYEE — Any person who was employed by the Town at the time of the act or omission giving rise to potential liability against that person. Only to the extent required by the Local Government Tort Claims Act or other relevant state law, "employee" includes a volunteer who was providing services or performing duties at the request of a Town official, and under the control and direction of the official.

[Ord. No. 3-88, eff. 4-17-1988; amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 2, § 2-201, of the 1989 Code)]

§ 5-7. Duty to defend; legal representation.

A. Duty to defend. Subject to the provisions of Subsection C of this section, the Town Attorney, when requested in writing by any public official or employee, shall appear and defend any civil action or special proceeding instituted in the courts of any state or of the United States against any public official or employee by reason of any act arising within the scope of his employment or authority, or by reason of any act taken in the reasonable belief that such action was within the scope of his employment or authority. The defense may be rendered by the Town Attorney or by special counsel retained by the Town Attorney. The defense of the case shall include the right to assert

^{3.} Editor's Note: See also Charter Art. III, The Mayor.

§ 5-7

counterclaims and to engage in third-party practice on behalf of the official or employee.

- B. Exceptions. Notwithstanding the provisions of Subsection A hereof, the Town Attorney may decline to represent a public official or employee who retains private counsel, and shall not provide a defense for any official or employee for negligence or any other tort arising from the operation of a motor vehicle as to any claim for damages which is within the limits of any applicable policy of motor vehicle liability insurance.
- C. Right to counsel of choice. Nothing in this section shall be construed to deprive any public official or employee of the right to select counsel of his own choice at his own expense, nor does this section prevent the Town Attorney from entering his appearance in a case to protect the interests of the Town of Somerset even though no request for such appearance has been forthcoming from the public official or employee named as a defendant.
- D. Waiver. Notwithstanding the provisions of Subsections A and B hereof, the Town Attorney may temporarily waive the requirement that a written request be made for representation in those instances where a timely response to the action cannot be made before a written request for representation can be made.

[Ord. No. 3-88, eff. 4-17-1988 (formerly Ch. 2, § 2-202, of the 1989 Code)]

§ 5-8. Investigation before providing defense in civil cases.

The Town Attorney, before undertaking any defense, shall conduct an investigation of the facts on which the civil action or special proceeding is based, and report his findings and recommendations to the Town Council. If the Council determines that the public official or employee was not acting within the scope of his employment, or did not reasonably believe he was acting within the scope of his employment, the Town Attorney shall provide no defense for the public official or employee. The investigation herein required may be accomplished by the Town Attorney or by any other attorney or person when directed to do so by the Town Attorney. If it appears that the public official or employee is covered by a policy of insurance under the terms of which the carrier is required to provide counsel in such actions or special proceedings, the Council may direct the Town Attorney to terminate further investigation and provide no representation for the public official or employee.

[Ord. No. 3-88, eff. 4-17-1988; amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 2, § 2-203, of the 1989 Code)]

§ 5-9. Reimbursement of legal expenses.

If the Town Council determines, pursuant to § 5-8, not to assume the defense of a public official or employee, and it is judicially determined that the injuries arose out of an act or omission of the public official within the scope of his employment, or that the defense of sovereign immunity is available to the public official or employee, the Town of Somerset shall be liable to the public official or employee for reasonable expenses in prosecuting his own defense, including court costs and reasonable attorney's fees.

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§ 5-9 ADMINISTRATION OF GOVERNMENT

[Ord. No. 3-88, eff. 4-17-1988 (formerly Ch. 2, § 2-204, of the 1989 Code)]

§ 5-10. Employment of special counsel.

If the Town Attorney advises the Council that it is impractical or uneconomical for him to render such legal services, the Town Council may employ special counsel, whose compensation shall be recommended by the Town Attorney and approved by the Town Council. The compensation for special counsel shall be paid by the Town of Somerset.

[Ord. No. 3-88, eff. 4-17-1988 (formerly Ch. 2, § 2-205, of the 1989 Code)]

§ 5-11. Agreement between Town and public official or employee.

Prior to the defense of any public official or employee, such public official or employee shall enter into an agreement which provides:

- A. Reimbursement. That the Town Council, if it determines it appropriate, may require the public official or employee to reimburse the Town for all expenses, including court costs and reasonable attorney's fees, if it is judicially determined that (1) the employee acted with actual malice in committing the act or omission complained of, or (2) the injuries complained of did not arise out of an act or omission of the public official or employee occurring within the scope of his employment or authority, or by reason of an act taken in the reasonable belief that such act was within the scope of his employment or authority, and the defense of sovereign immunity as to the public official or employee is not available; but such reimbursement shall not be required if the information provided to the Town Attorney by the public official or employee was complete and was neither false nor misleading. These costs constitute a debt due the Town of Somerset and may be collected by appropriate judicial proceedings.
- B. Town not liable for judgment. If a judgment shall be rendered against the public official or employee, the Town shall not be responsible to pay the judgment, and the legal representation of the Town Attorney or special counsel of a public official or employee in no manner constitutes an obligation on the part of the Town of Somerset to pay the judgment or a settlement of a claim, except as provided for in § 5-13 of this article.
- C. No settlement without consent. That the Town Attorney shall not compromise or settle any claim without written consent of the public official or employee. If the public official or employee does not consent to the compromise or settlement, the Town Attorney may withdraw from the representation subject to the appropriate rules of court. In that event, the Town of Somerset is not responsible for any further costs whatsoever.

[Ord. No. 3-88, eff. 4-17-1988; amended by Ord. No. 12-20-88, eff. 12-22-1988 (formerly Ch. 2, § 2-206, of the 1989 Code)]

§ 5-12. Sovereign immunity not waived.

The consent of the Town Attorney to defend actions or proceedings against public officials and employees may not be construed to deprive the Town of Somerset or any of its agencies, boards, commissions, departments, officers or employees of sovereign immunity.

[Ord. No. 3-88, eff. 4-17-1988 (formerly Ch. 2, § 2-207, of the 1989 Code)]

§ 5-13. Payment of settlement or judgment.

In the event that a court or jury returns a special verdict in the form of a written finding determining that the public official or employee was acting within the scope of his employment, then the Town shall be required to pay (1) any judgment rendered by a court of competent jurisdiction against a public official or employee, including court costs and reasonable attorney's fees, or (2) the amount of any settlement on any claim for which the Town Attorney has undertaken a defense. The payment of any settlement or judgment shall not be construed to abrogate the sovereign immunity of the Town or deprive any agency, board, commission, department, officer, or employee thereof of its sovereign immunity. Nothing in this section is intended to waive the rights of the Town under state law to assert sovereign immunity for judgments or settlements exceeding the maximum amounts for which a municipality may be held liable or be required to pay under state law, or the right of the Town to seek indemnification from a public official or employee who has acted with actual malice in committing the act or omission complained of.

[Ord. No. 3-88, eff. 4-17-1988 (formerly Ch. 2, § 2-208, of the 1989 Code)]

§ 5-14. Criminal actions.

A. When representation permitted.

- (1) Town employees. Neither the Town Attorney nor any other counsel retained by the Town may represent a Town employee in any investigation of him by a criminal law enforcement agency, or in any criminal action against him in a court of any state or of the United States.
- (2) Public officials. The Town Attorney or special counsel retained by the Town Council may represent a public official in an investigation of him by a criminal law enforcement agency, or in a criminal action against him in a court of any state or of the United States, only if:
 - (a) The Town Attorney or another person acting at his direction has investigated the facts on which the action is based, and reported his findings and recommendations to the Town Council;
 - (b) The Town Council determines that the public official was acting within the scope of his official duties; and
 - (c) The Town Council, in its discretion, determines that it is in the best interests of the Town to provide legal representation for the official, giving due consideration to the reasons for the official's actions, whether or not it

§ 5-14 ADMINISTRATION OF GOVERNMENT § 5-16

appears that he acted in good faith, the need to encourage individuals to hold public office, and other relevant factors.

- B. When reimbursement of expenses allowed. Subject to the limitations in Subsection C below, the Town Council may reimburse a public official or employee for reasonable counsel fees incurred by him:
 - (1) In connection with a criminal investigation into conduct as an official or employee if the investigation has concluded and criminal charges have not been filed against him; or
 - (2) In defending against criminal charges related to conduct as an officer or employee if final disposition of all the charges does not result in a plea of nolo contendere, a guilty plea, or a finding of guilt.
- C. Reimbursement; determination by Council. The Town Council may not reimburse a public official or employee for expenses incurred in connection with a criminal investigation or defense unless:
 - (1) The official or employee submits a written application for reimbursement; and
 - (2) The Council determines:
 - (a) In connection with a matter under criminal investigation, the official or employee discharged his public responsibilities in good faith, did not engage in unlawful conduct, and was reasonable in retaining counsel and in incurring the counsel fees for which he requests reimbursement; or
 - (b) In connection with a matter which was the subject of criminal charges, the official or employee discharged his public responsibilities in good faith and incurred reasonable counsel fees.

[Ord. No. 3-88, eff. 4-17-1988 (formerly Ch. 2, § 2-209, of the 1989 Code)]

ARTICLE III

Town Hall

§ 5-15. Designation of Town Hall.

The structure located at 4510 Cumberland Avenue, Town of Somerset, shall be designated as the Somerset Town Hall. The grounds and parking area immediately adjacent to this structure are included as a part of the Town Hall.

[Ord. No. 3-88, eff. 4-17-1988 (formerly Ch. 2, § 2-301, of the 1989 Code)]

§ 5-16. Use regulations.

A. Council to adopt rules. The Council shall adopt rules and regulations governing the use(s) of the Town Hall.

§ 5-16

- B. Rental fees. The Council shall, by resolution, establish rental fees for the use of the Town Hall meeting room.
- C. Residence requirement. Only residents, or nonresidents sponsored by a Town resident, may rent the Town Hall.⁴

[Ord. No. 3-88, eff. 4-17-1988; amended by Ord. No. 1-01, eff. 2-8-2001; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 2, § 2-302, of the 1989 Code)]

ARTICLE IV

Public Information and Finances⁵

§ 5-17. Availability of records.

The Clerk-Treasurer shall furnish copies of the minutes of Council meetings and of other Town records to the public for inspection and copying as provided by state law.

[Ord. No. 3-88, eff. 4-17-1988; amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 2, § 2-401, of the 1989 Code)]

§ 5-18. Town Journal.

The Mayor, with the assistance of such Town employees as he considers appropriate, shall publish and distribute a Town Journal containing news of official Town business, announcements of activities of groups or entities whose activities involve or affect Somerset, and other brief announcements of matters of general or charitable interest to residents of the Town.

[Ord. No. 3-88, eff. 4-17-1988; amended by Ord. No. 1-07, eff. 3-14-2007; Ord. No. 4-12, eff. 4-26-2012; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 2, § 2-402, of the 1989 Code)]

§ 5-19. Disbursements.

All checks, drafts, notes or orders drawn against the accounts of the Town must be signed by any two of the following: the Mayor, the Vice President of the Council, one designated Councilmember, and the Clerk-Treasurer. Their signatures shall be duly certified to the appropriate depositories. No checks, drafts, notes, or orders drawn against said depositories shall be valid unless signed in this manner.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

^{4.} Editor's Note: Original § 2-303 of the 1989 Code, Town Hall Committee, which immediately followed this section, was repealed by Ord. No. 4-95, eff. 10-25-1995.

^{5.} Editor's Note: The following sections of the 1989 Code, which were formerly included in this article, were repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I): § 2-403, Budget and Tax Rate; § 2-405, Check Signing and Review; § 2-406, Investment Policy; § 2-407, Audit Committee; § 2-408, Town Ordinances and Resolutions; § 2-409, Reimbursement of Expenses.

§ 5-20 ADMINISTRATION OF GOVERNMENT

§ 5-20. Five-year fiscal plan.

When the Mayor delivers the budget, the Mayor shall also submit a five-year fiscal plan reflecting an analysis of the sources and uses of available funds. The Council shall have the opportunity to make recommendations on the five-year plan, and it shall be subject to public hearing, but the Council need not take formal action on the plan. The plan shall be a public record reasonably available for public inspection, and shall be given due and proper consideration in developing annual budgets.

[Ord. No. 3-88, eff. 4-17-1988 (formerly Ch. 2, § 2-404, of the 1989 Code)]

ARTICLE V

Council Procedures

§ 5-21. Rules of procedure.

- A. Robert's Rules of Order. The rules of parliamentary practice and procedure as set forth in the latest published edition of Robert's Rules of Order shall govern the Mayor and Council in all matters not otherwise provided for by the Town Charter or law.
- B. Procedural rules do not affect validity of Council actions. No action of the Mayor and Council otherwise validly adopted shall be held invalid for failure to comply with a rule of procedure.

[Ord. No. 3-88, eff. 4-17-1988; amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 2, § 2-501, of the 1989 Code)]

§ 5-22. Council agenda.

The agenda for the meetings of the Mayor and the Council shall be formulated by the Mayor, with the assistance of the Clerk-Treasurer; provided, however, that no item shall be placed on the agenda by the Mayor without the approval of the Vice President of the Council or, if the Vice President is not reasonably available, with the approval of the next most senior member of the Council. The Clerk-Treasurer shall circulate the agenda to all members of the Council. Any agenda item proposed in a timely manner by two Councilmembers shall be included in the agenda.

[Ord. No. 3-88, eff. 4-17-1988; amended by Ord. No. 9-91, eff. 12-10-1991; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 2, § 2-502, of the 1989 Code)]

§ 5-23. Open meetings.

- A. Public attendance. The general public is invited to attend any open session of the Town Council and participate in discussions when recognized by the Mayor.
- B. Recording, photographing, broadcasting, televising.

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- (1) The public, including members of the news media, may photograph, videotape, broadcast or televise the proceedings of the Town Council at an open session if the camera or other equipment:
 - (a) Is operated without excessively bright light that disturbs the Mayor, Councilmembers or others attending the session; and
 - (b) Does not create excessive noise that disturbs the Mayor, Councilmembers or others in attendance.
- (2) The Mayor may restrict the movement of a person who is using a recording device, camera, or broadcasting or televising equipment if necessary to maintain the orderly conduct of the session. A recording of an open session made by a member of the public, or any transcript derived from such a recording, may not be deemed a part of the record of the proceeding.

[Res. 9-14-1977; amended by Ord. No. 11-92, eff. 10-26-1992 (formerly Ch. 2, § 2-503, of the 1989 Code)]

ARTICLE VI

Ethics

§ 5-24. Conflicts of interest.

The Mayor, the Clerk-Treasurer, and each member of the Town Council, upon taking office, shall subscribe to the following prior to each term of office:

"To the best of my knowledge and belief, neither I, my spouse, nor immediate relatives have had or do have, except as stated below, any personal, professional, or business relationships with anyone, individual or corporate, which could place in jeopardy my representation of the rights of the Town of Somerset and its citizens, and I make it of record that in the event any such relationship should develop in the future, I will immediately bring such matters to the attention of the Council of the Town of Somerset at an open meeting."

[Ord. No. 3-88, eff. 4-17-1988 (formerly Ch. 2, § 2-601, of the 1989 Code)]

§ 5-25. Neutrality of officials with election functions.⁶

All appointed officials of the Town with election functions specified in the Town's Charter shall, at all times, remain neutral during the actual performance of such functions.

[Ord. No. 3-88, eff. 4-17-1988 (formerly Ch. 2, § 2-602, of the 1989 Code)]

^{6.} Editor's Note: See also Charter Art. V, Registration, Nomination and Elections.

Chapter 13

COMMITTEES

§ 13-1. Establishment.	§ 13-4. Chairpersons.
§ 13-2. Members.	§ 13-5. Council liaisons.
§ 13-3. Terms of office; vacancies.	§ 13-6. Representation.

[HISTORY: Adopted by the Town Council of the Town of Somerset as indicated. Amendments noted where applicable.]

GENERAL REFERENCES

Administration of government — See Ch. 5.

§ 13-1. Establishment.

The Mayor may establish such committees as he deems necessary from time to time.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

§ 13-2. Members.

Each committee shall consist of a minimum of three volunteer members and a maximum of nine volunteer members. The Mayor shall set an odd number of members for each committee, and shall nominate the members for each committee. The Town Council shall review and approve the nominations for each committee.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

§ 13-3. Terms of office; vacancies.

Unless otherwise specified in the committee charter, committee terms shall begin on January 1 and shall run for three calendar years. The Mayor may propose a substitute member to fill a vacancy for the remainder of the three-year period of a term, subject to the approval of the appointment by the Town Council. There are no limits on the number of terms that may be served on a Town committee.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

§ 13-4. Chairpersons.

The Mayor shall nominate a chairperson for each committee, subject to the approval of the appointment by the Town Council. Terms for chairpersons shall begin on January 1 and shall

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run for one calendar year. There are no limits on the number of times that an individual may be nominated and appointed as chairperson of a Town committee.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

§ 13-5. Council liaisons.

Each committee shall have one Councilmember liaison and one Councilmember alternate. Liaisons are not voting members of the committees.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

§ 13-6. Representation.

The Mayor shall make every effort to nominate committee slates that balance considerations of geographic, gender, and age diversity.

[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

PART II

GENERAL LEGISLATION

FINAL DRAFT (Jul 2019)

Chapter 105

ANIMALS

§ 105-1. Adoption of County Code;	§ 105-2. Enforcement by Town.
exceptions.	§ 105-3. Violations and penalties.

[HISTORY: Adopted by the Town Council of the Town of Somerset as indicated. Amendments noted where applicable.]

GENERAL REFERENCES

Parks and recreation — See Ch. 149.

§ 105-1. Adoption of County Code; exceptions.

For purposes of establishing rules and regulations dealing with animal control, the Town adopts the provisions of Chapter 5 of the Montgomery County Code, except that a dog shall be deemed "at large" if it is either:

- A. Off the premises of its owner and not leashed; or
- B. Off the premises of its owner and leashed, but not under the immediate control of a responsible person capable of physically restraining it.

[Ord. No. 3-86, effective 6-2-1986 (formerly Ch. 11, § 11-201, of the 1989 Code)]

§ 105-2. Enforcement by Town.

Montgomery County Code Section 5-26, prohibiting an owner from permitting a dog to run at large, shall be enforced by the Mayor of the Town of Somerset or his or her designated agent, in addition to enforcement by Montgomery County.

[Ord. No. 3-86, effective 6-2-1986 (formerly Ch. 11, § 11-202, of the 1989 Code)]

§ 105-3. Violations and penalties.

Violation of any provision in this chapter is a municipal infraction punishable by a fine of \$50 for a first offense and by a fine of \$100 for each repeat offense.

[Ord. No. 3-86, effective 6-2-1986; amended by Ord. No. 2-89, eff. 4-24-1989 (formerly Ch. 11, § 11-203, of the 1989 Code)]

FINAL DRAFT (Jul 2019)

Chapter 112

BUILDING CONSTRUCTION

Part 1 Building Code

ARTICLE I **Purpose and Definitions**

- § 112-1. Purpose.
- § 112-2. Definitions.

ARTICLE II Town Building Permits

§ 112-3. Circumstances requiring building permits; exceptions.

- § 112-4. Inapplicability of Montgomery County Code Section 8-24B(e).
- § 112-5. Application form.
- § 112-6. Documents to accompany application.
- § 112-7. Permit conditions.
- § 112-8. Action on permit.
- § 112-9. Criteria for permit decisions.
- § 112-10. Hearing and decision on application; judicial review.
- § 112-11. Modification of approved plans.
- § 112-12. Fees.
- § 112-13. Deposit for repairs.
- § 112-14. Increased setbacks for certain new construction.

ARTICLE III

Requirements During Construction

- § 112-15. New structures and additions.
- § 112-16. Noise control.
- § 112-17. Traffic control.

ARTICLE IV Subdivisions

§ 112-18. Subdivision of land.

ARTICLE V Penalties

§ 112-19. Violations and penalties.

ARTICLE VI Administration

- § 112-20. Previous approvals.
- § 112-21. Applicability to Town.

Part 2 Property Restriction Signs

ARTICLE VII Designation and Regulations

§ 112-22. Definitions.

§ 112-23. Size and posting regulations.

Part 3 Fences and Walls

ARTICLE VIII

Regulation and Permitting of Certain Fences and Walls

- § 112-24. Purpose.
- § 112-25. Definitions.
- § 112-26. Permit required; exemptions.
- § 112-27. Applicable provisions of Montgomery County Code.
- § 112-28. Construction materials.
- § 112-29. Location of finished side.
- § 112-30. Fences on interior lots.

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§ 112-1	SOMERSET CODE § 112-1
§ 112-31. Fences on corner lots.	§ 112-42. Required findings; location
§ 112-32. Walls.	restrictions.
§ 112-33. Permit application for	
§ 112-34. Mayor's request for additional information.	ditional § 112-44. Permit conditions.
	§ 112-45. Duration of permit.
§ 112-35. Decision on permit.	
§ 112-36. Criteria for decision.	Part 5
§ 112-37. Exceptions granted by	Portable Storage Units
Council.	
§ 112-38. Permit conditions; app	ARTICLE X
§ 112-39. Nonconforming fences	Permit Requirements and Restrictions
walls.	§ 112-46. Definitions.
	§ 112-47. Permit required.
Part 4	-
Dumpsters	§ 112-48. Required findings; location restrictions.
ARTICLE IX	§ 112-49. Fee and deposit.
Permit Requirements and Restr	ctions § 112-50. Permit conditions.
	§ 112-51. Duration of permit.
§ 112-40. Definitions.	§ 112-52. Extension of permit.
§ 112-41. Permit required.	5 F

[HISTORY: Adopted by the Town Council of the Town of Somerset as indicated. Amendments noted where applicable.]

GENERAL REFERENCES

County legislation — See Ch. 123. Property maintenance — See Ch. 155. Trees — See Ch. 182. Utility line construction — See Ch. 189.

Part 1 Building Code

ARTICLE I Purpose and Definitions

§ 112-1. Purpose.

It is the purpose of this Part 1 to ensure public safety, health and welfare insofar as they are affected by building construction; to ensure the safety to life and property from all hazards incident to the design, erection, repair, removal, and demolition of buildings, and to ensure compliance with all applicable Town, county, state and federal laws.

[Ord. No. 1-88, eff. 6-29-1988 (formerly Ch. 6, § 6-101, of the 1989 Code)]

§ 112-2. Definitions.

As used in this Part 1, the words set forth below shall be defined as follows:

ADJOINING AND CONFRONTING PROPERTY — Land in the Town of Somerset which touches the boundary line of other property at least at one point, which may be a corner, or which would do so except for an intervening road, street, or right-of-way.

BUILDING — Includes any permanent structure, whether a primary or accessory structure, having one or more stories and a roof, designed primarily for the shelter, support or enclosure of persons or property of any kind, and including any additions, such as decks or balconies, and modifications thereto. "Building" includes any permanent storage structure, such as a toolshed. "Building" also includes any excavation for such structures.

ESTABLISHED BUILDING LINE — A front yard building restriction line, which is greater than the twenty-five-foot minimum required setback. The established building line shall be the average setback of all main buildings that meet the following criteria:

- A. Are within 300 feet of any side lot line of the lot in question (excluding corner lots);
- B. Are along the same side of the street;
- C. Are between intersecting streets or to the point where public thoroughfare is denied;
- D. Exist at the time the building application request is filed;
- E. Are set back at least 25 feet from the front lot line;
- F. Were constructed pursuant to a valid building permit;
- G. Were not constructed pursuant to a variance;
- H. Are not located on a pipe-stem or flag-shaped lot;
- I. Are not buildings on the subject lot; and
- J. Are on properties that are at least 50 feet wide at the twenty-five-foot minimum front setback.

PERSON — Includes persons, firms, partnerships, corporations, estates, trusts, associations, and government institutions or agencies.

[Ord. No. 1-88, eff. 6-29-1988; amended by Ord. No. 8-92, eff. 8-24-1992; Ord. No. 1-95, eff. 7-27-1995; Ord. No. 2-97, eff. 12-10-1997; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 6, § 6-102, of the 1989 Code)]

ARTICLE II

Town Building Permits

§ 112-3. Circumstances requiring building permits; exceptions.

A. Except as set forth herein, no building, air conditioner, heat pump or generator located within the Town of Somerset shall be commenced, installed, constructed, extended,

repaired, removed or altered, nor shall excavation for a building be commenced, without first obtaining a building permit from the Town of Somerset.

- B. No building permit from the Town of Somerset is required for:
 - (1) Ordinary repairs as defined in Montgomery County Code Section 8-3, as amended; or
 - (2) Repairs or changes that do not alter the exterior dimensions of the building.

[Ord. No. 1-88, eff. 6-29-1988; amended by Ord. No. 11-07, eff. 10-11-2007; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 6, § 6-301, of the 1989 Code)]

§ 112-4. Inapplicability of Montgomery County Code Section 8-24B(e).¹

Section 8-24B(e) of the Montgomery County Code shall not apply within the Town of Somerset. That section would otherwise require applicants for building permits from Montgomery County to obtain a building permit from the Town of Somerset prior to applying for a building permit from Montgomery County, Maryland, when the property for which the building permit is sought is located within the Town of Somerset.

[Ord. No. 1-88, eff. 6-29-1988 (formerly Ch. 6, § 6-302, of the 1989 Code)]

§ 112-5. Application form.

- A. Duty of Mayor to prepare application form. The Mayor shall prepare a building permit application form. The form shall state conspicuously that a permit can be granted solely by the Town Council after a public hearing at which the applicant and any other interested persons may be heard.
- B. Completed application required. No building permit shall be issued in the absence of a completed application for a Town building permit.
- C. County permit required. No building permit shall be issued in the absence of a valid building permit issued by Montgomery County for the identical work which is the subject of the Town permit.
- D. Signing of application. The building permit application shall be signed by all of the owners of record, and/or their authorized agents, of the site upon which the proposed work is to take place. If the application is made by a person other than the owner of the site, it shall be accompanied by written statement of the owner that the proposed work is authorized by the owner and that the applicant is authorized to make such application.
- E. Required information. The building permit application shall be submitted to the Clerk-Treasurer and shall contain the following minimum information, in addition to other information requested:

^{1.} Editor's Note: See Montgomery County Code Sec. 8-24B, Permits for property within homeowners' associations, municipal corporations, or special taxing districts.

- (1) Legal information.
 - (a) The street address, legal description (lot number) and the date of subdivision plat recordation of the lot upon which the proposed work is to be performed;
 - (b) The full name and address or addresses of each owner;
 - (c) The names and addresses of all owners of record of adjoining and confronting property as shown in the records of the Town maintained by the Clerk-Treasurer at the time of submission of the application, and of the occupants of said property if the owners of record are not the occupants;
 - (d) A description and the location of any easements located on the lot upon which the proposed work is to be performed;
 - (e) A building survey with a margin of error of +/- one foot, showing the existing structures and proposed structures, and any and all projections therefrom, including porches, decks, stoops, steps, bay windows and the like, and distances from the same to the lot lines.
 - (f) A description of the established building line for the lot, as defined herein.
- (2) Project description.
 - (a) A brief description of the work to be performed for which a building permit is requested;
 - (b) The cost of the proposed work, as set forth on the Montgomery County building permit for this project;
 - (c) The date on which the applicant anticipates the proposed work will commence and will be completed;
 - (d) Name and phone number of contractor and Maryland Home Improvement Commission license number, or, for new homes, Montgomery County Office of Consumer Protection license number, unless the homeowner is serving as the general contractor;
 - (e) The location and size of all facilities which conduct or discharge stormwater, including downspouts and pipes, to be located, constructed or altered pursuant to the project for which the building permit is sought, and a description, in written or diagram form, indicating the direction and approximate course on the applicant's lot of the stormwater from such facility and for a new building on a recorded lot smaller than 15,000 square feet, or for any addition to a residential building that would increase the building lot coverage by more than 400 square feet, a plan providing for the safe conveyance or control of increased water runoff as required by Section 8-29B of the Montgomery County Code (2009);
 - (f) The location of the silt fences and super silt fences;
 - (g) For new houses and additions of a second or third story, the height of the house according to the Montgomery County Zoning Ordinance;

- (h) For new houses and accessory buildings and additions to houses and/or accessory buildings that cover more of the lot, the percent coverage of the lot according to the Montgomery County Zoning Ordinance;
- (i) For additions or alterations to existing houses and new or altered accessory buildings, a photograph of the front of the house;
- (j) A tree plan showing:
 - [1] The location of all living trees on the lot on the abutting Town rightof-way and on adjoining and confronting property if the tree drip line overhangs the subject property, provided the trees are four inches or more in diameter measured 4 1/2 feet from the ground;
 - [2] The species, trunk diameter 4 1/2 feet from the ground and drip line of each of the above trees; and
 - [3] The location of temporary fences that will be installed to protect the trees;
- (k) Such further information which the Mayor or Town Council deems necessary for review of the building permit application.
- F. When filed. In order to permit sufficient time for the Town Council to consider the application, and to provide notice in the Town Journal, the complete permit application shall be filed by the 15th of the month prior to the month during which the permit is to be considered, except if a late or expedited procedure is requested as set forth in § 112-8 below.

[Ord. No. 1-88, eff. 6-29-1988; amended by Ord. No. 4-92, eff. 5-25-1992; Ord. No. 1-95, eff. 7-27-1995; Ord. No. 4-00, eff. 9-13-2000; Ord. No. 2-01, eff. 3-14-2001; Ord. No. 3-01, eff. 6-13-2001; Ord. No. 6-03, eff. 8-13-2003; Ord. No. 10-04, eff. 1-12-2005; Ord. No. 12-07, eff. 11-7-2007; Ord. No. 2-08, eff. 6-11-2008; Ord. No. 1-09; eff. 2-11-2009; Ord. No. 5-09, eff. 11-3-2009; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 6, § 6-303, of the 1989 Code)]

§ 112-6. Documents to accompany application.

An applicant for a Town of Somerset building permit shall submit the following materials with the permit application in addition to any other materials that may be requested by the Mayor; the application and all accompanying documents shall be available for public inspection at the Town Hall:

- A. A copy of the Montgomery County building permit granted by Montgomery County for the identical work for which the applicant seeks a permit from the Town of Somerset.
- B. A copy of the application for a building permit as submitted to Montgomery County for the identical work for which the applicant seeks a permit from the Town of Somerset, along with all site plans and architectural drawings submitted in connection with that application. For proposed work costing \$25,000 or more, the following are required: two full-size sets; eight additional full-size site plans; and eight sets, either 8 1/2 inches by 14 inches or 8 1/2 inches x 11 inches. The site plan must include:

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- (1) New and replacement locations for air conditioners, heat pumps and generators;
- (2) Removal of trees with a diameter of four inches or more, as measured 4 1/2 feet above the ground (See requirements in Chapter 182, Trees, § 182-6.);
- (3) New curb cuts (See requirements in Chapter 170, Streets and Sidewalks, § 170-2B.);
- (4) New fences and walls (see requirements in § 112-33 of this chapter);
- (5) Estimated location of exterior side, front and rear perimeters of existing buildings on directly adjoining properties.
- C. A parking plan, whenever it is likely that more than three vehicles of persons involved in construction sought to be authorized by a Town building permit (other than the owner of the property which is the subject of the permit) will be parked within the Town at any one time. Such plan shall identify the location of the parking areas to be used by such vehicles. Compliance with a parking plan approved by the Town Council shall be a condition of the issuance of the building permit and a violation of the parking plan may be grounds for revocation of such permit. The parking plan shall provide that:
 - (1) To the maximum extent feasible, parking shall be located on the property which is the subject of the Town building permit;
 - (2) To the maximum extent feasible, if additional parking is needed, parking shall be located on more than one street in the immediate area of the property which is the subject of the Town building permit; and
 - (3) To the extent feasible, parking more than three vehicles in the same area of a Town street shall not be permitted.
- D. A plan showing the location and screening of portable toilets or a statement that there will be none.
- E. A building permit fee, as set forth in § 112-12 below.
- F. A deposit or bond for repairs, as set forth in § 112-13 below.
- G. A certification by the applicant that, before submitting the application to the Clerk-Treasurer, he provided to each owner of adjoining and confronting property and to the occupants of said property if the owners are not the occupants:
 - (1) A reasonable opportunity to inspect the construction specifications, plans, surveys and all other documents to be filed with the application explaining the nature of the work to be performed;
 - (2) A copy of the standard notice to be provided by the Town on request of the applicant as to the Town's process for considering the application and resident comments concerning it, together with the anticipated date of hearing on the application before the Town Council.
- H. The certification required by Subsection G shall include an explanation of the steps taken to comply with the requirements of this section and shall identify those persons who have been contacted.

- I. If an expedited procedure is requested, a written request for expedition, and reasons therefor, and the applicable fee.
- J. If a late filing procedure is requested, the applicable fee.
- K. For new construction, a copy of the pest control letter required by Montgomery County.

[Ord. No. 1-88, eff. 6-29-1988; amended by Ord. No. 5-91, eff. 6-24-1991; Ord. No. 6-93, eff. 8-23-1993; Res. No. 2-98, eff. 3-3-1998; Ord. No. 4-03, eff. 5-14-2003; Ord. No. 6-03, eff. 8-13-2003; Ord. No. 7-04, eff. 11-10-2004; Ord. No. 9-04, eff. 12-8-2004; Ord. No. 7-06, eff. 8-11-2006; Ord. No. 12-06, eff. 12-13-2006; Ord. No. 4-08; eff. 11-12-2008; Ord. No. 1-09, eff. 2-11-2009; Ord. No. 3-10, eff. 7-13-2010; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 6, § 6-304, of the 1989 Code)]

§ 112-7. Permit conditions.

- A. Time for completing work. Any permit issued under this Part 1 shall become invalid if the authorized work is not commenced within six months from the date of approval or is suspended or abandoned for a period of six months; provided, however, that the Town Council, for good cause shown, may extend a permit for an additional six months upon payment by the applicant of 50% of the original building permit fee. This additional fee may be waived by the Council for good cause shown.
- B. Duration of permit. A building permit shall be valid for the date requested but not more than a one-year period. The Town Council, upon written request, for good cause shown, may grant a permit for a longer time, or may grant an extension of time for an existing permit of six months upon payment by applicant of 50% of the original building permit fee.
- C. Signature on permit. The Mayor shall sign each permit issued.
- D. Location of permit and plans. The permit or a true copy of it and a copy of all plans and other documents submitted with the permit shall be kept on the site of the property and shall be available for inspection by officials of the Town, in the course of their duties, during the entire time that the work is in progress and until its completion.
- E. Compliance with permit. All work shall conform to the approved application and plans for which the permit has been issued.
- F. Stop-work order. Whenever the Mayor determines that actions are being taken in violation of the provisions of this chapter, including actions outside the scope of or contrary to a permit validly issued, he may order such work to be stopped immediately. The stop-work order shall be issued in writing by the Mayor and be served upon the owner of the property or the owner's agent or the person doing the work. It shall be unlawful for any person to continue or permit the continuation of work in or about the property after having been served with the stop-work order. The permit holder may appeal such order to the Town Council which, upon request, shall hold a hearing within 14 days, pursuant to the procedures set forth in § 112-10 below.
- G. Revocation of building permit.

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- (1) The Mayor may revoke a permit issued under this Part 1 in case of any material false statements or misrepresentations of fact in the application or on the plans on which the permit was based or in case of violation of any of the conditions upon which the permit was issued.
- (2) The Mayor may revoke a permit issued under this Part 1 where work relating to the permit has resulted in, or is likely to result in, a violation of Chapter 182, Trees.
- (3) The Mayor may revoke a permit issued under this Part 1 upon the revocation of a permit issued by Montgomery County for the identical work which is the subject of the Town permit.
- (4) The permit holder may appeal any such revocation to the Town Council which, upon request, shall hold a hearing within 14 days, pursuant to the procedures set forth in § 112-10 below.
- (5) Upon revocation, the construction must be removed within 30 days or such other time period as the Mayor may specify.

[Ord. No. 1-88, eff. 6-29-1988; amended by Ord. No. 8-91, eff. 7-15-1991; Ord. No. 10-02, eff. 11-13-2002; Ord. No. 5-05, eff. 6-8-2005; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 6, § 6-305, of the 1989 Code)]

§ 112-8. Action on permit.

- A. Standard procedure. The Mayor shall submit to the Town Council for its consideration at its next regularly scheduled session any building permit application which has been filed with the Clerk-Treasurer by the 15th of the month prior to such session. The Town Council, in its discretion, may defer or continue consideration of the application until the next regularly scheduled session or until a special session.
- B. Late procedure. A building permit application filed with the Clerk-Treasurer after the 15th of the month prior to the next regularly scheduled Town Council session, but no later than the 22nd of the month, may be submitted to the Town Council by the Mayor and considered by the Town Council, in its discretion, at the next regularly scheduled session. The Town Council, in its discretion, may defer or continue consideration of the application until the next regularly scheduled session or until a special session. A late fee shall be charged in addition to all other permit fees for consideration by the Town Council under this procedure.
- C. Expedited procedure.
 - (1) An applicant may request in writing that a building application be considered by the Town Council on an expedited basis at a special session of the Town Council. The Town Council, in its discretion, may hold a special session to consider such application. The Town Council, in its discretion, may continue consideration of the application until the next regularly scheduled session or until a special session.

- (2) An expedited consideration fee shall be charged in addition to all other permit fees for consideration by the Town Council under this procedure.
- (3) No special session of the Town Council to consider a permit application shall be held on less than seven days' notice nor more than 30 days after submission of the request for the expedited procedure.
- (4) Notice of a special session of the Town Council to consider a permit application shall be given by posting such notice on the Town Hall bulletin board, by broadcasting on the Town e-mail network and by the applicant notifying property owners and residents as set forth in the certification of the applicant as required under § 112-6G.
- D. Determination whether to hold late or expedited procedures. The Town Council has discretion to determine whether to consider a building permit application under the late or expedited procedures that are set forth in this section. In exercising its discretion, the Town Council shall consider such factors as: reasons for late filing; need for expedition; nature, extent, and complexity of the work proposed to be performed; effect upon adjoining and confronting properties; extent of prior notice to interested persons; actual or likely opposition; and hardship to the applicant.
- E. Air conditioning and heat pump emergency procedure. In addition to the procedures set forth in this section on processing an application for a building permit, the following procedures may be utilized regarding a building permit for an air conditioner or heat pump.
 - (1) In the discretion of the Mayor, the Mayor may issue a temporary building permit upon a finding that the following conditions are met:
 - (a) An existing air conditioner has failed to operate during hot weather, or an existing heat pump has failed to operate during cold weather.
 - (b) The failed air conditioner or heat pump requires immediate replacement to prevent harm to the health and safety of persons serviced by such equipment.
 - (c) The Town of Somerset building permit application form, § 112-5A through E, is completed and the fee paid.
 - (d) The Mayor is satisfied that the applicant has successfully notified all adjoining and confronting property owners and residents to such property, or has made reasonable efforts to do so, of the application and the opportunity to make their views known to the Mayor.
 - (e) The air conditioner or heat pump is installed at the same location as the existing air conditioner or heat pump.
 - (f) Information is submitted with the application as to the noise that may be emitted by the replacement sufficient to permit the Mayor to reasonably

conclude that noise levels will comply with the requirements of the Town Code.²

- (g) The applicant shall acknowledge in writing that the applicant is proceeding at his own risk since the Mayor may issue only a temporary permit; that only the Town Council may issue a permanent permit after a public hearing; that the Town Council may determine not to issue a permanent permit or may issue it with new conditions.
- (h) The Mayor may issue the temporary permit with conditions the Mayor determines are necessary to protect the health, safety and welfare of neighbors.
- (i) In the exercise of the Mayor's discretion, the Mayor shall give weight to the comments of the neighboring property owners and residents, whether there have been prior noise complaints regarding the operation of an air conditioner or a heat pump on the applicant's property.
- (j) The temporary permit shall be valid until the next regularly scheduled meeting of the Town Council, unless the time is extended by the Town Council.
- (2) At the next regularly scheduled Town Council meeting after the issuance of a temporary permit, pursuant to the above procedure, the Council shall hold a public hearing on whether to grant a permanent permit, unless the Town Council votes to defer such hearing.
 - (a) The Town Council may grant a permanent permit with conditions; or may deny a permanent permit.
 - (b) Any permit issued by the Town Council shall be conditioned to require that the air conditioner or heat pump be subject to noise testing to assure compliance with the noise level standards of the Town Code that are required for permits obtained by nonemergency procedures.³

[Ord. No. 1-88, eff. 6-29-1988; amended by Ord. No. 8-91, eff. 7-15-1991; Ord. No. 6-03, eff. 8-13-2003; Ord. No. 3-2012, eff. 4-26-2012; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 6, § 6-306, of the 1989 Code)]

§ 112-9. Criteria for permit decisions.

The Town Council shall consider, in approving or disapproving an application for a building permit, such factors as:

- A. Whether the application is complete and conforms to the requirements of this Part 1.
- B. Whether the proposed work complies with the provisions of Chapter 8, Buildings, of the Montgomery County Code, incorporated into this Part 1.

^{2.} Editor's Note: See Ch. 140, Noise.

^{3.} Editor's Note: See Ch. 140, Noise.

- C. Whether the proposed work complies with all applicable subdivision and zoning requirements.
- D. Whether the proposed work complies with all other applicable Town ordinances, including Chapter 182, Trees, of the Town Code, county, state and federal laws.
- E. Whether the proposed work unduly and adversely affects the health and safety of adjoining or confronting property owners and residents, or the enjoyment of their property.
- F. Whether the proposed work otherwise unduly and adversely affects the public health, safety and general welfare of the Town or its property.

[Ord. No. 1-88, eff. 6-29-1988; amended by Ord. No. 6-05, eff. 6-8-2005; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 6, § 6-307, of the 1989 Code)]

§ 112-10. Hearing and decision on application; judicial review.

- A. Hearing. The Town Council shall conduct fact-finding hearings on building permit applications. The applicant and all interested parties shall be given the opportunity to present evidence and testimony, so long as it is relevant and not repetitive. The hearing shall be conducted so as to afford fundamental fairness to all parties. The technical rules of evidence shall not apply.
- B. Decision. The decision of the Town Council, by a majority vote of those members present at the hearing on the application, shall be rendered within 40 days of the date of the hearing. The decision shall be in writing and shall state the Town Council's findings of fact and conclusions of law. The decision of the Town Council shall become final unless an appeal is taken as set forth below within 30 days. The decision of the Town Council shall approve the building permit application, disapprove it, or approve it with modifications. Unless stated to the contrary, approval of a building permit includes permission to remove trees for which removal authority is requested in the building permit application.
- C. Judicial review. Any person aggrieved by a decision of the Town Council with regard to an application for a building permit filed under the provisions of this Part 1 and who appeared before the Town Council in person, by an attorney, or in writing shall have the right to appeal the decision of the Town Council to the Circuit Court for Montgomery County, Maryland under the provisions of Title 7, Chapter 200, of the Maryland Rules of Procedure. In any judicial proceeding under this section, the findings of the Town Council as to the facts, if supported by evidence and in the absence of fraud, shall be conclusive, and the jurisdiction of said court shall be confined to questions of law.

[Ord. No. 1-88, eff. 6-29-1988; amended by Ord. No. 8-93, eff. 10-25-1993; Ord. No. 7-96, eff. 12-13-1996; Ord. No. 2-05, eff. 5-18-2005 (formerly Ch. 6, § 6-308, of the 1989 Code)]

§ 112-11 BUILDING CONSTRUCTION

§ 112-11. Modification of approved plans.

No person shall modify or alter any plans or specifications after they have been submitted and a permit issued. Notice of intention to deviate from the approved plans and specifications shall be given in writing to the Mayor and Town Council, the applicable amendment fee shall be paid, and the written approval of the Mayor and Town Council shall be obtained before such deviation or alteration is made.

[Ord. No. 1-88, eff. 6-29-1988; amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 6, § 6-309, of the 1989 Code)]

§ 112-12. Fees.

Any applicant for a Town of Somerset building permit shall pay the fees established by a resolution of the Council.

[Ord. No. 1-88, eff. 6-29-1988; amended by Res. No. 1-99, eff. 4-6-1999; Ord. No. 5-03, eff. 6-11-2003; Ord. No. 3-10, eff. 7-13-2010; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 6, § 6-310, of the 1989 Code)]

§ 112-13. Deposit for repairs.

- A. Each applicant shall submit with the application for a Town of Somerset building and demolition permit a deposit in the form of a check or a bond in a form satisfactory to the Mayor in the amount set by a resolution of the Council.
- B. The deposit, or so much of it as may be necessary, shall be used or applied to restore or repair any damage to the Town rights-of-way, sidewalks, curbs, streets or parklands. The deposit, or so much of it as may remain after the restoration of Town rights-of-way, sidewalks, curbs, streets or parklands to as close to their original condition as possible, shall be returned to the owner of the property by the Mayor.
- C. The Town, in its discretion, shall determine how the deposit funds shall be spent if there has been damage or injury to Town rights-of-way, sidewalks, curbs, streets or parklands.
- D. Any interest earned on the deposit shall be retained by the Town of Somerset to be applied toward the costs associated with administering this Part 1. The deposit shall not be returned until the work for which the building permit had been issued is completed. Such completion shall be determined by the Mayor after notification by the applicant.

[Ord. No. 1-88, eff. 6-29-1988; amended by Ord. No. 5-95, eff. 12-25-1995; Ord. No. 6-03, eff. 8-13-2003; Ord. No. 5-07, eff. 6-13-2007; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 6, § 6-311, of the 1989 Code)]

§ 112-14. Increased setbacks for certain new construction.

A. Applicability. This § 112-14 shall apply to all "new building construction," as defined below, for which a Town building permit is required under the Town Building Code

and for which a Town building permit has not been approved as of the effective date of this section. This § 112-14 shall apply only to such new building construction on land zoned for single-family residential use. This § 112-14 shall not apply to buildings owned by the Town of Somerset.

B. Definitions. For the purposes of this section only, the following terms shall have the meanings indicated:

NEW BUILDING CONSTRUCTION —

- (1) The construction or erection of a new building; or
- (2) The repair, alteration, replacement or remodeling of an existing building which would change its exterior dimensions, to the extent of such change.
- C. Setback requirements. New building construction shall be set back from property lot lines at least as follows:
 - (1) Primary building:
 - (a) Side: eight feet one side; 18 feet sum for both sides.
 - (b) Rear: 20 feet.
 - (c) No main building, or any part or projection thereof, may be constructed nearer to any front lot line than the established building line or 25 feet, whichever results in a greater setback. For corner lots, any and all lot lines bordering upon a street shall be considered a front lot line.
 - (d) Exceptions for projections:
 - [1] Steps, stoops, decks, terraces and porches, and their roofing, may extend not more than nine feet into any minimum front or rear setback.
 - [2] Bay windows, oriel entrances, vestibules and balconies.
 - [a] Except as provided in Subsection C(1)(d)[2][b] below, a bay window, oriel entrance, vestibule or balcony, 10 feet or less in width and not more than one story in height, may project not more than three feet into any minimum front or rear setback.
 - [b] No more than two bay windows may project into any required setback.
 - [3] Cornices, eaves, outside stairways, chimneys, air conditioners and heat pumps.
 - [a] Cornices and eaves may project 2 1/2 feet or less into any minimum setback, but such projection shall be not less than two feet from the vertical plane of any lot line.
 - [b] Sills, leaders, belt courses, and similar ornamental features may project not more than six inches into any minimum setback.

- [c] Outside stairways may project not more than five feet into any minimum rear setback.
- [d] Chimneys may project not more than 24 inches into any minimum setback.
- [e] Chimneys used as walls may not project into any minimum setback.
- [f] Air conditioners and heat pumps may project not more than five feet into any minimum front or rear setback. Additional projection may be permitted for the purpose of adding noise abatement devices. Nonconforming air conditioners or heat pumps projecting into any minimum side setback prior to November 1, 2017, may be maintained, altered, repaired and replaced.
- [4] Access ramps and wheelchair lifts. An open and uncovered access ramp or wheelchair lift, and any handrails associated therewith, may project into any minimum front, side, or rear setback, provided the following conditions are met:
 - [a] The access ramp or wheelchair lift, and any handrails associated therewith, cannot reasonably be constructed without projecting into the required setback;
 - [b] The access ramp or wheelchair lift, and any handrails associated therewith, project into the required setback the minimum distance reasonably necessary to provide a person a reasonable accommodation; and
 - [c] The access ramp or wheelchair lift has the minimum dimensions reasonably necessary to comply with all applicable provisions of the Americans with Disabilities Act, as amended.
- (2) Accessory buildings.
 - (a) Accessory buildings shall be located only in the rear yard of an interior lot, must not occupy more than 25% of the rear yard, must be a minimum of 60 feet from the front lot line and set back a minimum from side and rear yard property lines as follows:

Building Height (feet)	Minimum Setback (feet)
10 or less	5
Over 10 but less than 15	5 plus 1 for each foot or fraction of a foot in excess of 10
15 or over	10 plus 2 for each foot or fraction of a foot in excess of 15

Bu (fe	ilding Height et)	Minimum Setback (feet)
Liı (fe	near dimension et)	
	24 or less	5
	Over 24	5 plus 1 foot for every foot or fraction of a foot in excess of 24

- [1] If an accessory building has both a height greater than 10 feet and a linear dimension greater than 24 feet, the building must be set back the minimum setback distance of five feet, plus the distance as determined according to the provisions of this subsection above for building height, plus the distance as determined according to the provisions of this subsection above for linear dimension. Example: The setback for a building with a height of 15 feet and a linear dimension of 30 feet would be 16 feet (five feet minimum setback plus five feet additional feet for the height in excess of 10 feet, plus six feet additional feet for the linear dimension in excess of 24 feet).
- [2] Setbacks for accessory buildings on corner lots must be in accordance with the Montgomery County Zoning Ordinance, Chapter 59, Article 59-4, Division 4.4, adjusted for height and linear dimensions as established above in this subsection.
- (b) Accessory building height is the vertical distance measured to the highest point of the roof surface regardless of roof type, from the lowest of the following points:
 - [1] The average elevation of the pre-development grade along the front of the structure;
 - [2] The average elevation of the finished grade along the front of the structure;
 - [3] The average elevation of the pre-development grade along the rear of the structure;
 - [4] The average elevation of the finished grade along the rear of the structure.
- (c) Pre-development grade is the grade that existed at the time of the application for a building permit.
- (d) The provisions of this Subsection C(3) shall apply to all property within the Town, except the following properties which shall be subject to the provisions of the Montgomery County Code regarding setbacks for accessory buildings:
 - [1] Any lot with less than 60 feet of frontage;

- [2] Any lot that has a rear lot line adjoining a lot that fronts on Drummond Avenue;
- [3] Any lot with a side or rear lot line adjoining land that is not owned by the Town that is dedicated for use as parkland.
- D. Other requirements.
 - (1) Effective date. All new building construction shall comply with this section regardless of the date on which the lot, on which new building construction is proposed, was recorded or the date of construction of an existing building or structure.
 - (2) Town grandfathering created. Any building existing on the effective date of this section and which lawfully met the setback requirements in effect immediately prior to the effective date of this section, but which does not meet the setback requirements of this section, shall continue to be a lawful use and shall not be deemed a nonconforming use. Such a building may be extended to the rear, provided that the extension is no closer to the side property line than the existing building, excluding projections (such as stoops, decks and chimneys), and the extension otherwise complies with this section. However, except as provided in the previous sentence, new building construction, as defined in this section, relating to such existing building, must comply with this section.
 - (3) County grandfathering abrogated. Notwithstanding any provision to the contrary in the Montgomery County Zoning Code, the setback requirements set forth herein shall apply.
 - (4) Height limitations. Height limits shall not be affected by these provisions.
 - (5) Compliance or waiver required. No Town building permit shall be granted for such new building construction unless it complies with these provisions or waiver has been granted by the Town Council, as provided in Subsection E below.
- E. Waiver. The Town Council may grant a waiver of the requirements of this section, subject to the following limitations:
 - (1) The Town Council finds after a duly noticed public hearing, based on the evidence before it, that good cause has been shown on either of the following grounds:
 - (a) The proposed new building construction would not unduly interfere with light and air between residences or other structures, would not be unduly incompatible with the scale, massing, and character of the Town or of nearby residences or other structures, and would otherwise not unduly adversely affect the use, enjoyment or value of nearby properties. In making such finding, the Council may consider such factors as:
 - [1] Size and location of proposed new building construction;
 - [2] Size and location of existing and potential buildings and other structures on nearby lots; and

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- [3] Topography and existing or planned vegetation of the lot on which the proposed new building construction will be located and of nearby lots. Should the Council be requested to consider planned vegetation, the applicant for the waiver shall submit a landscape plan with the waiver application; or
- (b) The strict and literal application of this section would result in peculiar or unusual practical difficulties to the owner of the lot on which the proposed new building construction is to be located due to exceptional narrowness, shallowness, shape, topographical conditions or other extraordinary situations or conditions peculiar to a specific parcel of property. The following do not constitute practical difficulty for the purposes of this section:
 - [1] The existence of nearby structures or buildings which do not comply with this section;
 - [2] The granting of a waiver on other lots; or
 - [3] Any condition resulting from the conduct of the applicant or applicant's predecessor(s) in title.
- (2) The waiver must be for the minimum reasonably necessary to avoid the above conditions or situations.
- (3) The Town Council may impose, in granting a waiver, such conditions as it deems in the public interest and necessary to effectuate the purposes of this section.
- F. Waiver procedure.
 - (1) The Mayor shall prepare a waiver application form for execution by the owner(s) of the site or authorized agent of the owner(s), which shall conspicuously state that a waiver may be granted by the Town Council only after a public hearing at which the applicant and any other interested persons may be heard, and shall state the nature of the information and documents that must accompany the application.
 - (2) An applicant may, at the time application is made for a Town building permit, submit on the form prepared by the Mayor a written application for a waiver of this section's requirements, together with documentary exhibits relating to the waiver and need therefor.
 - (3) The procedure for hearing, decision and judicial review shall be as provided for building permits in § 112-10.
 - (4) A separate waiver application fee in an amount set from time to time by the Town Council shall be paid at the time of filing of the application.
 - (5) The procedure for late or expedited review of the waiver application shall be as provided in § 112-8, including Town Council discretion as to whether such late or expedited review shall be held.

- (6) Late and expedited review fees shall apply to the waiver application; provided, however, that should a late or expedited review also be requested for the building permit, which is to be heard simultaneously with the waiver application, only one late or expedited review fee shall be required.
- (7) No waiver shall be granted unless the Town Council finds, based on the evidence before it, that the waiver requirements of this section are met.

[Ord. No. 7-94, eff. 11-28-1994; amended by Res. No. 3-98, eff. 3-3-1998; Res. No. 14-98, eff. 11-3-1998; Ord. No. 7-01, eff. 10-11-2001; Ord. No. 8-01, eff. 10-11-2001; Ord. No. 2-06, eff. 3-15-2006; Ord. No. 3-10, eff. 7-13-2010; Ord. No. 5-2014, eff. 10-6-2014; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 6, § 6-312, of the 1989 Code)]

ARTICLE III

Requirements During Construction

§ 112-15. New structures and additions.

The following requirements apply to new structures and additions:

- A. Notice of Town of Somerset quiet hours must be posted on site next to the county building permit.
- B. The parking plan, if approved by the Town Council, must be posted on site next to the county building permit.
- C. Wall check. A copy of an engineer's wall check must be delivered to the Clerk-Treasurer within 24 hours of receipt by the contractor.
- D. Footer check. The contractor must notify the Clerk-Treasurer within 24 hours of completion of excavation for footers so that setbacks from property lines can be checked.
- E. Height check. If the structure or new construction will be more than two stories high, the contractor must notify the Clerk-Treasurer after the frame and partitions have been erected, but before the installation of insulation and dry wall.

[Ord. No. 1-88, eff. 6-29-1988; amended by Ord. No. 6-03, eff. 8-13-2003; Ord. No. 4-04, eff. 6-9-2004; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 6, § 6-401 and § 6-402, of the 1989 Code)]

§ 112-16. Noise control.

All activity shall be conducted in compliance with the noise limitations set forth in Chapter 140, Noise, of the Town Code. Violation of any noise limitations is punishable as set forth in Chapter 140.

[Ord. No. 1-04, eff. 6-9-2004; amended by Ord. No. 13-06, eff. 12-13-2006; Ord. No. 6-12, eff. 6-20-2012 (formerly Ch. 6, § 6-403, of the 1989 Code)]

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§ 112-17 SOMERSET CODE

§ 112-17. Traffic control.

- A. It is not permissible to block a street during activities permitted by this Part 1 unless:
 - (1) Notice is provided to the Town prior to the blocking;
 - (2) The blocking is not for an unreasonable period of time;
 - (3) The Mayor or his delegate approves the blocking; and
 - (4) The individual or entity blocking the street positions persons at both ends of the blocked street to advise motorists the street is blocked and direct traffic around the area blocked.
- B. In the event a concrete or other large truck is unloading and leaving room for only a single lane of traffic, a person must be stationed at the obstruction to direct traffic around it.

[Ord. No. 8-07, eff. 8-8-2007; amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 6, § 6-404, of the 1989 Code)]

ARTICLE IV

Subdivisions

§ 112-18. Subdivision of land.

No person shall subdivide any land in the Town without prior notification to the Mayor and Council. Such notification shall be given by filing with the Clerk-Treasurer a description, including a plat, of the land to be subdivided and of each of the lots that comprise the subdivision. Such description shall be filed with the Clerk-Treasurer no later than the filing of a subdivision application for such property with the Maryland - National Capital Park and Planning Commission ("Commission"). All documents filed by the applicant with the Commission shall also be filed with the Clerk-Treasurer at the time of the filing with the Commission or prior thereto.

[Ord. No. 1-88, eff. 6-29-1988; amended by Ord. No. 6-03, eff. 8-13-2003 (formerly Ch. 6, § 6-501, of the 1989 Code)]

ARTICLE V

Penalties

§ 112-19. Violations and penalties.

Violations of this Part 1 shall constitute a municipal infraction. Any person, including an owner of property, any authorized or unauthorized agent, any contractor for such owner, and any person performing work on or about the owner's property who violates this Part 1 shall be subject to a fine of \$500 for each violation. Each day that the violation continues may be considered a further and separate offense subject to such fine. In addition to the fine, a violator may be required to remove or restore, within 15 days of the date of notification of the violation, any structure, alteration, addition or excavation, erected or commenced, and

constituting the basis of the violation, and if so required, upon expiration of such 15 days, each additional day during which that person shall not have so removed or restored the same shall constitute a further and separate violation subject to such fine. Further, the Town may abate any such condition at the violator's expense.

[Ord. No. 1-88, eff. 6-29-1988; amended by Ord. No. 2-89, eff. 4-24-1989; Ord. No. 2-00, eff. 3-15-2000; Ord. No. 6-03, eff. 8-13-2003 (formerly Ch. 6, § 6-601, of the 1989 Code)]

ARTICLE VI

Administration [Amended by Ord. No. 4-90, eff. 4-23-1990; Ord. No. 1-91, eff. 4-29-1991; Res. No. 13-98, eff. 11-3-1998; Ord. No. 6-03, eff. 8-13-2003]

§ 112-20. Previous approvals.

Nothing in this Part 1 shall affect the validity of any building permit issued by the Town prior to the effective date of this Part 1; provided, however, that the construction under such permit shall have been commenced within six months of the date of approval of such permit. If work has not been commenced during such six-month period, the Town Council, at its next regularly scheduled meeting, upon a permit holder's request, shall determine whether to require or to waive compliance with this Part 1.

[Ord. No. 4-90, eff. 4-23-1990; amended by Ord. No. 6-03, eff. 8-13-2003 (formerly Ch. 6, § 6-901, of the 1989 Code)]

§ 112-21. Applicability to Town.

The provisions of this Part 1 shall not apply to the Town of Somerset when it is performing construction on any building or property owned by the Town, except that the Town must follow the notification-of-neighbors requirements of § 112-6G and H of this Part 1.

[Ord. No. 1-88, eff. 6-29-1988; amended by Ord. No. 4-90, eff. 4-23-1990; Ord. No. 1-91, eff. 4-29-1991; Res. No. 13-98, eff. 11-3-1998; Ord. No. 6-03, eff. 8-13-2003 (formerly Ch. 6, § 6-902, of the 1989 Code)]

Part 2 Property Restriction Signs

ARTICLE VII Designation and Regulations

§ 112-22. Definitions.

As used in this Part 2, the following terms shall have the meanings indicated:

PROPERTY RESTRICTION SIGNS — Those signs designed to give notice to deter public entry on private property, including "no trespassing," "no soliciting," "keep off the grass," and "beware of dog" signs.

[Ord. No. 4-90, eff. 4-23-1990; amended by Ord. No. 1-91, eff. 4-29-1991; Ord. No. 8-91, eff. 7-15-1991; Ord. No. 6-03, eff. 8-13-2003 (formerly Ch. 6, § 6-801(a), of the 1989 Code)]

§ 112-23. Size and posting regulations.

The posting of a property restriction sign is subject to the following:

- A. A property restriction sign shall not exceed six inches by 11 inches in size.
- B. The upper horizontal edge of a property restriction sign shall not be higher than 2 1/2 feet from the ground.
- C. A property restriction sign must be set back at least 20 feet from the front property line.
- D. A maximum of one property restriction sign may be placed in the front yard, one in the rear yard, and one in each side yard; however, if the yard is greater than 150 feet in length, there may be one sign for each 150 feet.
- E. A property restriction sign cannot be attached or fastened in any way to any structure, house, including any window, or tree.
- F. A property restriction sign may not be illuminated.

[Ord. No. 4-90, eff. 4-23-1990; amended by Ord. No. 1-91, eff. 4-29-1991; Ord. No. 8-91, eff. 7-15-1991; Ord. No. 6-03, eff. 8-13-2003 (formerly Ch. 6, § 6-801(b), of the 1989 Code)]

Part 3

Fences and Walls

ARTICLE VIII

Regulation and Permitting of Certain Fences and Walls

§ 112-24. Purpose.

The purpose of this Part 3 is to preserve the visual openness of the Town's streetscape by restricting the construction of visual and physical barriers along the public streets.

[Ord. No. 1-91, eff. 4-29-1991; amended by Ord. No. 6-03, eff. 8-13-2003 (formerly Ch. 6, § 6-701, of the 1989 Code)]

§ 112-25. Definitions.

As used in this Part 3, the following terms shall have the meanings indicated:

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BUILDING WALL — A wall that is part of a permanent structure, whether a primary or accessory structure, that has one or more stories and a roof, and is designed primarily for the shelter, support, or enclosure of persons or property of any kind, including any additions, such as decks or balconies, and modifications thereto.

CORNER LOT — A lot on which two or more adjoining sides abut a public street.

DECORATIVE IRON-TYPE MATERIALS — Materials consisting of wrought iron or a similar material, designed so as to be decorative rather than solely utilitarian.

DECORATIVE WALL — A wall that is intended for the purposes of privacy, security, or enclosure.

FENCE — A structure serving as an enclosure, barrier or boundary, including the gate.

FRONT YARD — Any portion of a yard of a lot located between a house and the inside front curbline of a public street upon which the house fronts.

INSIDE CURB LINE — The line formed by the junction of the horizontal and vertical edges of the portion of the public street curb closer to the individual lot and farther from the public street.

INTERIOR LOT — Any lot that abuts a public street, other than a corner lot.

PUBLIC STREET — A road, street, alley or avenue maintained by the Town, county or state for vehicular use.

REPLACEMENT FENCE OR WALL — A fence or wall that completely replaces a preexisting fence or wall in one of the yards.

RETAINING WALL — A wall constructed for the sole purpose of holding back ground or earth.

SIDE/BACK YARD OF CORNER LOT — The portion of the side yard of a corner lot between the side of the house facing away from public street (the back of the house) and the rear property line. For the purpose of this article, a homeowner may designate either side, but not both sides, of the house facing away from a public street as the back of the house.

SIDE YARD —

- A. For a corner lot, any portion of a yard of a corner lot located between the house and the inside side curbline of a public street, and excluding any portion that lies within a front yard or the side/back yard.
- B. For an interior lot, any portion of a yard located between the house and the adjacent lot boundary line(s), and excluding any portion that lies within a front yard or between the house and the rear lot line.

WALL — An architecturally solid erection of stone, brick, or other material greater than 12 inches in height. A wall may be a building wall, a retaining wall, or a decorative wall.

[Ord. No. 1-91, eff. 4-29-1991; amended by Ord. No. 3-91, eff. 5-7-1991; Ord. No. 8-91, eff. 7-15-1991; Ord. No. 8-02, eff. 7-10-2002; Ord. No. 6-03, eff. 8-13-2003; Ord. No. 8-06, eff. 8-11-2006; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 6, § 6-702, of the 1989 Code)]

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§ 112-26. Permit required; exemptions. [Amended by Ord. No. 6-07, eff. 6-5-2007; Ord. No. 5-10, eff. 9-8-2010; at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

- A. When required. A permit is required to be obtained from the Town for any new or replacement fence or wall to be placed or constructed in the Town of Somerset. No fence or wall of any height may be placed or constructed on the public right-of-way, in the public street, or on a Town park.
- B. Exemptions.
 - (1) This Part 3 does not apply to a temporary fence or wall placed or constructed to protect the public from construction or other dangerous activity or condition.
 - (2) The Town of Somerset is exempt from all provisions of this Part 3.

[Ord. No. 1-91, eff. 4-29-1991; amended by Ord. No. 6-03, eff. 8-13-2003; Ord. No. 6-07, eff. 6-5-2007; Ord. No. 5-10, eff. 9-8-2010; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 6, § 6-703, of the 1989 Code)]

§ 112-27. Applicable provisions of Montgomery County Code.

- A. In addition to the provisions of this Part 3, provisions of the Montgomery County Code regulating fences and walls are applicable within the Town. Chapter 51 of the Montgomery County Code, Swimming Pools, is applicable as provided in § 123-2A of the Town Code. Section 6.4.3.C.3 of the Montgomery County Zoning Ordinance is applicable as provided in § 123-1 of the Town Code.
- B. If there is any conflict between any provision of this Part 3 and of Chapter 51 of the Montgomery County Code, the Montgomery County Code provision shall apply.
- C. To the extent the provisions of this Part 3 are more restrictive than those of Section 6.4.3.C.3 of the Montgomery County Zoning Ordinance, this Part 3 shall apply. In such cases, the Town of Somerset shall administer any such more restrictive provisions.

[Ord. No. 1-91, eff. 4-29-1991; amended by Ord. No. 3-91, eff. 5-7-1991; Ord. No. 6-03, eff. 8-13-2003; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 6, § 6-704, of the 1989 Code)]

§ 112-28. Construction materials.

Any new or replacement fence to be placed or constructed within 39 feet of the inside front curbline in a front yard or within 29 feet of the inside side curbline in a corner lot shall consist primarily of wood or decorative iron-type materials.

[Ord. No. 1-91, eff. 4-29-1991; amended by Ord. No. 6-03, eff. 8-13-2003 (formerly Ch. 6, § 6-705, of the 1989 Code)]

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§ 112-29. Location of finished side.

- A. Any new or replacement fence located in a front yard, or side yard of a corner lot or interior lot, or side/back yard of a corner lot, facing and visible from a public street shall have a finished side facing the street.
- B. Any fence located in the same area but not facing the street shall have a finished side facing the property of the nearest neighbor, unless the fence is not visible from that neighbor's property.

[Ord. No. 1-91, eff. 4-29-1991; amended by Ord. No. 8-05, eff. 12-13-2005; Ord. No. 9-06, eff. 8-11-2006; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 6, § 6-706, of the 1989 Code)]

§ 112-30. Fences on interior lots.

The following apply to fences on interior lots:

- A. No new or replacement fence shall be placed or constructed within three feet of a Town sidewalk, measured from the edge of the sidewalk closest to the property.
- B. A new or replacement fence placed or constructed at or within 39 feet of the inside front curbline shall be 42 inches or less in height, measured from the ground immediately under the fence, and shall be at least 50% open when viewed from straight ahead, with solid parts being evenly distributed throughout and no solid part being greater than four inches in width, with the exception of brick fence posts, which may be up to 12 inches in width.
- C. A new or replacement fence placed or constructed more than 39 feet from the inside front curbline shall be 78 inches or less in height, measured from the ground immediately under the fence.

[Ord. No. 1-91, eff. 4-29-1991; amended by Ord. No. 3-91, eff. 5-7-1991; Ord. No. 6-03, eff. 8-13-2003; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 6, § 6-707, of the 1989 Code)]

§ 112-31. Fences on corner lots.

The following apply to fences on corner lots:

- A. No new or replacement fence shall be placed or constructed within three feet of a Town sidewalk, measured from the edge of sidewalk closest to the property.
- B. Any new or replacement fence shall be no more than 6 1/2 feet in height, measured from the ground immediately under the fence.
- C. Any new or replacement fence placed or constructed within 39 feet of the inside front curbline in a front yard or within 20 feet of the inside side curbline in a side yard shall be 42 inches or less in height, measured from the ground immediately under the fence, and shall be at least 50% open when viewed from straight ahead, with solid parts being

evenly distributed throughout and no solid part being greater than four inches in width, with the exception of brick fence posts, which may be up to 12 inches in width.

D. Any new or replacement fence placed or constructed between 20 feet and 29 feet of the inside side curbline in a side yard shall be five feet or less in height, measured from the ground immediately under the fence, and shall be at least 50% open, with solid parts being evenly distributed throughout and no solid part being greater than four inches in width, with the exception of brick fence posts, which may be up to 12 inches in width.

[Ord. No. 1-91, eff. 4-29-1991; amended by Ord. No. 3-91, eff. 5-7-1991; Ord. No. 8-91, eff. 7-15-1991; Ord. No. 6-03, eff. 8-13-2003; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 6, § 6-709, of the 1989 Code)]

§ 112-32. Walls.

- A. No new or replacement wall shall be permitted within 39 feet of the inside front curbline in a front yard, or within 29 feet of the inside side curbline in a side yard.
- B. No new or replacement wall shall be constructed more than 6 1/2 feet in height, measured from the ground immediately under the wall.
- C. Notwithstanding the foregoing, this section shall not apply to building walls or retaining walls necessary to retain existing earth, only to the extent of the height of the earth to be retained.

[Ord. No. 1-91, eff. 4-29-1991; amended by Ord. No. 3-91, eff. 5-7-1991; Ord. No. 6-03, eff. 8-13-2003; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 6, § 6-707, of the 1989 Code)]

§ 112-33. Permit application form.

- A. Duty of Mayor to prepare application form. The Mayor shall prepare an application form for a permit to be issued pursuant to this Part 3.
- B. Completed application required. No fence permit or wall permit shall be issued in the absence of a completed application.
- C. County permit required. No fence permit or wall permit shall be issued in the absence of a valid fence permit or wall permit issued by Montgomery County (if required by Montgomery County) for the identical work that is the subject of the Town permit.
- D. Signing of application. The permit application shall be signed by all of the owners of record of the site upon which the fence or wall is to be placed or constructed, or by their authorized agents. If a person other than the owner of the site makes the application, it shall be accompanied by a written statement of the owner that the owner authorizes the proposed work and that the applicant is authorized to make such application.
- E. Required information. The permit application shall be submitted to the Clerk-Treasurer and shall contain the following information, in addition to other information that may be requested:

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- (1) The street address and legal description (lot number);
- (2) The full name and address of each owner of the property;
- (3) A plan or drawing showing the location of the fence or wall in relation to the entire property, the adjacent public streets and sidewalks, and the public right-of-way;
- (4) A description, including design, height, width, width of solid parts, and, for fences, the percentage of openness when viewed from straight ahead;
- (5) A specific description of the materials of which such fence or wall shall consist;
- (6) A description of any existing fence or wall on the applicant's property that is to be removed in connection with the placement and construction of the new or replacement fence or wall;
- (7) If applicable, a copy of the Historic Preservation Commission work permit approving the identical fence or wall for which the applicant seeks a fence or wall permit;
- (8) The names and addresses of all owners of record of the properties in the Town of Somerset that are adjacent to the yard containing the proposed fence or wall, and of the occupants of said property if the owners of record are not the occupants, and a certification by the applicant that he provided each such person a reasonable opportunity to inspect the specifications, plans, surveys and all other documents to be filed with the application; and
- (9) A copy of the relevant permit issued by Montgomery County, if required by Montgomery County.
- F. Available to public. The application and all accompanying documents shall be available for public inspection at the Town Hall.
- G. Fee. A fence or wall permit fee shall accompany the application.
- H. Deposit. To cover possible damage to Town property, a deposit in the form of a check or bond shall accompany an application for a permit for wall placement or construction. No deposit is required to accompany an application for a permit for fence placement or construction. This deposit shall be managed by the Clerk-Treasurer in the manner set forth in § 112-13 of this chapter.

[Ord. No. 1-91, eff. 4-29-1991; amended by Ord. No. 3-91, eff. 5-7-1991; Ord. No. 9-02, eff. 7-10-2002; Ord. No. 6-03, eff. 8-13-2003; Ord. No. 10-07, eff. 9-12-2007; Ord. No. 3-10, eff. 7-13-2010; Ord. No. 5-11, eff. 9-9-2011; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 6, § 6-710, of the 1989 Code)]

§ 112-34. Mayor's request for additional information.

The Mayor, in his discretion, may require additional documents to accompany the permit application such as:

A. A drawing of the fence or wall viewed from the public street; and

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B. A photograph or sketch of a representative segment of the outside of a fence or wall identical to or as similar as possible in design and materials to the one to be placed or constructed.

[Ord. No. 1-91, eff. 4-29-1991; amended by Ord. No. 3-91, eff. 5-7-1991; Ord. No. 6-03, eff. 8-13-2003 (formerly Ch. 6, § 6-711, of the 1989 Code)]

§ 112-35. Decision on permit.

The Mayor shall examine the application for the permit for placement or construction of a fence or wall under this Part 3 and the accompanying documents. If the Mayor is satisfied that the proposed fence or wall complies with the criteria for permits under this Part 3, he shall issue a permit for such fence or wall as soon as is practicable. If the application does not conform to the requirements of this Part 3, the Mayor shall disapprove such application in writing, stating the reasons for such disapproval. The Mayor shall act on a permit application within 30 days after its submission.

[Ord. No. 1-91, eff. 4-29-1991; amended by Ord. No. 3-91, eff. 5-7-1991; Ord. No. 6-03, eff. 8-13-2003 (formerly Ch. 6, § 6-712, of the 1989 Code)]

§ 112-36. Criteria for decision.

The Mayor shall only issue a fence permit or wall permit if:

- A. The permit application is complete;
- B. The proposed fence or wall conforms to the requirements of this Part 3;
- C. The Historic Preservation Commission has approved the proposal, if applicable; and
- D. The proposed work complies with all other applicable provisions of the Town Code, county, state and federal laws.

[Ord. No. 1-91, eff. 4-29-1991; amended by Ord. No. 3-91, eff. 5-7-1991; Ord. No. 6-03, eff. 8-13-2003; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 6, § 6-713, of the 1989 Code)]

§ 112-37. Exceptions granted by Town Council.

- A. An owner or his authorized agent may apply for an exception to the requirements of this Part 3. Subject to consideration of the open streetscape purposes of this Part 3, the Town Council may grant an exception to the requirements of this Part 3 under one or more of the following circumstances:
 - (1) In a case of unnecessary hardship specific to that property;
 - (2) In the case of a replacement to an existing fence or wall in the same location that was either built as an architectural feature of a house, or approved by the Town Council in connection with a building permit under this Chapter 112, provided that the replacement is of comparable design, materials, and finish;

- (3) In the case of a new or replacement fence to be placed or constructed in a front yard, the Council may approve a fence that is:
 - (a) Up to 48 inches in height measured from the ground immediately under the fence;
 - (b) Up to 65% closed when viewed from straight ahead; or
 - (c) At least three feet from a Town sidewalk measured from the edge of the sidewalk closest to the property.
- (4) In the case of a new or replacement fence to be placed or constructed in a street side yard of a corner lot, the Council may approve a fence that is:
 - (a) Up to 78 inches in height measured from the ground immediately under the fence;
 - (b) Up to 65% closed when viewed from straight ahead; or
 - (c) At least five feet from a Town sidewalk measured from the edge of the sidewalk closest to the property.
- (5) In the case of proposed fence building materials other than those specified in this Part 3, provided that the building materials are compatible with neighboring properties; or
- (6) In the case of a fence or wall that does not otherwise meet the requirements of this Part 3, construction of which is necessary for abatement of noise from a generator.
- B. In addition to the information and material specified in §§ 112-33 and 112-34, the Council may request any further information necessary for it to reach a decision.
- C. The Mayor shall prepare, upon the approval of the Council, the necessary forms to implement this section.

[Ord. No. 1-91, eff. 4-29-1991; amended by Ord. No. 3-91, eff. 5-7-1991; Ord. No. 6-03, eff. 8-13-2003; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 6, § 6-714, of the 1989 Code)]

§ 112-38. Permit conditions; appeals.

- A. Fence or wall permit conditions.
 - (1) Time for completing work. Any permit issued for a fence or a wall shall become invalid if the authorized work is not commenced within six months from the date of approval or is suspended or abandoned for a period of six months; provided, however, that the Mayor, for good cause shown, may extend a permit for an additional six months and may require payment of a fee in the amount set by a resolution of the Council.
 - (2) Duration of permit. A fence or wall permit shall be valid for the date requested but not more than a one-year period. The Mayor, upon written request, for good

cause shown, may grant a permit for a longer time, or may grant an extension of time of six months for an existing permit, and may require payment of a fee in the amount set by a resolution of the Council.

- (3) Signature on permit. The Mayor shall sign each permit issued.
- (4) Location of permit and plans. The permit or a true copy of it and a copy of all plans and other documents submitted with the permit shall be kept on the site of the property and shall be available for inspection by officials of the Town, in the course of their duties, during the entire time that the work is in progress and until its completion.
- (5) Compliance with permit. All work shall conform to the approved application and plans for which the permit has been issued.
- (6) Stop-work order. Whenever the Mayor determines that actions are being taken in violation of the provisions of this Part 3, including actions outside the scope or contrary to a permit validly issued, he may order such work to be stopped immediately. The stop-work order shall be issued in writing by the Mayor and served upon the owner of the property or the owner's agent or the person doing the work. It shall be unlawful for any person to continue or permit the continuation of work in or about the property after having been served with the stop-work order. The permit holder may appeal such order to the Town Council which, upon request, shall hold a hearing within 14 days pursuant to the procedures set forth in Subsection C below.
- (7) Revocation of fence or wall permit.
 - (a) The Mayor may revoke a fence or wall permit in case of any material false statements or misrepresentations of fact in the application or on the plans on which the permit was based or in case of violation of any of the conditions upon which the permit was issued.
 - (b) The Mayor may revoke a fence or wall permit where work relating to the permit has resulted in, or is likely to result in, a violation of Chapter 182, Trees.
 - (c) The Mayor may revoke a fence or wall permit upon the revocation of a permit issued by Montgomery County for the identical work which is the subject of the Town permit.
 - (d) The permit holder may appeal any such revocation to the Town Council which, upon request, shall hold a hearing within 14 days, pursuant to the procedures set forth in Subsection C below.
 - (e) Upon revocation, the construction must be removed within 30 days, or such other time period as the Mayor may specify.
- B. Modification of approved plans. No person shall modify or alter any plans or specifications after they have been submitted and a fence or wall permit issued. Notice of intention to deviate from the approved plans and specifications shall be given in writing to the Mayor, and his written approval shall be obtained before such deviation or alteration is made.

§ 112-38

- C. Appeal of permit decisions.
 - (1) Time of and form for appeal. Any person aggrieved by a decision of the Mayor with regard to an application for a fence or wall permit may appeal such decision to the Town Council within 30 days. An appeal shall be in writing and shall be submitted to the Clerk-Treasurer for presentation to the Town Council. The notice of the appeal filed by the appellant shall state the decision of the Mayor for which the review is sought and the manner in which the appellant is aggrieved by the decision.
 - (2) Hearing before the Town Council. Within 60 days, but not earlier than 10 days, following the filing of the appeal, the Town Council shall conduct a fact-finding hearing on such appeal, after giving at least 10 days' notice of such hearing to the appellant (and to the applicant if the applicant is not the appellant) and to all owners or occupants of property which adjoins or confronts the property on which is located the fence or wall which is the subject of the application.
 - (3) Decision. The decision of the Town Council, by a majority vote of those members present at the hearing on said appeal, shall be rendered within 40 days of the date of the hearing. The decision shall be in writing and shall state the Council's findings of fact and conclusions of law. The decision of the Council shall become final unless a judicial appeal is taken as hereinafter set forth within 30 days.
- D. Judicial review. Any person who is aggrieved by a decision of the Town Council with regard to an application for a fence or wall permit shall have the right to appeal the decision of the Town Council to the Circuit Court for Montgomery County, Maryland under the provisions of Title 7, Chapter 200, of the Maryland Rules of Procedure. In any judicial proceeding under this section, the findings of the Town Council as to the facts, if supported by the evidence and in the absence of fraud, shall be conclusive, and the jurisdiction of said court shall be confined to questions of law.

[Ord. No. 1-91, eff. 4-29-1991; amended by Ord. No. 3-91, eff. 5-7-1991; Ord. No. 7-92, eff. 7-28-1992; Ord. No. 6-03, eff. 8-13-2003; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 6, § 6-715, of the 1989 Code)]

§ 112-39. Nonconforming fences and walls.

Nothing in this Part 3 shall be construed to make unlawful nonconforming fences or walls placed or constructed prior to April 29, 1991, and not replaced.

[Ord. No. 1-91, eff. 4-29-1991; amended by Ord. No. 3-91, eff. 5-7-1991; Ord. No. 6-03, eff. 8-13-2003; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 6, § 6-716, of the 1989 Code)]

Part 4 Dumpsters

SOMERSET CODE

ARTICLE IX

Permit Requirements and Restrictions

§ 112-40. Definitions.

As used in this Part 4, the following terms shall have the meanings indicated:

DUMPSTER — A large bin designed or used to store construction and/or demolition debris awaiting transportation to a disposal site, including, but not limited to, detached wheeled trailers.

[Ord. No. 8-91, eff. 7-15-1991; amended by Ord. No. 6-03, eff. 8-13-2003; Ord. No. 3-10, eff. 7-13-2010; Ord. No. 5-10, eff. 9-8-2010 (formerly Ch. 6, § 6-903(a), of the 1989 Code)]

§ 112-41. Permit required.

No person shall place or maintain a dumpster within the Town without obtaining a permit from the Mayor.

[Ord. No. 8-91, eff. 7-15-1991; amended by Ord. No. 6-03, eff. 8-13-2003; Ord. No. 3-10, eff. 7-13-2010; Ord. No. 5-10, eff. 9-8-2010 (formerly Ch. 6, § 6-903(b), of the 1989 Code)]

§ 112-42. Required findings; location restrictions.

The Mayor may grant a permit if the Mayor finds that the dumpster will not impede traffic, will not adversely affect the public health, safety or welfare, will not have significant adverse effects on neighboring property, and will be in the public interest. No dumpster shall be placed in the public right-of-way.

[Ord. No. 8-91, eff. 7-15-1991; amended by Ord. No. 6-03, eff. 8-13-2003; Ord. No. 3-10, eff. 7-13-2010; Ord. No. 5-10, eff. 9-8-2010; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 6, § 6-903(c), of the 1989 Code)]

§ 112-43. Fee and deposit.

Each applicant for a dumpster permit shall pay the fee established by a resolution of the Town Council, and shall submit with the permit application a deposit in the amount set by resolution of the Town Council. Such deposit, or so much of it as may be necessary, shall be used or applied to restore or repair any possible damage to Town property.

[Ord. No. 8-91, eff. 7-15-1991; amended by Ord. No. 6-03, eff. 8-13-2003; Ord. No. 3-10, eff. 7-13-2010; Ord. No. 5-10, eff. 9-8-2010; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 6, § 6-903(d), of the 1989 Code)]

§ 112-44

§ 112-44. Permit conditions.

The Mayor may set such additional terms or restrictions as the Mayor deems necessary to protect the public health, safety or welfare.

[Ord. No. 8-91, eff. 7-15-1991; amended by Ord. No. 6-03, eff. 8-13-2003; Ord. No. 3-10, eff. 7-13-2010; Ord. No. 5-10, eff. 9-8-2010 (formerly Ch. 6, § 6-903(e), of the 1989 Code)]

§ 112-45. Duration of permit.

- A. Duration if associated with building permit. A permit for placement of a dumpster that is for use in building demolition or construction activity allowed under a Town building permit shall be valid as long as the related Town building permit is valid.
- B. Duration if not associated with building permit. A permit for placement of a dumpster that is not for use in building demolition or construction activity allowed under a Town building permit shall be valid for up to 30 days. The Mayor may authorize an extension of such a dumpster permit for up to 30 days, with such conditions as the Mayor may deem necessary. In addition to making the findings in § 112-42, the Mayor may only grant an extension if the Mayor finds that the applicant has good cause for requesting an extension.

[Ord. No. 8-91, eff. 7-15-1991; amended by Ord. No. 6-03, eff. 8-13-2003; Ord. No. 3-10, eff. 7-13-2010; Ord. No. 5-10, eff. 9-8-2010; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 6, § 6-903(f) and (g), of the 1989 Code)]

Part 5 Portable Storage Units

ARTICLE X

Permit Requirements and Restrictions

§ 112-46. Definitions.

As used in this Part 5, the following terms shall have the meanings indicated:

PORTABLE STORAGE UNIT — A container designed or used for the outdoor storage of personal property, which is movable and is typically rented to owners or occupants of a property for their temporary use.

[Ord. No. 3-10, eff. 7-13-2010 (formerly Ch. 6, § 6-903(a), of the 1989 Code)]

§ 112-47. Permit required.

No person shall place or maintain a portable storage unit in the Town without obtaining a permit from the Mayor.

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§ 112-47

SOMERSET CODE

[Ord. No. 3-10, eff. 7-13-2010 (formerly Ch. 6, § 6-903(b), of the 1989 Code)]

§ 112-48. Required findings; location restrictions.

- A. The Mayor may grant a permit for a portable storage unit on private property if:
 - (1) The Mayor finds that the portable storage unit will not have significant adverse effects on neighboring property and will not adversely affect the public health, safety or welfare; and
 - (2) The Mayor finds that the applicant has demonstrated that denial would cause the applicant undue hardship or that the applicant has demonstrated other good cause.
- B. No portable storage unit shall be placed in the public right-of-way.

[Ord. No. 3-10, eff. 7-13-2010; amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 6, § 6-903(c), of the 1989 Code)]

§ 112-49. Fee and deposit.

Each applicant for a portable storage unit permit shall pay the fee established by a resolution of the Town Council, and shall submit with the permit application a deposit in the amount set by resolution of the Town Council. Such deposit, or so much of it as may be necessary, shall be used or applied to restore or repair any possible damage to Town property.

[Ord. No. 3-10, eff. 7-13-2010; amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 6, § 6-903(d), of the 1989 Code)]

§ 112-50. Permit conditions.

The Mayor may set such additional terms or restrictions as the Mayor deems necessary to protect the public health, safety or welfare.

[Ord. No. 3-10, eff. 7-13-2010 (formerly Ch. 6, § 6-903(e), of the 1989 Code)]

§ 112-51. Duration of permit.

- A. A permit for placement of a portable storage unit shall be for a term of up to 30 days.
- B. A permit for placement of a portable storage unit that is for use in building demolition or construction activity allowed under a Town building permit shall be valid as long as the related Town building permit is valid.

[Ord. No. 3-10, eff. 7-13-2010; amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 6, § 6-903(f), of the 1989 Code)]

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§ 112-52 BUILDING CONSTRUCTION

§ 112-52. Extension of permit.

The Mayor may authorize an extension of a portable storage unit permit for up to 30 days, with such conditions as the Mayor may deem necessary. In addition to making the findings in § 112-48, the Mayor may only grant an extension upon finding that the applicant has demonstrated good cause for an extension and that extraordinary circumstances exist which necessitate an extension.

[Ord. No. 3-10, eff. 7-13-2010 (formerly Ch. 6, § 6-903(g), of the 1989 Code)]

FINAL DRAFT (Jul 2019)

CABLE COMMUNICATIONS

- § 118-1. Changes to County Code.
- § 118-4. Enforcement; scope of county franchises.
- § 118-2. Adoption of existing county regulations.
- § 118-5. Compliance with other laws.
- § 118-3. Adoption of future county regulations.

[HISTORY: Adopted by the Town Council of the Town of Somerset as indicated. Amendments noted where applicable.]

GENERAL REFERENCES

County legislation — See Ch. 123.

§ 118-1. Changes to County Code.

- A. Sections added. Chapter 8A of the Montgomery County Code (1972), adopted by Chapter 123, § 123-1, of this Town Code, is hereby amended by adding the following additional sections:
 - (1) Section 8A-3: "Town" means the Town of Somerset, Maryland, an incorporated municipality. Notwithstanding anything to the contrary contained herein, the corporate limits of the Town of Somerset shall be included with the geographical areas of the county to which this law applies.
 - (2) Section 8A-9(j): Approval by Town of Somerset. Whenever in this section the approval of the county is required, a franchisee shall also be required to obtain the approval of the Town of Somerset, which approval shall not unreasonably be withheld.
- B. Sections amended. Chapter 8A of the Montgomery County Code (1984), adopted by Chapter 123, § 123-1, of this Town Code, is hereby amended as follows:
 - (1) Section 8A-10: Indemnity. A franchisee shall, at its sole cost and expense, indemnify, hold harmless, and defend the county (including the Town of Somerset), its officials, boards, commissions, agents and employees against any and all claims, suits, causes of action, proceedings, and judgments for damage arising out of construction, maintenance, or operation of the cable communication system under the franchise. These damages shall include but not be limited to penalties arising out of copyright infringements and damages arising out of any failure by the franchisee to secure consents from the owners, authorized distributors or licensees of programs to be delivered by cable communications system, whether or not any act or omission complained of is authorized, allowed, or prohibited by the franchise.

§ 118-1

[Ord. No. 6-81, eff. 11-23-1981; amended by Ord. No. 8-91, effective 7-15-1991; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 11, § 11-101, of the 1989 Code)]

§ 118-2. Adoption of existing county regulations.

All executive regulations now adopted by the County Executive for Montgomery County pursuant to the authority contained in Chapter 8A of the Montgomery County Code (1984) are hereby incorporated by reference and deemed to be effective within the Town of Somerset.

[Ord. No. 6-81, eff. 11-23-1981; amended by Ord. No. 2-91, eff. 4-9-1991; Ord. No. 8-91, effective 7-15-1991 (formerly Ch. 11, § 11-102, of the 1989 Code)]

§ 118-3. Adoption of future county regulations.

All regulations or amendments to regulations hereafter adopted by the County Executive for Montgomery County pursuant to the authority contained in Chapter 8A of the Montgomery County Code (1984) shall become effective within the Town to the extent not disapproved by the Town Council by ordinance.

[Ord. No. 6-81, eff. 11-23-1981; amended by Ord. No. 2-91, eff. 4-9-1991 (formerly Ch. 11, § 11-103, of the 1989 Code)]

§ 118-4. Enforcement; scope of county franchises.

Montgomery County, Maryland, is hereby requested and authorized to administer and enforce the provisions of this chapter, and any franchise granted by the County Council for Montgomery County, Maryland, will be effective within the corporate limits of the Town as fully and to the same extent as if granted by the Town.

[Ord. No. 6-81, eff. 11-23-1981; amended by Ord. No. 2-91, eff. 4-9-1991 (formerly Ch. 11, § 11-104, of the 1989 Code)]

§ 118-5. Compliance with other laws.

Nothing herein contained shall in any way be construed as exempting the franchisee from compliance with any other applicable ordinance of the Town of Somerset now or hereafter enacted.

[Ord. No. 6-81, eff. 11-23-1981; amended by Ord. No. 2-91, eff. 4-9-1991 (formerly Ch. 11, § 11-105, of the 1989 Code)]

COUNTY LEGISLATION

§ 123-1. County laws applicable.

§ 123-3. Enforcement by county.

§ 123-2. Other applicable laws.

[HISTORY: Adopted by the Town Council of the Town of Somerset as indicated. Amendments noted where applicable.]

GENERAL REFERENCES

Animals — See Ch. 105.	Noise — See Ch. 140.
Building construction — See Ch. 112.	Vehicles and traffic — See Ch. 195.
Cable communications — See Ch. 118.	

§ 123-1. County laws applicable.

The Town is hereby exempt from all legislation heretofore or hereafter enacted by Montgomery County, Maryland, except for the chapters of the Montgomery County Code listed below. Any amendment by the County to such chapters shall become effective within the Town to the extent not disapproved by the Town Council by ordinance. Any repeal by the County of any provision(s) of any chapter listed below or listed in § 123-2 of this chapter shall be effective to repeal such provision(s) within the Town unless an ordinance shall have been adopted by the Town Council expressly enacting such repealed provision(s).

Chapter	Subject Matter	Notes	
Chapter 3	Air Quality Control		
Chapter 3A	Alarms		
Chapter 5	Animal Control	As modified by Chapter 105 of the Town Code	
Chapter 5A	Arts and Humanities		
Chapter 7	Bicycles		
Chapter 8	Buildings	As modified and supplemented by Chapter 112 of the Town Code	
Chapter 8A	Cable Communications	As modified and supplemented by Chapter 118 of the Town Code	
Chapter 11	Consumer Protection		
Chapter 11A	Condominiums		
Chapter 17	Electricity		

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§ 123-1	SOMERSET CODE	§ 123-1
Chapter	Subject Matter	Notes
Chapter 18	Elm Disease	
Chapter 19	Erosion, Sediment Control and Stormwater Management	
Chapter 21	Fire and Rescue Services	
Chapter 22	Fire Safety Code	
Chapter 22A	Forest Conservation	
Chapter 23A	Group Homes	
Chapter 26	Housing and Building Maintenance Standards	
Chapter 27	Human Rights and Civil Liberties	
Chapter 29	Landlord-Tenant Relations	
Chapter 30A	Montgomery County Municipal Revenue Program	
Chapter 31	Motor Vehicles and Traffic	To the extent provided in § 195-9 of the Town Code
Chapter 31B	Noise Control	As modified and supplemented by Chapter 140 of the Town Code
Chapter 31C	New Home Warranty and Builder Licensing	
Chapter 32, § 32-12A	Graffiti	
Chapter 32, §§ 32-13 through 32-17, inclusive	Loitering	
Chapter 32, § 32-19A	Harassment	
Chapter 32, § 32-20	Stalking	
Chapter 34	Plumbing and Gas Fitting	
Chapter 36	Pond Safety	
Chapter 37	Public Welfare	
Chapter 40	Real Property	
Chapter 41A	Rental Assistance	
Chapter 44A	Secondhand Personal Property	
Chapter 47	Vendors	

§ 123-1	COUNTY LEGISLATION	
Chapter	Subject Matter	Notes
Chapter 49, § 49-16	Covered loads	
Chapter 49, §§ 49-25 to 49-44	Road Design and Construction Code	
Chapter 57	Weapons	
Chapter 59, Sec. 6.4.3.C.3	Walls or fences	As modified and supplemented by Chapter 112, Part 3, of the Town Code
Chapter 59, Division 6.7	Signs	

[Ord. No. 6-81, eff. 11-23-1981; amended by Ord. No. 6-84, eff. 12-3-1984; Ord. No. 2-86, eff. 5-5-1986; Ord. No. 3-86, eff. 6-22-1986; Ord. No. 2-88, eff. 3-1-1988; Ord. No. 2-89, eff. 4-24-1989; Ord. No. 6-89, eff. 9-26-1989; Ord. No. 5-90, eff. 4-23-1990; Ord. No. 1-91, eff. 4-29-1991; Ord. No. 2-91, eff. 4-9-1991; Ord. No. 8-91, eff. 7-15-1991; Ord. No. 7-93, eff. 9-8-1993; Ord. No. 6-94, eff. 8-21-1994; Ord. No. 1-04, eff. 6-9-2004; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 10, § 10-101, of the 1989 Code)]

§ 123-2. Other applicable laws.

Notwithstanding the provisions of § 123-1, the following additional county legislation shall apply within the Town of Somerset:

A. Board of Health legislation: legislation enacted by the Montgomery County Council sitting as a Board of Health for Montgomery County. As of the effective date of this chapter, the following legislation enacted by the Montgomery County Council sitting as a Board of Health applies within the Town of Somerset:

Chapter	Subject Matter
Chapter 2, Division 7A	Department of Health and Human Services
Chapter 15	Eating and Drinking Establishments
Chapter 24	Health and Sanitation: Section 24-1 and Sections 24-4 to 24-8 of Article I; Sections 24-9, 24-10 and 24-11 of Article II; Article III, Health Planning; Article IV, Mental Health; Article V, Alcohol and Other Drug Advisory Council
Chapter 25	Hospitals, Sanitariums, Nursing and Care Homes
Chapter 27A	Individual Water Supply and Sewage Disposal Facilities
Chapter 39	Rat Control
Chapter 44, Article III	Private Schools and Recreational Camps
Chapter 46	Slaughterhouses

§	123-2
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3-2	SOMERSET CODE	§ 123-3
Chapter	Subject Matter	
Chapter 51	Swimming Pools	
Chapter 51A	Tanning Facilities	

- B. Tax and revenue legislation: any Montgomery County law or regulation involving county revenue or taxation enacted pursuant to the provisions of the Tax-Property Article of the Annotated Code of Maryland, as amended, or legislation adopting the county budget.
- Laws enacted by General Assembly: any law enacted by the General Assembly which C. so provides.

[Ord. No. 6-81, eff. 11-23-1981; amended by Ord. No. 6-84, eff. 12-3-1984; Ord. No. 2-91, eff. 4-9-1991; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 10, § 10-102, of the 1989 Code)]

§ 123-3. Enforcement by county.

- A. Nothing contained in this chapter shall limit or otherwise affect the Town's authority to request enforcement of Town legislation by Montgomery County and to enter into agreements providing for such enforcement.
- Except for those laws that are hereby exempted, the county is hereby requested to B. enforce all other provisions of the Montgomery County Code.

[Ord. No. 6-81, eff. 11-23-1981; amended by Ord. No. 6-84, eff. 12-3-1984; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 10, § 10-103, of the 1989 Code)]

NOISE

§ 140-1. Definitions.

§ 140-2. Construction activities.

§ 140-3. Lawn maintenance activities.

§ 140-4. Exception for snow removal equipment.

§ 140-5. Violations and penalties.

[HISTORY: Adopted by the Town Council of the Town of Somerset as indicated. Amendments noted where applicable.]

GENERAL REFERENCES

Animals — See Ch. 105. Building construction — See Ch. 112. County legislation — See Ch. 123. Property maintenance — See Ch. 155. Trees — See Ch. 182.

§ 140-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

CONSTRUCTION ACTIVITIES — Temporary activities directly associated with site preparation, assembly, erection, repair, alteration, renovation, construction, or demolition of improvements, or other similar activities, including, but not limited to, moving heavy equipment, delivering materials, loading or unloading/operating equipment with audible "back-up" warning devices, or allowing engines to idle.

HOLIDAYS — Public holidays for federal employees as established by federal law 5 U.S.C. § 6103.

LAWN MAINTENANCE ACTIVITIES — Any and all activities or tasks associated with the care or maintenance of a lawn, garden, flower bed, tree or other landscaping.

POWER EQUIPMENT — Motorized equipment such as a lawn mower, chainsaw, leaf blower or other similar equipment utilized to perform lawn maintenance activities.

[Ord. No. 2-86, eff. 5-5-1986; amended by Ord. No. 2-89, eff. 4-24-1989; Ord. No. 2-91, eff. 4-9-1991; Res. No. 7-97, eff. 11-4-1997; Ord. No. 1-04, eff. 6-9-2004; Ord. No. 1-05, eff. 2-9-2005; Ord. No. 6-2012; eff. 6-20-2012 (Ch. 11, § 11-302(a), of the 1989 Code)]

§ 140-2. Construction activities.

- A. Weekdays (non-holidays). No construction activities shall commence prior to 7:00 a.m. on weekdays, and all construction activities shall end no later than 7:00 p.m.
- B. Saturdays. No construction activities shall commence prior to 9:00 a.m. on Saturdays, and all construction activities shall end no later than 7:00 p.m.

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- C. Sundays. Construction activities are prohibited on Sundays unless the activity is interior work that cannot be heard by neighbors.
- D. Holidays. Construction activities on a holiday weekday are limited to the hours of 9:00 a.m. to 7:00 p.m., on holiday Saturdays are limited as set forth in Subsection B, and on holiday Sundays are limited as set forth in Subsection C.

[Ord. No. 2-86, eff. 5-5-1986; amended by Ord. No. 2-89, eff. 4-24-1989; Ord. No. 2-91, eff. 4-9-1991; Res. No. 7-97, eff. 11-4-1997; Ord. No. 1-04, eff. 6-9-2004; Ord. No. 1-05, eff. 2-9-2005; Ord. No. 6-2012; eff. 6-20-2012; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (Ch. 11, § 11-302(b), of the 1989 Code)]

§ 140-3. Lawn maintenance activities.

- A. Lawn maintenance activities that involve the use of power equipment are permitted on non-holiday weekdays between the hours of 8:00 a.m. and 7:00 p.m., with the sole exception that lawn maintenance work that involves the use of power equipment is also permitted on non-holiday weekdays between the hours of 7:00 p.m. and 8:00 p.m. if only one piece of power equipment is used.
- B. Lawn maintenance activities that involve the use of power equipment are permitted on weekends and holidays between the hours of 9:00 a.m. and 7:00 p.m.

[Ord. No. 2-86, eff. 5-5-1986; amended by Ord. No. 2-89, eff. 4-24-1989; Ord. No. 2-91, eff. 4-9-1991; Res. No. 7-97, eff. 11-4-1997; Ord. No. 1-04, eff. 6-9-2004; Ord. No. 1-05, eff. 2-9-2005; Ord. No. 6-2012; eff. 6-20-2012 (Ch. 11, § 11-302(c), of the 1989 Code)]

§ 140-4. Exception for snow removal equipment.

The above requirements shall not be construed to apply to the use of any snow removal equipment.

[Ord. No. 2-86, eff. 5-5-1986; amended by Ord. No. 2-89, eff. 4-24-1989; Ord. No. 2-91, eff. 4-9-1991; Res. No. 7-97, eff. 11-4-1997; Ord. No. 1-04, eff. 6-9-2004; Ord. No. 1-05, eff. 2-9-2005; Ord. No. 6-2012; eff. 6-20-2012 (Ch. 11, § 11-302(d), of the 1989 Code)]

§ 140-5. Violations and penalties.

Violation of any provision of this chapter is a municipal infraction punishable by a fine of \$100 for a first offense and by a fine of \$500 for each repeat offense.

[Ord. No. 2-86, eff. 5-5-1986; amended by Ord. No. 2-89, eff. 4-24-1989; Ord. No. 1-04, eff. 6-9-2004; Ord. No. 1-05, eff. 2-9-2005; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (Ch. 11, § 11-303, of the 1989 Code)]

PARKS AND RECREATION

ARTICLE I		
Designation of Town Parks		

§ 149-1. Properties designated as Town parks.

ARTICLE II Park Regulations

§ 149-2. Unlawful acts.

§ 149-3. Discharge of water.

§ 149-4. Weapons.

ARTICLE III Swimming Pool and Tennis Courts

§ 149-5. Swimming pool.§ 149-6. Tennis courts.

§ 149-7. Determinations of eligibility.

ARTICLE IV Penalties and Enforcement

§ 149-8. Violations and penalties.

[HISTORY: Adopted by the Town Council of the Town of Somerset as indicated. Amendments noted where applicable.¹]

GENERAL REFERENCES

Noise — See Ch. 140.	Town property — See Ch. 177.
Solid waste — See Ch. 164.	Vehicles and traffic — See Ch. 195.

ARTICLE I Designation of Town Parks

§ 149-1. Properties designated as Town parks.

The following properties owned by the Town of Somerset are hereby designated as Town parks:

- A. Founders Park. A rectangular piece of land on the north side of Dorset Avenue; one corner of the rectangle is located on the northwest corner of Dorset Avenue and Surrey Street and the rectangle extends 30 feet north and 115 feet west.
- B. Vinton Park. All Town property south of Dorset Avenue, generally running in a southwesterly direction on either side of Little Falls Branch from the point where the Branch enters the Town at Wisconsin Avenue south of Dorset Avenue, to Trent Street between 5403 and 5411.
- C. Capello Park. Bounded on the east by Wisconsin Avenue, on the north by Cumberland Avenue, on the west by the Somerset Town Hall fence and the east lot line of 4507

^{1.} Editor's Note: The following sections of the 1989 Code, which were formerly included in this chapter, were repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I): § 5-302, Maximum Number of Pool Users; § 5-303, Swimming Pool Committee; § 5-304, Swim Team; § 5-901, Parks and Natural Resources Committee.

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Dorset Avenue, and on the south by Dorset Avenue and the north lot lines of 4507-4511 Dorset Avenue.

- D. Somerset Tennis Courts. Bounded on the east by the Somerset Town Hall, on the north by Cumberland Avenue, on the west by the east lot line of 4518 Cumberland Avenue, and on the south by the north lot lines of 4519, 4521, and 4523 Dorset Avenue.
- E. Somerset Swimming Pool. Includes the swimming pool, the wading pool, the associated bathhouse, and the grounds within the fence. The Somerset Swimming Pool is surrounded entirely by Vinton Park.

[Ord. No. 5-88, eff. 3-21-1988; amended by Ord. No. 2-89, eff. 4-24-1989; Ord. No. 2-06, eff. 3-15-2006 (formerly Ch. 5, § 5-101, of the 1989 Code)]

ARTICLE II

Park Regulations

§ 149-2. Unlawful acts.

It shall be unlawful for any person, without approval of the Town Council, to engage in the following in any Town park:

- A. To indulge in riotous, boisterous, threatening, or indecent conduct, or abusive or threatening language.
- B. To catch, injure, destroy, or interfere in any way with animal life.
- C. To carry or consume any drug or controlled substance the possession or consumption of which is illegal under federal or state law.
- D. To carry or consume any alcoholic beverage.
- E. To cut or remove any wood, turf, grass, soil, rock, sand, or gravel; but this does not prohibit the removal of leaf compost or leaf mulch from piles thereof designated for this purpose.
- F. To post, place, or erect any bill, notice, paper or advertising device or matter of any kind.
- G. To make or kindle a fire for any purpose.
- H. To camp.
- I. To climb in any tree.
- J. To sell, or offer for sale, any merchandise, article or thing whatsoever; but this does not prohibit the sale of articles by the Swim Team or by other nonprofit organizations on the grounds of the Somerset Swimming Pool.
- K. To practice, carry on, conduct or solicit for any trade, occupation, business or profession.

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- L. To operate an automobile, motorcycle, motorbike, go-cart, or other motor vehicle in any area except the paved park streets or parking areas.
- M. To park a vehicle anywhere except in a designated parking area.
- N. To repair or wash a vehicle.
- O. To ride a bicycle on other than a paved vehicular road or path designated for that purpose.
- P. To enter in an unauthorized manner or to trespass into the fenced pool area or bathhouse.
- Q. To dump wood, brush, leaves, grass, construction materials or refuse of any kind in any Town park or on any Town property.
- R. To loiter in any Town park or any other Town property, with the exception of the Somerset Swimming Pool and Bathhouse during pool operating hours, which are between sunset and sunrise.

[Ord. No. 5-88, eff. 3-21-1988; amended by Ord. No. 2-89, eff. 4-24-1989; Ord. No. 9-92, eff. 9-30-1992; Ord. No. 13-92, eff. 11-23-1992; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 5, § 5-201, of the 1989 Code)]

§ 149-3. Discharge of water.

A. Definitions. As used in this section, the following terms shall have the meanings indicated:

DEVICE — Any artificially created or constructed mechanism, including a pipe, tank, culvert, ditch, and channel, for the concentration or conveyance of water.

ONE-HUNDRED-YEAR STORM — A storm of such intensity that it is anticipated to occur on the average of once every 100 years, as set forth in terms of intensity in official publications or regulations of the Montgomery County Department of Transportation or Department of Environmental Protection. If the official publications or regulations of the county set forth differing intensities, the highest intensity shall govern.

TEN-YEAR STORM — A storm of such intensity that it is anticipated to occur on the average of once every 10 years, as set forth in terms of intensity in official publications or regulations of the Montgomery County Department of Transportation or Department of Environmental Protection. If the official publications or regulations of the county set forth differing intensities, the highest intensity shall govern.

- B. Permit required for discharge of water into Town park.
 - (1) Except pursuant to a valid permit issued under this section, no person, through any device, shall discharge or cause to be discharged, within 500 feet of a Town park, water onto or into the ground at a rate of more than 0.50 cubic foot per second.
 - (2) In determining the amount of the water to be discharged, the peak discharge that would be anticipated to be generated by a ten-year storm shall be utilized.

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- (3) Notwithstanding any other provision of this section, the Town Council may issue to an applicant a waiver from the requirements of this section, after notice and public hearing, upon finding that although the water discharge is within 500 feet of a Town park, no water from that discharge, generated by a ten-year storm, is likely to flow into a Town park.
- C. Permit procedures. An applicant for a permit to discharge water into a Town park shall file a written request for such permit with the Clerk-Treasurer, and the request shall be accompanied by an application fee set by the Town Council. Such request shall also be accompanied by a plan for the discharge of water into a Town park. Such plan shall contain the following information, as well as any other information that may be reasonably requested by the Town:
 - (1) The quantity of water to be discharged;
 - (2) The location of the point of discharge;
 - (3) The anticipated course of water through the Town park;
 - (4) The source of water to be discharged;
 - (5) The water quality of the water to be discharged;
 - (6) The frequency with which the water is to be discharged;
 - (7) Mechanisms for managing the water in the Town parks, including design of such mechanisms, costs of construction and maintenance, parties responsible for such costs;
 - (8) The anticipated effect of the water in the Town parks, including erosion, stream water quality, effect on trees and other vegetation, and effect on improvements in the Town park; and
 - (9) Whether any permit or other approval is required from county, state or federal governments and, if so, whether such permit or approval has been obtained, relating to the concentration, conveyance, or discharge of the water that is the subject of the application to the Town for a permit.
- D. Town action on permit.
 - (1) The Town Council, after notice to the applicant and a public hearing, shall act upon the request for a permit.
 - (2) The Town Council may grant the permit only upon a finding that the proposed discharge would not have an undue adverse effect upon a Town park.
 - (3) In determining whether the proposed discharge would have an undue adverse effect on a Town park, the Town Council shall consider and shall make findings as to the effect on the Town park in terms of:
 - (a) Erosion;
 - (b) Water quality of Town streams;
 - (c) Damage to trees and other vegetation;

- (d) Odor;
- (e) Aesthetics;
- (f) Damage to improvements;
- (g) Interference with the use and enjoyment of the Town park and its improvements; and
- (h) Costs of implementing and maintaining control of the discharged water.
- (4) The Town Council may consider any other factor which may have a bearing upon the preservation and protection of a Town park.
- E. Permit conditions and amendments.
 - (1) The Town Council may grant a permit subject to reasonable conditions to effectuate the purposes of this section. Such conditions may include, among others, a requirement that the permit holder enter into an agreement binding upon his or its heirs, successors and assigns, to be liable for, administer and maintain, including all costs, the plan and mechanisms for managing the water in the Town park. In determining the adequacy of the plan and the mechanisms for managing the water in the Town park, the Town Council may consider the amount of water anticipated to be discharged during a one hundred-year storm.
 - (2) Any permit issued pursuant to this section, and the conditions upon which it is based, upon notice to the holder and hearing, may be amended by the Town Council to better effectuate the purposes of this section.
 - (3) No permit shall be issued unless the applicant has obtained all required permits or other approvals from county, state, and federal governments relating to the concentration, conveyance, or discharge of the water that is the subject of the application to the Town for a permit, and the Town permit shall be conditioned upon such county, state, and federal government permits or approvals remaining valid.
- F. Hearing and decision on permit application.
 - (1) Hearing. The Town Council shall conduct fact-finding hearings on permit applications. The applicant and all interested parties shall be given the opportunity to present evidence and testimony, so long as it is relevant and not repetitive. The hearing shall be conducted so as to afford fundamental fairness to all parties. The technical rules of evidence shall not apply.
 - (2) Decision. The decision of the Town Council, by a majority vote of those members present at the hearing on the application, shall be rendered within 45 days of the date of the hearing. The decision shall be in writing and shall state the Town Council's findings of fact and conclusions of law. The decision of the Town Council shall become final unless an appeal is taken as set forth below within 30 days. The decision of the Town Council shall approve the permit application, disapprove it, approve it with modifications or approve it with conditions.

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- (3) Judicial review. Any person aggrieved by a decision of the Town Council with regard to an application for a permit filed under the provisions of this section and who appeared before the Town Council in person, by an attorney, or in writing, shall have the right to appeal the decision of the Town Council to the Circuit Court for Montgomery County, Maryland under the provisions of Title 7, Chapter 200, of the Maryland Rules of Procedure. In any judicial proceeding under this subsection, the findings of the Town Council as to the facts, if supported by evidence and in the absence of fraud, shall be conclusive, and the jurisdiction of said court shall be confined to questions of law.
- G. Effective date. This section shall apply to water discharge from any device constructed or created after March 15, 1988.

[Ord. No. 5-88, eff. 3-21-1988; amended by Ord. No. 2-89, eff. 4-24-1989; Ord. No. 8-93, eff. 10-25-1993; Ord. No. 5-96, eff. 11-13-1996 amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 5, § 5-601 - § 5-608, of the 1989 Code)]

§ 149-4. Weapons.

- A. Purpose. This section is intended to protect the health, safety and welfare of patrons of Town parks by prohibiting the purchase, sale, transfer, ownership, possession and transportation of certain weapons and ammunition in Town parks. The Town has authority to promulgate this section pursuant to the Criminal Law Article of the Annotated Code of Maryland, § 4-209, as amended.
- B. Prohibited activities. It shall be unlawful for any person to purchase, sell, transfer, own, possess, transport or discharge in any Town park any of the following weapons and ammunition:
 - (1) Handguns, as defined in the Criminal Law Article of the Annotated Code of Maryland, § 4-201(c), as amended;
 - (2) Rifles, as defined in the Criminal Law Article of the Annotated Code of Maryland, § 4-201(e), as amended;
 - (3) Shotguns, as defined in the Criminal Law Article of the Annotated Code of Maryland, § 4-201(h), as amended;
 - (4) Ammunition and components for the above enumerated items.
- C. Exceptions. This section does not apply to law enforcement personnel duly authorized to possess, maintain and use any such weapons and ammunition.

[Ord. No. 2-89, eff. 4-24-1989; amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 5, § 5-701 - § 5-703, of the 1989 Code)]

ARTICLE III

Swimming Pool and Tennis Courts [Amended by Ord. No. 8-91, eff. 7-15-1991; Ord. No. 4-93, eff. 4-22-1993; at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

§ 149-5. Swimming pool.

- A. Residence requirement. Only residents are eligible for pool access. Exceptions may be made by the Town Council on a limited basis under special circumstances.
- B. Use by nonresidents. Nonresidents may use the pool as guests of residents in accordance with the swimming pool rules and regulations.
- C. Fees. The Council, by resolution, may set user and guest fees for use of the pool.
- D. Rules and regulations. The Council may adopt rules and regulations governing the operation of the pool and the conduct of users and guests and providing for the enforcement of such regulations. Such enforcement may include the temporary or permanent suspension of privileges.
- E. Suspension of privileges. Any suspension of privileges for more than two days may be appealed to the Town Council.
- F. Support of swim team. The Mayor and Council may support a swim team program at the Somerset Swimming Pool.

[Ord. No. 5-88, eff. 3-21-1988; amended by Ord. No. 5-93, eff. 4-22-1993; Ord. No. 4-17, eff. 9-5-2017; Ord. No. 1-18, 5-7-2018; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 5, § 5-301 of the 1989 Code)]

§ 149-6. Tennis courts.

- A. Residence requirement. Only residents are eligible for tennis court access. Exceptions may be made by the Town Council on a limited basis under special circumstances.
- B. Use by nonresidents. Nonresidents may use the tennis courts as guests of residents in accordance with the tennis court rules and regulations.
- C. Fees. The Council, by resolution, may set user and guest fees for use of the tennis courts.
- D. Rules and regulations. The Council may adopt rules and regulations governing the operation of the tennis courts and the conduct of users and guests and providing for the enforcement of such regulations.
- E. Suspension of privileges. The Mayor may suspend the privileges of any user who violates the tennis court rules. Such suspension may be appealed to the Town Council.

[Ord. No. 5-88, eff. 3-21-1988; amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 5, § 5-401 of the 1989 Code)]

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§ 149-7. Determinations of eligibility.

- A. The Mayor is hereby authorized to determine questions of residency, household membership, and other bases for eligibility for access to the Somerset swimming pool and the Somerset tennis courts. In making determinations of residency, the Mayor shall consider the following factors:
 - (1) The intent of the applicant to establish a fixed, present, and permanent residence in the Town;
 - (2) A showing of affirmative abandonment of the applicant's previous residence; and
 - (3) Any facts which reveal contact with one jurisdiction or the other, which may include, but not be limited to: where the applicant is registered to vote; where taxes are paid and any statement on tax returns; ownership of property or binding lease agreement; and where children attend school.
- B. The applicant shall have the burden of proving that he is a resident of the Town.
- C. The decision of the Mayor shall be final, subject to appeal to the Town Council.
- D. Pending a final determination of eligibility for membership, an applicant may not use the facilities of the Somerset swimming pool or the Somerset tennis courts. Any unauthorized use of the facilities pending such determination shall be considered a trespass and shall subject the violator to the appropriate penalties.
- E. Notwithstanding the foregoing, as used herein, a resident shall not include a tenant under a lease with a term of less than 30 days.

[Ord. No. 5-88, eff. 3-21-1988; amended by Ord. No. 8-91, eff. 7-15-1991; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 5, § 5-501 of the 1989 Code)]

ARTICLE IV

Penalties and Enforcement

§ 149-8. Violations and penalties.

- A. Class A misdemeanors. Any violation of the provisions of § 149-2A, B or C or § 149-4 shall constitute a Class A misdemeanor, punishable as set forth in § 1-17 of the Town Code.
- B. Class B misdemeanors. Any violation of § 149-2D shall constitute a Class B misdemeanor, punishable as set forth in § 1-17 of the Town Code.
- C. Municipal infractions. See also § 1-18 of the Town Code.
 - Any violation of § 149-2E shall be a municipal infraction punishable by a fine of \$200 for a first offense and \$400 for each repeat offense.
 - (2) Any violation of § 149-2Q shall be a municipal infraction punishable by a fine of \$400 for each offense.

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- (3) Water discharge violations.
 - (a) Any violation of § 149-3 is a municipal infraction punishable by a fine of \$400 for each offense. Each day that the violation continues may be considered a separate and further violation subject to such fine.
 - (b) In addition to any other fine, penalty or remedy, the Town may seek, in a court of competent jurisdiction, to enjoin any violation of § 149-3 and may recover from any violator the costs of such action, including attorney's fees.
 - (c) In addition to any other fine, penalty or remedy, the Town may abate any condition in violation of § 149-3 at the violator's expense, including legal fees and the costs of constructing mechanisms for managing water discharge in Town parks.
 - (d) For failure to comply with the terms of a validly issued permit, or the conditions upon which it is based, and for other good cause, after notice and hearing, the Town Council may revoke a permit issued under § 149-3.
- (4) Any other violations of the provisions of this chapter shall be municipal infractions punishable as set forth in § 1-18 of the Town Code.

[Ord. No. 2-89, eff. 4-24-1989; amended by Ord. No. 8-91, eff. 7-15-1991; Ord. No. 9-92, eff. 9-30-1992; Ord. No. 13-92, eff. 11-23-1992; Ord. No. 2-93, eff. 1-19-1993; Ord. No. 3-93, eff. 2-2-1993; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 5, § 5-801 - § 5-804, of the 1989 Code)]

FINAL DRAFT (Jul 2019)

PROPERTY MAINTENANCE

§	155-1.	Maintenan	ce of	trees	and
		shrubbery	near	Town	
		sidewalks.			

§ 155-2. Offensive, dangerous and harmful matter.

[HISTORY: Adopted by the Town Council of the Town of Somerset as indicated. Amendments noted where applicable.¹]

GENERAL REFERENCES

Building construction — See Ch. 112.	Streets and sidewalks — See Ch. 170.
Solid waste — See Ch. 164.	Trees — See Ch. 182.

§ 155-1. Maintenance of trees and shrubbery near Town sidewalks.

A. Definitions. As used in this section, the following terms shall have the meanings indicated:

LOW-GROWING PLANTS — Grass, ground cover, flowers, and similar plantings maintained at a height of 12 inches or less.

SHRUBBERY — Woody, perennial plants having permanent stems branching from or near the surrounding ground level, any of which have a height of 12 inches or more from the ground to the top of the plant.

TREE — A perennial plant having a well-defined permanent, woody, self-supporting main stem or trunk, a more or less definite crown, a height at maturity of at least eight feet, and developing branches, as it matures, above the surrounding ground level.

- B. Maintenance of public right-of-way.
 - (1) The owner of private property adjoining a public right-of-way shall maintain that portion of the right-of-way located between the lot line and the edge of the paved street in a safe and sanitary condition. Said owner shall not permit grass or weeds to grow within the right-of-way to a height in excess of 12 inches above the ground. Nothing herein shall be deemed to require an owner of private property adjoining a right-of-way to repair sidewalks or curbs located within the right-of-way.
 - (2) The owner of private property adjoining a public right-of-way shall not place any structure, wall, fence, tree, hedge, shrubbery, or any other plant growth, except low-growing plantings, within the right-of-way without a license to use the right-of-way issued by the Town. Any tree, hedge, shrubbery, or other plant growth

^{1.} Editor's Note: The following sections of the 1989 Code, which were formerly included in this chapter, were repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I): § 4-102, Grass and Weeds; § 4-103, Land Between Property; Sidewalks; § 4-105, Penalties.

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located within the right-of-way on [_____-2018] may be maintained, but not replaced, provided that it does not interfere in any manner with pedestrian or vehicular traffic and is maintained in such a manner and at such height that a clear and unobstructed view is available to pedestrians and vehicle traffic.

- (3) The owner of private property adjoining a public right-of-way shall not permit any structure, wall, fence, tree, hedge, shrubbery, or any other plant growth location on such owner's private property to extend into the right-of-way in such manner that interferes with pedestrian or vehicular traffic. Any structure, wall, fence, tree, hedge, shrubbery, or any other plant growth located on private property adjoining a right-of-way shall be maintained in such a manner and at such height that a clear and unobstructed view of the right-of-way is available to pedestrians and vehicular traffic.
- C. Any structure, wall, fence, tree, hedge, shrubbery, or any other plant growth located within the public right-of-way, shall be removed by and at the expense of the owner and occupant of the abutting private property upon the request of the Town or its designee. The Town or its designee may request removal as a result of a violation of any provision of this Code or when otherwise deemed necessary for the public health, safety, or welfare, or for the public use of the right-of-way. The Town or its designee may take such action as is necessary to restore the right-of-way or return the right-of-way to a condition required by this section. The cost of any restoration or corrective action may be specially assessed against the abutting private property and collected with the property taxes or collected by a suit for damages.
- D. Any person who violates any provision of this section or allows a violation of any provision of this section on his or her property shall be guilty of a municipal infraction and shall be jointly and severally subject to a penalty of \$100 for each day that a violation exists. If a violation occurs, there shall be a rebuttable presumption that all owners of the property allowed the violation.

[Ord. No. 1-78, eff. 9-5-1978; amended by Ord. No. 1-91, eff. 4-29-1991; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 4, § 4-101, of the 1989 Code)]

§ 155-2. Offensive, dangerous and harmful matter.

It shall be unlawful for any person or persons to cast or throw, discharge or cause to flow into any of the streets, avenues or alleys of the Town, or on any vacant lot, or to keep, collect, use or suffer to remain on his or their premises any noxious liquid, stagnant water or other offensive matter; or to collect or transport any such matter in other than approved containers. Whatever is dangerous to life or health; whatever renders air or food or water or other drink unwholesome or unfit for use of man; whatever odor or exhalations are offensive to the inhabitants or dangerous to the public health; whatever accumulations of animal or vegetable matter, solid or liquid; whatever growth of rank vegetation, which are dangerous or hurtful to the neighborhood, or are likely to become so, are declared to be nuisances and unlawful.

[Ord. No. 1-78, eff. 9-5-1978; amended by Ord. No. 8-91, eff. 7-15-1991 (formerly Ch. 4, § 4-104, of the 1989 Code)]

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SOLID WASTE

ARTICLE I Litter

§ 164-3. Determination of liability.

ARTICLE II

Refuse Disposal

§ 164-4. Town to provide collection services.

- § 164-5. Refuse on streets and sidewalks.
- § 164-6. Accumulation of refuse.

[HISTORY: Adopted by the Town Council of the Town of Somerset as indicated. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 112. Parks and recreation — See Ch. 149. Property maintenance — See Ch. 155. Streets and sidewalks — See Ch. 170. Town property — See Ch. 182.

ARTICLE I

Litter

§ 164-1. Definitions.

§ 164-1. Definitions.

§ 164-2. Restrictions.

As used in this article, the following terms shall have the meanings indicated:

LITTER — All rubbish, waste matter, refuse, garbage, trash, debris, dead animals, or other discarded materials of every kind and description.

PUBLIC OR PRIVATE PROPERTY ----

- A. The right-of-way of a road or highway;
- B. A park;
- C. A playground or recreational area;
- D. Public service company property or a transmission line right-of-way;
- E. A building;
- F. A refuge or conservation or recreation area;
- G. Residential property; or
- H. Timberlands or a forest.

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§ 164-4

[Ord. No. 2-89, eff. 4-24-1989; amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 4, § 4-301, of the 1989 Code)]

§ 164-2. Restrictions.

A person may not dispose of litter on a highway or perform an act that violates the state vehicle laws regarding disposal of litter, glass and other prohibited substances on highways; or dispose of or cause or allow the disposal of litter on public or private property unless:

- A. The property is designated by the state, a unit of the state, or the Town for the disposal of litter and the person is authorized by the proper public authority to use the property; or
- B. The litter is placed into a litter receptacle or container installed on the property.

[Ord. No. 2-89, eff. 4-24-1989; amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 4, § 4-301, of the 1989 Code)]

§ 164-3. Determination of liability.

If two or more individuals are occupying a motor vehicle or other conveyance from which litter is disposed in violation of this article, and it cannot be determined which occupant is the violator:

- A. If present, the owner of the conveyance is presumed to be responsible for the violation; or
- B. If the owner of the conveyance is not present, the operator is presumed to be responsible for the violation.

[Ord. No. 2-89, eff. 4-24-1989; amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 4, § 4-301, of the 1989 Code)]

ARTICLE II

Refuse Disposal

§ 164-4. Town to provide collection services.

The Town, through its contractors, shall provide curbside collection of refuse to its residents on such terms and conditions as the Town Council deems appropriate.

[Ord. No. 1-89, eff. 3-27-1989; amended by Ord. No. 8-90, eff. 10-21-1990; Ord. No. 11-91, eff. 1-26-1992; Ord. No. 2-92, eff. 3-23-1992; Ord. No. 3-92, eff. 5-25-1992; Ord. No. 12-92, eff. 11-23-1992; Ord. No. 2-96, eff. 3-13-1996; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 4, § 4-401 - § 4-408, of the 1989 Code)]

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§ 164-5. Refuse on streets and sidewalks.

No person shall discard any refuse on any public right-of-way.

[Ord. No. 1-89, eff. 3-27-1989; amended by Ord. No. 8-90, eff. 10-21-1990; Ord. No. 11-91, eff. 1-26-1992; Ord. No. 2-92, eff. 3-23-1992; Ord. No. 3-92, eff. 5-25-1992; Ord. No. 12-92, eff. 11-23-1992; Ord. No. 2-96, eff. 3-13-1996; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 4, § 4-401 - § 4-408, of the 1989 Code)]

§ 164-6. Accumulation of refuse.

- A. No owner or occupant shall allow any refuse to accumulate on his or her property, with the following exceptions:
 - (1) Refuse stored in accordance with this article and awaiting collection.
 - (2) Accumulation of matter intended for garden compost is permitted in side and back yards, provided it does not exceed the reasonable requirements of a home garden and does not attract vermin or produce offensive odors.
 - (3) Accumulation of firewood is permitted, provided that the wood is cut into fireplace-size lengths and stacked so as not to be hazardous or attract vermin.
- B. No person shall accumulate refuse in a manner that would permit it to be carried or deposited by the elements or animals upon any street, sidewalk or other public place, or upon any other private property, or in a manner that produces offensive odors or which attracts vermin.

[Ord. No. 1-89, eff. 3-27-1989; amended by Ord. No. 8-90, eff. 10-21-1990; Ord. No. 11-91, eff. 1-26-1992; Ord. No. 2-92, eff. 3-23-1992; Ord. No. 3-92, eff. 5-25-1992; Ord. No. 12-92, eff. 11-23-1992; Ord. No. 2-96, eff. 3-13-1996; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 4, § 4-401 - § 4-408, of the 1989 Code)]

FINAL DRAFT (Jul 2019)

STREETS AND SIDEWALKS

ARTICLE I	§ 170-3. Action on permit applications.
Obstructions and Street Openings	§ 170-4. Extension of temporary permit.
§ 170-1. Obstructions and excavations	§ 170-5. Elimination of curb cuts.
prohibited.	§ 170-6. Existing curb cuts.
§ 170-2. Driveway apron or curb cut permits.	§ 170-7. Waivers.

[HISTORY: Adopted by the Town Council of the Town of Somerset as indicated. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 112. Property maintenance — See Ch. 155. Solid waste — See Ch. 164. Trees — See Ch. 182. Utility line construction — See Ch. 189.

ARTICLE I Obstructions and Street Openings

§ 170-1. Obstructions and excavations prohibited.

- A. Except as may be allowed in limited circumstances by either permission granted by the Mayor or his designee for temporary work or repairs, or permission granted by the Town Council for permanent work, no person or firm shall act with respect to any street, lane, curb, sidewalk, public space, or public right-of-way, or any portion thereof, located within the Town of Somerset:
 - (1) To obstruct or cause such area to be obstructed in any manner;
 - (2) To break or remove or cause to be broken or removed any curb or any part of the surface thereof, whether natural or improved; or
 - (3) To make or cause to be made any excavation in such area.
- B. Provisions not applicable to Washington Suburban Sanitary Commission (WSSC). The provisions of this section shall not apply to the Washington Suburban Sanitary Commission. The Mayor is authorized to enter into such agreement as may be specified by the Council with any public service corporation whereby the permit and deposit herein specified may not be required.
- C. Lighting of obstruction or excavation. It shall be unlawful for any person to leave any obstruction or excavation on the sidewalk or street, avenue, alley, road or highway after dark without having such obstruction or excavation protected by two red lights placed in such a manner as to show the extent of such obstruction or excavation; and in case

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two lights cannot clearly show the extent of such obstruction or excavation, then such additional number shall be placed as to clearly show the extent of same.

- D. Destruction of streets. It shall be unlawful for any person or persons to remove from or deposit in any street, avenue, alley, road or highway, or in the gutter or on the sidewalks along same, any earth, cinders, stone, sand, or other material of whatever kind without permission from the Mayor.
- E. Penalties. A violation of any of the provisions of this section is a municipal infraction punishable by a fine of \$250 for a first offense and a fine of \$500 for each repeat offense.

[Ord. No. 1-78, eff. 9-5-1978; amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 3, § 3-101, of the 1989 Code)]

§ 170-2. Driveway apron or curb cut permits.

An application for a permit for a driveway apron or curb cut shall be made in writing and shall include a plan of the proposed driveway apron or curb cut. The application shall be accompanied by a payment of a fee and a deposit to cover possible damage to Town property, in the amounts set by the Town Council. An application for a permit for a driveway apron or a curb cut relating to building renovation or construction on private property shall be submitted with the related building permit application.

[Ord. No. 1-78, eff. 9-5-1978; amended by Ord. No. 3-10, eff. 7-13-2010; Ord. No. 5-10, eff. 9-8-2010; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 3, § 3-102, of the 1989 Code)]

§ 170-3. Action on permit applications. [Amended by Ord. No. 4-07, eff. 6-13-2007; Ord. No. 3-10, eff. 7-13-2010; at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

- A. Permit for temporary work. If, in the discretion of the Mayor, a good and valid reason is presented by an applicant, the Mayor may instruct the Clerk-Treasurer to issue a temporary permit, which shall be for a time certain and shall specify and limit the purpose, nature and extent of the work authorized thereby, provided the applicant shall have paid a fee and a deposit to cover possible damage to Town property in the amounts set by the Town Council.
- B. Permit for repairs to existing driveway aprons or curb cuts. The Mayor shall act upon a permit application for repairs to existing driveway aprons or curb cuts in their current locations, provided that the applicant shall have paid a fee and a deposit to cover possible damage to Town property in the amounts set by the Town Council.
- C. Permit for new or different driveway apron or curb cut.
 - (1) The Town Council shall act upon a permit application for a permanent driveway apron or curb cut in a new location or of a different size following the procedures

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and criteria for consideration of building permit applications and the procedures and criteria in this article.¹

- (2) When considering an application for any new curb cut, the Town Council shall take into consideration such factors as existing curb cuts or shared driveways on the applicant's property, the character of the street, removal of trees, reduction in the area available for plantings, amount of impervious surface, reduction in the space available for on-street parking, traffic and pedestrian safety, and the location of public utility structures.
- (3) For all new curb cuts, a private driveway which crosses a sidewalk in the public right-of-way may not exceed 10 feet in width in the area between the street pavement and the edge of the sidewalk farthest from the street, except that the apron may extend beyond this ten-foot width, as provided in Subsection C(5).
- (4) For all new curb cuts, a private driveway which does not cross a sidewalk in the public right-of-way may not exceed 10 feet in width within seven feet of the street pavement, except that the apron may extend beyond this ten-foot width, as provided in Subsection C(5).
- (5) The apron where the driveway connects with the street pavement shall be allowed a five-foot radius on each side of the driveway for a total entrance at the curbside not to exceed 20 feet in width.

[Ord. No. 1-78, eff. 9-5-1978; amended by Ord. No. 4-07, eff. 6-13-2007; Ord. No. 3-10, eff. 7-13-2010; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 3, § 3-103, of the 1989 Code)]

§ 170-4. Extension of temporary permit. [Amended by Ord. No. 4-07, eff. 6-13-2007; Ord. No. 3-10, eff. 7-13-2010; Ord. No. 5-10, eff. 9-8-2010; at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

The Mayor shall have authority and discretion to authorize and direct the Clerk-Treasurer to extend the time of any temporary permit upon payment of a further fee in an amount set from time to time by the Town Council for each week or part of a week for which such extension is requested, and the Mayor may require an increase of the deposit whenever in the Mayor's judgment such increase is advisable. If said deposit is insufficient, the difference shall be assessed as a tax against the property of the applicant, collectable in the same manner as other taxes.

[Ord. No. 1-78, eff. 9-5-1978; amended by Ord. No. 4-07, eff. 6-13-2007; Ord. No. 3-10, eff. 7-13-2010; Ord. No. 5-10, eff. 9-8-2010; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 3, § 3-104, of the 1989 Code)]

^{1.} Editor's Note: See Ch. 112, Building Construction, Part 1, for provisions regarding building permits.

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§ 170-5. Elimination of curb cuts.

When a property owner eliminates a curb cut, the property owner shall install, at the property owner's expense, a curb, sidewalk, grass, and/or trees or other plantings, so that the area where the curb cut is eliminated is consistent with the adjacent area.

[Ord. No. 1-78, eff. 9-5-1978 (formerly Ch. 3, § 3-105, of the 1989 Code)]

§ 170-6. Existing curb cuts.

- A. More than one curb cut per property. If a property has more than one curb cut lawfully existing or approved for a permit as of December 5, 2011, such curb cuts shall remain lawful and may continue in use.
- B. Existing curb cuts and driveway aprons greater than 20 feet in width. All curb cuts and driveway aprons that were lawfully existing or approved for a permit as of December 5, 2011, that do not comply with the twenty-foot width limit described in § 170-3C(5) shall remain lawful and may continue in use.

[Ord. No. 1-78, eff. 9-5-1978 (formerly Ch. 3, § 3-106, of the 1989 Code)²]

§ 170-7. Waivers.

The Town Council may grant a waiver of the requirements of this article, subject to the factors and procedures set forth regarding waivers in Chapter 112, Building Construction, § 112-14, of the Town Code.

[Ord. No. 07-11; eff. 7-10-2012; amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (former Ch. 3, § 3-111, of the 1989 Code)]

^{2.} Editor's Note: The following provisions of the 1989 Code were moved to § 170-1 of this chapter at time of adoption of Code (see Ch. 1, General Provisions, Art. I): § 3-107, Provisions not Applicable to WSSC; § 3-108, Indication of Obstruction; § 3-109, Destruction of Streets; and § 3-110, Penalties.

TOWN PROPERTY

§ 177-1. Definitions.

§ 177-2. Injury to Town property.

[HISTORY: Adopted by the Town Council of the Town of Somerset as indicated. Amendments noted where applicable.]

GENERAL REFERENCES

Parks and recreation — See Ch. 149.

Streets and sidewalks — See Ch. 170.

§ 177-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

TOWN PROPERTY — Includes, but is not limited to, buildings, fixtures, furniture, grounds, streets, alleys, curbs, signs, sidewalks, gutters, storm drainage and other structures located in or on lands owned by the Town, or dedicated to the use of the public.

[Ord. No. 2-89, eff. 4-24-1989 (formerly Ch. 4, § 4-201, of the 1989 Code)]

§ 177-2. Injury to Town property.

Any person who shall intentionally damage or injure, or cause to be damaged or injured, any Town property of any kind whatsoever shall be guilty of a Class A misdemeanor.

[Ord. No. 2-89, eff. 4-24-1989 (formerly Ch. 4, § 4-202, of the 1989 Code)]

FINAL DRAFT (Jul 2019)

Chapter 182

TREES

ARTICLE I **Purpose and Definitions**

§ 182-1. Purpose.

§ 182-2. Definitions.

ARTICLE II **Permits**

- § 182-3. Actions requiring Town permit.
- § 182-4. Actions for which no Town permit is required.

§ 182-5. Permit applicants.

§ 182-6. Application information.

§ 182-7. Criteria for permit decisions.

§ 182-8. Permit conditions.

§ 182-9. Action on permit applications.

- § 182-10. Appeal of permit decisions.
- § 182-11. Judicial review.

ARTICLE III Enforcement and Penalties

- § 182-12. Stop-work orders.
- § 182-13. Permit revocation.

§ 182-14. Violations and penalties.

ARTICLE IV Administrative Procedures

§ 182-15. Permit hearings before Town Council.

[HISTORY: Adopted by the Town Council of the Town of Somerset as indicated. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 112. Property maintenance — See Ch. 155. Utility line construction — See Ch. 189.

ARTICLE I Purpose and Definitions

§ 182-1. Purpose.

It is the purpose of this chapter, in the interests of promoting the general health and public welfare of the citizens of the Town, to protect and preserve trees within the Town, and also to ensure, where removal of existing trees is necessary, that adequate provision is made, as much as is reasonably and physically possible, for replanting following removal. It is also the purpose of this chapter to assure some protection to the applicant and the applicant's neighbors by requiring contractors who remove trees in the Town of Somerset to have a Maryland tree expert and/or liability and property damage insurance.

[Ord. No. 4-88, eff. 4-17-1988; amended by Ord. No. 5-02, eff. 5-8-2002; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 8, § 8-101, of the 1989 Code)]

§ 182-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ADJOINING AND CONFRONTING PROPERTY — Land in the Town of Somerset which touches the boundary line of other property at least at one point, which may be a corner, or which would touch the boundary line of other property at least at one point except for an intervening road, street, or right-of-way.

DRIPLINE OF A TREE — The area beneath a tree circumscribed by an imaginary line below the outermost ends of the tree's branches.

LANDSCAPE PLAN — A plan, drawn to scale, of an entire lot, parcel, or tract of land indicating the location of existing and/or proposed structures, all abutting public rights-of-way, the location of all public utility lines, including, but not limited to, water, sewer, gas, electric, telephone and cable television, whether above or below the ground surface, and proposed reforestation, including the number, size, species, and location(s) of the tree(s) and/ or shrub(s) to be planted.

PUBLIC UTILITY — Any "public service company" as that term is defined in the Public Utilities Article of the Annotated Code of Maryland, § 1-101, any agency of the State of Maryland, or the Washington Suburban Sanitary Commission.

REFORESTATION — The planting or transplanting of a tree or trees and/or a shrub or shrubs following removal of an existing tree or trees.

ROADSIDE TREE — Any tree or shrub growing within the right-of-way of any public road.

SHRUB — A woody, perennial plant smaller than a tree, having permanent stems branching from or near the surrounding ground level.

TREE — A perennial plant having a well-defined permanent, woody, self-supporting main stem or trunk, a more or less definite crown, a height at maturity of at least eight feet, and developing branches, as it matures, above the surrounding ground level.

[Ord. No. 4-88, eff. 4-17-1988; amended by Ord. No. 2-91, eff. 4-9-1991; Ord. No. 3-97, eff. 12-10-1997; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 8, § 8-102, of the 1989 Code)]

ARTICLE II Permits

§ 182-3. Actions requiring Town permit.

A. Private property. Except as allowed by § 182-4 below, it shall be unlawful for any person to destroy, mutilate, injure, cut down, girth, uproot, poison, or undertake any action that may significantly and permanently detract from the health or growth of any

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TREES

tree on private property within the Town with a diameter of four inches or more, as measured 4 1/2 feet above the average surrounding ground level, or any tree or shrub, notwithstanding its size, which has been planted or transplanted as part of reforestation or landscaping measures undertaken pursuant to a previously issued permit in accordance with this chapter, without first filing a written application with the Clerk-Treasurer and obtaining the required permit therefor.

- B. Town property. Except as allowed by § 182-4 below, it shall be unlawful for any person to destroy, mutilate, injure, cut down, girth, uproot, poison, trim or undertake any action that may significantly and permanently detract from the health or growth of any tree or shrub on real property owned by the Town, or on Town rights-of-way, or on other rights-of-way adjoining Town property, regardless of the size of the tree or shrub affected. Activities prohibited under this Subsection B include the parking or placing of vehicles, construction equipment, debris, or other objects totaling more than 500 pounds on any unpaved surface within the dripline of a tree, and include the cutting or trimming of roadside trees except as excluded by § 182-4C below, or cut down any Town tree without permission from the Town Council if the tree is over four inches in diameter, measured 4 1/2 feet above the ground, or permission from the Mayor in case of emergency. The Council may approve removal of a Town tree in connection with a building or driveway permit only in an extraordinary situation.
 - (1) An extraordinary situation is one that would result in extreme hardship to the permit applicant if the permission to cut down the tree is not approved due to such factors as:
 - (a) Vehicular access to the permit applicant's property would be precluded as no alternative access is feasible.
 - (b) Reasonable and customary improvements to the permit applicant's property are precluded as no alternative building siting or building design, including improvements of a lesser size, is feasible.
 - (2) If permission is granted to cut down a Town tree, the applicant shall pay to the Town of Somerset:
 - (a) The cost of removing the tree and stump by the Town tree contractor;
 - (b) The cost of an appraisal by a tree expert hired by the Town;
 - (c) The value of the tree as determined by the Town Council upon consideration of the appraisal of the Town's tree expert and the appraisal of any permit applicant's or other tree expert, but not more than \$10,000, with such funds to be used by the Town of Somerset to plant a replacement tree(s) within the Town.
 - (3) A building permit may be denied or a building permit previously issued revoked if the permit applicant or holder has cut down a Town tree without approval or has otherwise not complied with the provisions of this section.

[Ord. No. 4-88, eff. 4-17-1988; amended by Ord. No. 8-91, eff. 7-15-1991; Ord. No. 8-04, eff. 12-8-2004; Ord. No. 10-05, eff. 1-10-2006; Ord. No. 3-07, eff. 6-13-2007; Ord. No. 1-09, eff. 2-11-2009 (formerly Ch. 8, § 8-201, of the 1989 Code)]

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§ 182-4. Actions for which no Town permit is required.

No permit under this chapter shall be required:

- A. Emergencies. If the Town determines that immediate destruction or removal of a tree is necessary to abate a substantial, immediate and imminent danger to life or property.
- B. Maintenance by owner. When the owner or resident of a property, or a contractor hired by him, performs maintenance on trees located on said property in accordance with professionally accepted standards.
- C. Pruning by public utility. When a public utility prunes roadside trees; but only if:
 - (1) Said trees are not located on property owned by the Town (including but not limited to Town parks) or on a public right-of-way adjacent to or adjoining property owned by the Town; and
 - (2) The utility has obtained and fully complies with a permit issued by the Maryland Department of Natural Resources pursuant to the Natural Resources Article of the Annotated Code of Maryland, § 5-406; and
 - (3) The utility has given at least two weeks' notice to the Clerk-Treasurer of its intent to prune specified trees, and included with its notice a copy of the state-issued permit.
- D. By Town. When tree removal or destruction is performed by employees and authorized agents of the Town, within the normal course of their employment and scope of their authority on property owned by the Town.
- E. When approved by Planning Commission. When tree removal is performed in accordance with a site plan approved by the Maryland-National Capital Park and Planning Commission and an enforcement agreement has been entered into pursuant to the provisions of Chapter 59, Zoning Ordinance, Section 7.3.4, of the Montgomery County Code, and a sediment and erosion control permit has been issued for such property, and copies of all such documents have been filed with the Mayor prior to the removal of any trees.

[Ord. No. 4-88, eff. 4-17-1988; amended by Ord. No. 6-96, eff. 12-13-1996; Ord. No. 6-02, eff. 6-12-2002; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 8, § 8-202, of the 1989 Code)]

§ 182-5. Permit applicants.

Application for a permit shall be made by the owner(s) of the property upon which the proposed action is to be taken, by an agent of the owner(s), by the licensed engineer or architect employed in connection with the proposed work, or by the public utility as appropriate. If the application is made by a person other than the owner(s), it shall be accompanied by a written certification by the owner(s) or the qualified person making the application that the proposed work is authorized by the owner(s) and that the applicant is authorized to make such application.

[Ord. No. 4-88, eff. 4-17-1988 (formerly Ch. 8, § 8-203, of the 1989 Code)]

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§ 182-6. Application information.

- A. One or two trees. A written application for a permit shall be submitted to the Clerk-Treasurer and shall contain the following minimum information:
 - (1) The street address of the property upon which the proposed action is to be taken;
 - (2) The full name(s) and address(es) and daytime and evening telephone number(s) of the owner(s);
 - (3) A brief description of the proposed action and the location of the tree or trees on the property to be affected;
 - (4) The species of the tree(s) to be affected;
 - (5) The approximate diameter of the tree(s) to be affected, as measured 4 1/2 feet above the average surrounding ground level;
 - (6) A brief statement explaining why the proposed action is reasonable and necessary and consistent with the purposes of this chapter;
 - (7) A statement whether the applicant intends to perform reforestation after tree removal is completed. If the applicant does so intend, he shall describe the number, size, species, and location of the tree or trees and/or shrubs to be planted;
 - (8) The names and addresses of all owners of adjoining and confronting property as shown in Town records maintained by the Clerk-Treasurer at the time of submission of the application, or of the occupants of said properties if the owners are not the occupants; and also the names and addresses of occupants of houses outside of the Town of Somerset who have a common property line with the applicant;
 - (9) A certification that, prior to submission of the application, a copy of the application, including any landscape plan(s), as submitted, has been shown or provided to all owners of adjacent and confronting property at their addresses as shown in Town records maintained by the Clerk-Treasurer at the time of submission of the application, or to the occupants of said property if the owners are not the occupants and to occupants of houses outside of the Town of Somerset who have a common property line with the applicant. This requirement shall not apply if trees to be affected are dead when the application is submitted;
 - (10) The name of the company or individual who will remove the tree or trees and his Maryland Tree Expert License number; and
 - (11) A fee in the amount set by the Town Council.
- B. Three or more trees. In the event a permit is sought for an action affecting three or more trees, the following shall also be required in addition to the information required by Subsection A above:
 - (1) A landscape plan, drawn to a scale of not less than one inch equals 20 feet;

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- (2) The proposed schedule for completion of reforestation as indicated on the landscape plan; and
- (3) A performance bond or check made payable to the Town of Somerset in an amount set from time to time by the Town Council, which shall be conditioned upon completion of the reforestation indicated on the plan and in accordance with the timetable provided by the applicant, as approved by the Town Council.

[Ord. No. 4-88, eff. 4-17-1988; amended by Ord. No. 6-96, eff. 12-13-1996; Ord. No. 5-02, eff. 5-8-2002; Ord. No. 8-03, eff. 12-10-2003; Ord. No. 11-05, eff. 1-10-2006; Ord. No. 9-07, eff. 9-12-2007; Ord. No. 3-10, eff. 7-13-2010; Ord. No. 5-10, eff. 1-30-2011; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 8, § 8-204, of the 1989 Code)]

§ 182-7. Criteria for permit decisions.

The following factors shall be considered in approving or disapproving an application for a permit:

- A. The desirability of preserving any tree because of its age, size or outstanding qualities such as uniqueness, rarity, or status as a landmark or species specimen;
- B. The extent to which the immediate area, and the Town in general, would be subject to environmental degradation due to removal of the tree(s) or shrub(s);
- C. The desirability of preserving tree cover;
- D. The desirability of the species;
- E. Whether the tree or shrub is diseased, insect-infested, or injured beyond restoration;
- F. Whether the tree is in danger of falling, presents a threat of injury to life or property, or is, in fact, damaging property;
- G. The hardship which the applicant may suffer if a permit for the requested action is not issued;
- H. The extent to which the tree or shrub removal is necessary to achieve proposed development, redevelopment, land use, utility construction or utility maintenance, and the extent to which there is no reasonable or prudent alternative; and
- I. Any reforestation proposed by the applicant.

[Ord. No. 4-88, eff. 4-17-1988 (formerly Ch. 8, § 8-205, of the 1989 Code)]

§ 182-8. Permit conditions.

A. Time limit. Any permit issued shall become invalid if the authorized work is not completed within 60 days of the date of issuance; provided that the Mayor may, upon good cause shown, extend the permit for an additional period not exceeding 30 days.

- B. Location of permit and plans. The permit or a true copy thereof and a copy of any plans submitted with the application for the permit shall be kept on the site of operations and open to inspection by officials of the Town in the course of their duties, during the entire time that the work is in progress and until its completion.
- C. Compliance with permit. All work shall conform to the approved application and plans for which the permit has been issued.
- D. Compliance with stop-work order. The issuance of a permit shall be expressly conditioned upon the applicant's agreement to promptly comply with all stop-work orders issued by the Mayor.
- E. Compliance with applicable laws. Nothing herein contained shall be construed as exempting a person to whom a permit has been issued in accordance with this chapter from compliance with all applicable Town, county, state and federal law. The issuance of a permit is conditioned upon the applicant's compliance with said laws.

[Ord. No. 4-88, eff. 4-17-1988; amended by Ord. No. 3-2014, eff. 6-2-2014 (formerly Ch. 8, § 8-206, of the 1989 Code)]

§ 182-9. Action on permit applications.

- One or two trees. The Mayor shall examine all applications for permits affecting fewer A. than three trees and/or shrubs and shall seek the advice of the State Forester, county extension agent, or other individuals as he finds appropriate. If the application or the plans do not conform to the requirements of this chapter, or if the work proposed by the application would be inconsistent with the purposes of this chapter, he shall reject such application in writing, stating the reasons therefor; or in the case of an application submitted with a building permit application, he shall recommend that the Council reject the application, with reasons therefor. If he is satisfied that the proposed work conforms with the purpose and requirements of this chapter, he shall issue a permit therefor as soon as practicable; or in the case of an application submitted with a building permit application, he shall recommend that the Council approve the application. Except in the case of an application submitted with a building permit application, the Mayor may grant a permit immediately if the applicant provides the Mayor written consents by all owners or occupants of property which adjoins or confronts the property on which is located the tree or shrub which is the subject of the application. If the applicant does not provide such written consents, the Mayor may not grant a permit until the fourth calendar day after the day on which the application was submitted. In either event, the Mayor must take action on the application within 15 days after the application was submitted.
- B. Three or more trees. The Town Council shall examine all applications for permits affecting three or more trees and/or shrubs and shall seek the advice of the State Forester, the county extension agent, or other individuals as it finds appropriate. Within 60 days, but not earlier than 10 days, following the filing of the application, the Town Council shall conduct a fact-finding hearing on such application after giving at least 10 days' notice of such hearing to the applicant and to all owners and occupants of property which adjoins or confronts the property on which are located the trees or shrubs which are the subject of the application. If the Council finds that the application

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or the plan does not conform to the requirements of this chapter or that the actions proposed by the application would be inconsistent with the purposes of this chapter, the Council shall reject such application in writing, stating the reasons therefor. If the Council is satisfied that the proposed work conforms with the purposes and requirements of this chapter, it shall direct the Mayor to issue a permit therefor as soon as practicable.

C. Signature on permit. The Mayor shall affix his signature to each permit issued.

[Ord. No. 4-88, eff. 4-17-1988; amended by Ord. No. 7-96, eff. 12-13-1996 (formerly Ch. 8, § 8-207, of the 1989 Code)]

§ 182-10. Appeal of permit decisions.

- A. Time and form for appeal. Any person aggrieved by a decision of the Mayor with regard to an application for a permit affecting fewer than three trees may appeal said decision within 30 days to the Town Council. An appeal shall be in writing and shall be submitted to the Clerk-Treasurer for presentation to the Town Council. The notice of the appeal filed by the appellant shall state the decision of the Mayor of which review is sought and the manner in which the appellant is aggrieved by the decision.
- B. Hearing before Town Council. Within 60 days, but not earlier than 10 days, following the filing of the appeal, the Town Council shall conduct a fact-finding hearing on such appeal, after giving at least 10 days' notice of such hearing to the appellant (and to the applicant if the applicant is not the appellant) and to all owners or occupants of property which adjoins or confronts the property on which is located the tree or shrub which is the subject of the application.
- C. Decision. The decision of the Town Council, by a majority vote of those members present at the hearing on said appeal, shall be rendered within 40 days of the date of the hearing. The decision shall be in writing and shall state the Council's findings of fact and conclusions of law. The decision of the Council shall become final unless a judicial appeal is taken as hereinafter set forth in § 182-11 within 30 days.

[Ord. No. 4-88, eff. 4-17-1988; amended by Ord. No. 3-05, eff. 5-18-2005 (formerly Ch. 8, § 8-208, of the 1989 Code)]

§ 182-11. Judicial review.

Any person who is aggrieved by a decision of the Town Council with regard to an application for a permit filed under the provisions of this chapter shall have the right to appeal the decision of the Town Council to the Circuit Court for Montgomery County, Maryland under the provisions of Title 7, Chapter 200, of the Maryland Rules of Procedure. In any judicial proceeding under this section, the findings of the Town Council as to the facts, if supported by evidence and in the absence of fraud, shall be conclusive, and the jurisdiction of said court shall be confined to questions of law.

[Ord. No. 4-88, eff. 4-17-1988; amended by Ord. No. 8-93, eff. 10-25-1993 (formerly Ch. 8, § 8-209, of the 1989 Code)]

TREES

ARTICLE III Enforcement and Penalties

§ 182-12. Stop-work orders.

Whenever the Mayor determines that actions are being taken in violation of the provisions of this chapter, including actions outside the scope or contrary to a permit validly issued, he may order such work to be stopped immediately. The stop-work order described herein shall be issued by the Mayor in writing and be served upon the owner of the property involved or his agent or the person doing the work. It shall be unlawful for any person to continue or permit the continuance of work in or about the property after having been served with the stop-work order.

[Ord. No. 4-88, eff. 4-17-1988 (formerly Ch. 8, § 8-301, of the 1989 Code)]

§ 182-13. Permit revocation.

The Mayor may revoke a permit issued under the provisions of this chapter in case of any false statement or misrepresentation of fact in the application or on the plan on which the permit was based or in case of any violation of the conditions upon which such permit was issued.

[Ord. No. 4-88, eff. 4-17-1988 (formerly Ch. 8, § 8-302, of the 1989 Code)]

§ 182-14. Violations and penalties.

- A. Municipal infractions.
 - (1) Unless otherwise specifically provided in this section, each violation of any provision of this chapter shall constitute a municipal infraction subject to a fine of \$1,000. Each tree affected in violation of this chapter shall constitute a separate offense.
 - (2) A violation of any provision of this chapter with respect to a tree that measures 10.5 inches or more in diameter at 4 1/2 feet above average ground level shall constitute a municipal infraction subject to a fine of \$1,500. Each such tree affected in violation of this chapter shall constitute a separate offense.
- B. Misdemeanors. It shall be a Class A misdemeanor, as defined in this Code (Chapter 1, Article III):
 - (1) To commit any act in violation of this chapter with respect to any tree for which a tree permit was sought and denied;
 - (2) To commit any act in violation of this chapter with respect to any tree for which a tree permit is pending; and
 - (3) To commit any other violation of this chapter with actual knowledge that such act violates this chapter.

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[Ord. No. 4-88, eff. 4-17-1988; amended by Ord. No. 4-05, eff. 6-8-2005; Ord. No. 2-10, eff. 7-13-2010; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 8, § 8-303, of the 1989 Code)]

ARTICLE IV

Administrative Procedures

§ 182-15. Permit hearings before Town Council.

All interested parties shall be given the opportunity to present evidence and testimony, as long as it is relevant to the issues under consideration. The hearing shall be conducted so as to afford fundamental fairness to all parties. The technical rules of evidence shall not apply. The hearing may, but need not necessarily, be held during a regular meeting of the Council as provided in Section 83-5 of the Charter of the Town of Somerset. The decision of the Town Council shall be by majority vote of those members present at the hearing on the application.

[Ord. No. 4-88, eff. 4-17-1988 (formerly Ch. 8, § 8-401, of the 1989 Code)]

Chapter 189

UTILITY LINE CONSTRUCTION

ARTICLE I Permit and Construction Requirements

- § 189-1. Applicability.
- § 189-2. Permit required; application.
- § 189-3. Restoration required.
- § 189-4. Expert to oversee construction and restoration.
- § 189-5. Construction and restoration methods.
- § 189-6. Performance bond.
- § 189-7. Permit conditions.

§ 189-9. Judicial review.

ARTICLE III Enforcement and Penalties

§ 189-10. Stop-work orders.

- § 189-11. Permit revocation.
- § 189-12. Violations and penalties.

ARTICLE IV Administrative Procedure

§ 189-13. Permit hearing before Town Council.

ARTICLE II

Action on Permits

§ 189-8. Action by Town Council.

[HISTORY: Adopted by the Town Council of the Town of Somerset as indicated. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 112. Cable communications — See Ch. 118. Streets and sidewalks — See Ch. 170. Trees — See Ch. 182.

ARTICLE I Permit and Construction Requirements

§ 189-1. Applicability.

All utility lines, including, but not limited to, sewers, water, gas, electricity, telephone and solar and telecommunication facilities or structures, constructed or installed in or through Town-owned land shall be constructed or installed in accordance with this chapter. As used in this chapter, the term "owner" shall mean the owner of any utility line, and shall include any agent or contractor of an owner of a utility line.

[Ord. No. 1-79, eff. 4-8-1979; amended by Ord. No. 2-89, eff. 4-24-1989 (formerly Ch. 7, § 7-101, of the 1989 Code)]

§ 189-2

§ 189-2. Permit required; application.

No utility line shall be constructed or installed in or through Town-owned land without first submitting an application for, and receiving approval of, a permit from the Town Council. The application for a permit shall contain a plan and schedule for the construction or installation of the utility lines, showing the controls proposed for clearing, excavation, grading, alignment, and restoration and landscaping, plus controls on access, haul roads, and borrow pits and a plan for disposal of waste materials. The application shall not be approved unless the plan and schedule comply with all requirements of this chapter. The Town may impose any additional requirements it deems necessary to maintain the integrity of the land affected and the health, safety, and welfare of its residents.

[Ord. No. 1-79, eff. 4-8-1979; amended by Ord. No. 2-89, eff. 4-24-1989 (formerly Ch. 7, § 7-102, of the 1989 Code)]

§ 189-3. Restoration required.

The owner shall restore all disturbed areas, including landscaping and grades, as nearly as possible to the condition that existed prior to the start of work.

[Ord. No. 1-79, eff. 4-8-1979 (formerly Ch. 7, § 7-103, of the 1989 Code)]

§ 189-4. Expert to oversee construction and restoration.

The owner shall hire and pay for an independent, professionally recognized expert acceptable to the Town to oversee the construction or installation of the line and to supervise the restoration of the disturbed areas.

[Ord. No. 1-79, eff. 4-8-1979 (formerly Ch. 7, § 7-104, of the 1989 Code)]

§ 189-5. Construction and restoration methods.

The owner shall construct or install the utility line in accordance with the following specifications:

- A. The owner shall comply with all provisions concerning the protection of trees and shrubs contained in Chapter 182, Trees, of the Town Code.
- B. Only ground cover specified as necessary for the actual excavation for the utility line, including the area of alignment and storage, shall be cleared.
- C. Planting and/or transplanting of bushes, grass and other ground cover specified in the approval of the application shall be done after the utility line is constructed or installed to eliminate the construction scar as soon as possible.
- D. Where construction of the utility line crosses or encroaches on Little Falls Branch, the stream bed and embankments shall be restored to their prior natural condition and grade to confine the stream flow as it was prior to being disturbed.

§ 189-5

- E. The owner shall provide and maintain throughout the construction period, from its beginning, such temporary measures which are necessary and effective to prevent erosion. Measures may involve construction of temporary berms, dikes, dams, sediment basins, slop drains, and use of temporary mulches, mats, seeding, or other control devices or methods as approved by the independent professional supervisor or Town. Cut slopes shall be seeded and mulched to the extent practicable as the excavation proceeds. The Town may limit the surface area of exposed erodible material.
- F. The owner shall remove the temporary environmental control features as needed and incorporate permanent control features into the project at the earliest practicable time, as determined by the independent professional supervisor. Grades of cut slopes shall be returned to the same average grade as that which existed prior to the start of work.
- G. The owner shall follow all other applicable federal, State of Maryland, Montgomery County, and Town environmental regulations to ensure that air and water quality and noise levels shall be maintained within prescribed standards.

[Ord. No. 1-79, eff. 4-8-1979; amended by Ord. No. 2-89, eff. 4-24-1989 (formerly Ch. 7, § 7-105, of the 1989 Code)]

§ 189-6. Performance bond.

The owner shall post a performance bond with the Clerk-Treasurer in the amount equal to the total cost of the required restoration of landscaping, grades, or other required measures to restore the area disturbed by the construction or installation of the line.

[Ord. No. 1-79, eff. 4-8-1979 (formerly Ch. 7, § 7-106, of the 1989 Code)]

§ 189-7. Permit conditions.

- A. Time limit. Any permit issued shall become invalid if the authorized work is not commenced within 60 days of the date of issuance; provided that the Mayor may, upon good cause shown, extend the permit for an additional period not exceeding 30 days.
- B. Location of permit and plans. The permit or a true copy thereof and a copy of any plans submitted with the application for the permit shall be kept on the site of operations and open to inspection by officials of the Town in the course of their duties, during the entire time that the work is in progress and until its completion.
- C. Compliance with permit. All work shall conform to the approved application and plans for which the permit has been issued.
- D. Compliance with stop-work order. The issuance of a permit shall be expressly conditioned upon the applicant's agreement to promptly comply with all stop-work orders issued by the Mayor.

[Ord. No. 2-89, eff. 4-24-1989 (formerly Ch. 7, § 7-107, of the 1989 Code)]

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§ 189-7

SOMERSET CODE ARTICLE II Action on Permits

§ 189-10

§ 189-8. Action by Town Council.

- A. Fact-finding hearing. The Town Council shall examine all applications for permits and shall seek the advice of the State Forester, the county extension agent, or other individuals as it finds appropriate. Within 60 days, but not earlier than 10 days, following the filing of the application, the Town Council shall conduct a fact-finding hearing on such application after giving at least 10 days' notice of such hearing to the applicant and to all owners and occupants of property which adjoins or confronts the property on which the utility line is to be constructed. If the Council finds that the application or the plan does not conform to the requirements of this chapter or that the actions proposed by the application would be inconsistent with the purposes of this chapter, the Council shall reject such application in writing, stating the reasons therefor. If the Council is satisfied that the proposed work conforms with the purposes and requirements of this chapter, it shall direct the Mayor to issue a permit therefor as soon as practicable. The Mayor shall affix his signature to each permit issued.
- B. Decision. The decision of the Town Council, by a majority vote of those members present at the hearing on said appeal, shall be rendered within 30 days of the date of the hearing. The decision shall be in writing and shall state the Council's findings of fact and conclusions of law. The decision of the Council shall become final unless a judicial appeal is taken as hereinafter set forth within 30 days.

[Ord. No. 2-89, eff. 4-24-1989 (formerly Ch. 7, § 7-201, of the 1989 Code)]

§ 189-9. Judicial review.

Any person who is aggrieved by a decision of the Town Council with regard to an application for a permit filed under the provisions of this chapter shall have the right to appeal the decision of the Town Council to the Circuit Court for Montgomery County, Maryland under the provisions of Title 7, Chapter 200, of the Maryland Rules of Procedure. In any judicial proceeding under this section, the findings of the Town Council as to the facts, if supported by evidence and in the absence of fraud, shall be conclusive, and the jurisdiction of said court shall be confined to questions of law.

[Ord. No. 2-89, eff. 4-24-1989; amended by Ord. No. 8-93, eff. 10-25-1993 (formerly Ch. 7, § 7-202, of the 1989 Code)]

ARTICLE III Enforcement and Penalties

§ 189-10. Stop-work orders.

Whenever the Mayor determines that actions are being taken in violation of the provisions of this chapter, including actions outside the scope or contrary to a permit validly issued, he may order such work to be stopped immediately. The stop-work order described herein shall

§ 189-10 UTILITY LINE CONSTRUCTION

be issued by the Mayor in writing and be served upon the owner of the utility line, or its agent or contractor doing the work. It shall be unlawful for any person to continue or permit the continuance of work after having been served with the stop-work order.

[Ord. No. 2-89, eff. 4-24-1989 (formerly Ch. 7, § 7-301, of the 1989 Code)]

§ 189-11. Permit revocation.

The Mayor may revoke a permit issued under the provisions of this chapter in case of any false statement or misrepresentation of fact in the application or on the plan on which the permit was based or in case of any violation of the conditions upon which such permit was issued.

[Ord. No. 2-89, eff. 4-24-1989 (formerly Ch. 7, § 7-302, of the 1989 Code)]

§ 189-12. Violations and penalties.

Any person who shall violate the provisions of this chapter by performing any prohibited act, including, but not limited to, construction of a utility line without a permit, or violating the terms of a permit or the terms of a stop-work order issued hereunder, shall be guilty of a municipal infraction and shall be subject to a civil penalty of \$400. Each and every violation of this chapter shall constitute a separate offense and shall be punishable as such.

[Ord. No. 2-89, eff. 4-24-1989 (formerly Ch. 7, § 7-303, of the 1989 Code)]

ARTICLE IV

Administrative Procedure

§ 189-13. Permit hearing before Town Council.

All interested parties shall be given the opportunity to present evidence and testimony, as long as it is relevant to the issues under consideration. The hearing shall be conducted so as to afford fundamental fairness to all parties. The technical rules of evidence shall not apply. The hearing may, but need not necessarily, be held during a regular meeting of the Council as provided in Section 83-5 of the Charter of the Town of Somerset. The decision of the Town Council shall be by majority vote of those members present at the hearing on the application.

[Ord. No. 2-89, eff. 4-24-1989 (formerly Ch. 7, § 7-401, of the 1989 Code)]

Chapter 195

VEHICLES AND TRAFFIC

ARTICLE I Moving Violations

§ 195-1. Speed limit.

- § 195-2. Advisory speed limit on Essex Avenue.
- § 195-3. Warning signs for speed humps.
- § 195-4. Through trucks and commercial vehicles.
- § 195-5. Stop intersections.
- § 195-6. School zones.
- § 195-7. No-passing zone on Dorset Avenue.

ARTICLE II Parking Restrictions

§ 195-8. Applicability of Montgomery County Code, resolutions and regulations.

- § 195-9. No-parking zones.
- § 195-10. Limited parking on Dorset Avenue.
- § 195-11. Limited parking areas.
- § 195-12. Authority of Mayor.

ARTICLE III Additional Regulations

§ 195-13. Sledding areas.

ARTICLE IV Enforcement and Penalties

- § 195-14. Enforcement by state and county officers.
- § 195-15. Moving violations.
- § 195-16. Parking violations.

[HISTORY: Adopted by the Town Council of the Town of Somerset as indicated. Amendments noted where applicable.]

GENERAL REFERENCES

County legislation — See Ch. 123. Parks and recreation — See Ch. 149. Streets and sidewalks — See Ch. 170.

ARTICLE I Moving Violations

§ 195-1. Speed limit.

No motor vehicle shall be driven within the Town at a speed in excess of 20 miles per hour.

[Ord. No. 2-78, eff. 1-1-1979; amended by Ord. No. 15-06, eff. 1-10-2007 (formerly Ch. 9, § 9-101, of the 1989 Code)]

§ 195-2 SOMERSET CODE

§ 195-2. Advisory speed limit on Essex Avenue.

The Mayor shall cause to be erected and maintained warning signs to advise motorists of a recommended speed limit of 15 miles per hour at the top of the hill of Essex Avenue, in the vicinity of the property with premises numbered 4816 and 4817 Essex Avenue.¹

[Ord. No. 2-78, eff. 1-1-1979; amended 12-20-1988, eff. 12-22-1988; Ord. No. 9-01, eff. 12-12-2001 (formerly Ch. 9, § 9-104, of the 1989 Code)]

§ 195-3. Warning signs for speed humps.

The Mayor shall cause to be erected a warning sign at an appropriate distance before a speed hump to advise motorists that they are approaching a speed hump. Such warning signs shall indicate a recommended speed limit of 15 miles per hour when driving over such speed humps.

[Ord. No. 2-78, eff. 1-1-1979; amended 12-20-1988, eff. 12-22-1988; Ord. No. 9-01, eff. 12-12-2001 (formerly Ch. 9, § 9-102, of the 1989 Code)]

§ 195-4. Through trucks and commercial vehicles.

No through truck, as defined by the Transportation Article of the Annotated Code of Maryland, § 11-171, or through commercial vehicles shall traverse any street within the Town.

[Ord. No. 2-78, eff. 1-1-1979; amended 9-8-1986 (formerly Ch. 9, § 9-105, of the 1989 Code)]

§ 195-5. Stop intersections.

All motor vehicles on the following streets moving in the following directions shall come to a full stop before proceeding across the following intersections and curves:

Name of Street	Direction of Travel	At Intersection of
Cumberland Avenue	East	Wisconsin Avenue
Cumberland Avenue	East and west	Surrey Street
Cumberland Avenue	West	Deal Place
Deal Place	North	Cumberland Avenue
Deal Place	South	Dorset Avenue
Devon Lane	North	Cumberland Avenue

^{1.} Editor's Note: Original § 9-103 of the 1989 Code, Speed humps and bumps authorized, as amended 12-20-1988, eff. 12-22-1988; by Ord. No. 1-90, eff. 1-1-1990; Ord. No. 6-90, eff. 5-27-1990; Ord. No. 9-01, eff. 12-12-2001; and Ord. No. 2-09, eff. 5-29-2009, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 195-5	VEHICLES AND TRAFFIC § 195		
Name of Street	Direction of Travel	At Intersection of	
Devon Lane	South	Dorset Avenue	
Dorset Avenue	East	On red light on Wisconsin Avenue at a point 60 feet west of the Wisconsin Avenue curb	
Dorset Avenue	East and west	Deal Place	
Dorset Avenue	East and west	Surrey Street	
Dorset Avenue	East and west	Warwick Place	
Dorset Avenue	West	Little Falls Parkway on a red light	
Essex Avenue	East	Warwick Place	
Essex Avenue	East and west	Surrey Street	
Falstone Avenue	East and west	Surrey Street	
Falstone Avenue	Southeast	Warwick Place	
Falstone Avenue	West	Greystone Street	
Grantham Avenue	East	Surrey Street	
Grantham Avenue	West	Greystone Street	
Greystone Street	North	Falstone Avenue	
Greystone Street	North and south	Grantham Avenue	
Greystone Street	North and south	Uppingham Street	
Greystone Street	South	River Road	
Surrey Street	North	Cumberland Avenue	
Surrey Street	North and south	Dorset Avenue	
Surrey Street	North and south	Essex Avenue	
Surrey Street	North and south	Grantham Avenue	
Surrey Street	West	Greystone Street	
Swimming Pool Driveway	Northwest	Warwick Place	
Trent Court	Southwest	Falstone Avenue	
Trent Street	North	Falstone Avenue	
Trent Street	North and south	Uppingham Street	
Trent Street	South and east	When approaching the curve at the 5400 dead-end block of the street	
Uppingham Street	East and west	Trent Street	

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Name of Street	Direction of Travel	At Intersection of
Uppingham Street	North	Falstone Avenue
Warwick Lane	South	Cumberland Avenue
Warwick Place	North	A point 35 feet south of Essex Avenue
Warwick Place	North and south	Dorset Avenue
Warwick Place	Northwest and south	Falstone Avenue
Warwick Place	South	A point 33 feet north of the curbline of Essex Avenue

[Ord. No. 2-78, eff. 1-1-1979; amended 11-7-1983; Ord. No. 2-90, eff. 1-28-1990; Ord. No. 10-92, eff. 9-30-1992; Ord. No. 6-04, eff. 1-12-2005; Ord. No. 4-09, eff. 6-10-2009 (formerly Ch. 9, § 9-106, of the 1989 Code)]

§ 195-6. School zones.

- A. Warwick Lane shall be closed to all traffic on days the school is in session from 8:30 a.m. to 9:15 a.m. and from 3:00 p.m. to 3:45 p.m., except on days when the school is released earlier than its normal time. When there is early release, Warwick Lane shall be closed to all traffic for 45 minutes at release time.
- B. During the time period Warwick Lane is closed to traffic as provided in Subsection A, traffic on Warwick Place from Dorset Avenue to Cumberland Avenue shall move only in a northbound direction, and traffic on Cumberland Avenue from Warwick Place to Surrey Street shall move only in a westbound direction.
- C. No trucks shall be permitted on Warwick Lane at any time.
- D. Dorset Avenue 300 feet east and 300 feet west of its intersection with Warwick Place is established as a school zone, which shall consist of:
 - (1) Markings on the pavement of Dorset Avenue reading "School" east and west of the intersection of Dorset Avenue and Warwick Place.
 - (2) Stop lines and crosswalks with diagonal lines at the intersection of Dorset Avenue and Warwick Place.
 - (3) "School" signs and non-lingual "School Advance" signs installed in the ground between the sidewalk and street in the most effective positions east and west of the intersection of Dorset Avenue and Warwick Place.

[Ord. No. 2-78, eff. 1-1-1979; amended by Ord. No. 2-89, eff. 4-24-1989; Ord. No. 4-06, eff. 5-10-2006; Ord. No. 2-15, eff. 10-5-2015 (formerly Ch. 9, § 9-107, of the 1989 Code)]

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§ 195-7 VEHICLES AND TRAFFIC

§ 195-8

§ 195-7. No-passing zone on Dorset Avenue.

Dorset Avenue from Wisconsin Avenue to a point 200 feet to the west shall be a no-passing zone. This shall be designated by a double-yellow line which shall run nine feet from the south curb of Dorset Avenue.

[Ord. No. 2-78, eff. 1-1-1979 (formerly Ch. 9, § 9-108, of the 1989 Code)]

ARTICLE II

Parking Restrictions

§ 195-8. Applicability of Montgomery County Code, resolutions and regulations.

- A. Adoption of Chapter 31 of the Montgomery County Code (2004). Except insofar as it conflicts with other provisions of this Code, Chapter 31, entitled "Motor Vehicles and Traffic," of the Montgomery County Code (2004), as amended, is hereby incorporated by reference and adopted to be applicable within the boundaries of the Town of Somerset, with the following amendments and deletions:
 - (1) Amendments. Whenever in Articles I through VI and Article VIII of Chapter 31 of the Montgomery County Code the terms "County," "County Executive," "Executive," or "County Executive or his designee" are used, such terms are amended and shall be deemed to mean and refer to the Town of Somerset Council. Whenever in this ordinance the term "County" (when not used in its geographic sense) is used, such term is amended and shall be deemed to mean and refer to the Town of Somerset Council. Whenever in this geographic sense) is used, such term is amended and shall be deemed to mean and refer to the Town of Somerset Council. Whenever in this ordinance the term "County" (when used in its geographic sense) is used, such term is amended and shall be deemed to mean and refer to the corporate limits of the Town of Somerset.
 - (2) Chapter 31 of the Montgomery County Code is hereby amended to substitute "Town of Somerset Council" for "County Personnel Board" wherever that term appears.
- B. Future amendments to Chapter 31 of the Montgomery County Code (2004). All amendments to Chapter 31 of the Montgomery County Code (2004) which are hereinafter enacted shall become effective within the Town of Somerset upon the effective date thereof unless prior thereto a resolution shall have been adopted by the Town of Somerset Council disapproving such amendments.
- C. Council resolutions and executive regulations. All Montgomery County Council resolutions and executive regulations now adopted by the County Council or County Executive for Montgomery County pursuant to the authority contained in Chapter 31 of the Montgomery County Code (2004) are hereby incorporated by reference and adopted to be effective within the boundaries of the Town of Somerset.
- D. Amendments to County Council resolutions and executive regulations. All County Council resolutions and executive regulations or amendments to either hereafter adopted by the County Council or Executive for Montgomery County pursuant to the authority contained in Chapter 31 of the Montgomery County Code (2004) become

effective within the boundaries of the Town of Somerset upon the effective date thereof unless prior thereto a resolution shall have been adopted by the Town of Somerset Council disapproving such resolutions, regulations or amendments.

E. The Mayor of the Town of Somerset is hereby authorized to enter into and execute on behalf of the Town of Somerset an agreement with the County Executive of Montgomery County for the enforcement of the Town of Somerset traffic and parking ordinance hereby adopted in form and substance materially consistent with the attached agreement.²

[Ord. No. 7-07, eff. 10-25-2007; amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 9, § 9-201, of the 1989 Code)]

§ 195-9. No-parking zones.

Parking shall be prohibited at all times on the following portions of the following streets:

Name of Street	Side	Location
Cumberland Avenue	North	50 feet east of Deal Place
Cumberland Avenue	North	75 feet east and west of the center of Surrey Street
Cumberland Avenue	North	25 feet west of Warwick Lane and east of Warwick Lane to Somerset School grounds
Cumberland Avenue	North	75 feet west of Wisconsin Avenue
Cumberland Avenue	South	Entire length
Deal Place	East	Entire length
Deal Place	West	75 feet south of Cumberland Avenue
Devon Lane	Both	Entire length
Dorset Avenue	North	Between Devon Lane and Little Falls Parkway
Dorset Avenue	North	50 feet east to 50 feet west of the intersection with the south leg of Surrey Street
Dorset Avenue	North	180 feet west of Wisconsin Avenue
Dorset Avenue	South	Entire length
Essex Avenue	South	Entire length
Falstone Avenue	South	Entire length
Grantham Avenue	South	Entire length
Greystone Street	East	Entire length

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^{2.} Editor's Note: The agreement is on file in the Town offices.

§ 195-9	VEHICLES	VEHICLES AND TRAFFIC § 195-1	
Name of Street	Side	Location	
Greystone Street	West	75 feet north of River Road	
Greystone Street	West	Between a point 25 feet north of the north curbline of Uppingham Street to a point 50 feet south of the south curbline of Uppingham Street	
Surrey Street	East	From Cumberland Avenue to Falstone Avenue	
Surrey Street	East	50 feet north of Greystone Street	
Surrey Street	West	75 feet south of the center of Cumberland Avenue	
Surrey Street	West	75 feet north of Dorset Avenue and 75 feet south of Dorset Avenue	
Surrey Street	West	From Falstone Avenue to Greystone Street	
Trent Street	East	Entire length	
Uppingham Street	East and south	Entire length	
Uppingham Street	West and north	17-foot section between the driveways of 5514 and 5516 Uppingham Street	
Warwick Lane	Both	Entire length	
Warwick Place	East	Entire length	
Warwick Place	West	75 feet north of Dorset Avenue	
Warwick Place	West	75 feet south of Dorset Avenue	
Warwick Place	West	100 feet north of Essex Avenue	

[Ord. No. 2-78, eff. 1-1-1979; amended 2-5-1979; 10-1-1984; Ord. No. 9-90, eff. 10-21-1990; Ord. No. 1-93, eff. 2-1993; Ord. No. 3-08, eff. 10-9-2008 (formerly Ch. 9, § 9-202, of the 1989 Code)]

§ 195-10. Limited parking on Dorset Avenue.

- A. Parking shall be prohibited on the following sections of the north side of Dorset Avenue from 7:30 a.m. to 6:30 p.m., except on Saturdays, Sundays and holidays:
 - (1) Wisconsin Avenue approximately 414 feet west to the eastern edge of the fire hydrant zone; and
 - (2) Warwick Place west to Surrey Street.
- B. Parking shall be prohibited on the north side of Dorset Avenue from Warwick Place east to the 4603-4605 Dorset Avenue property line between 7:30 a.m. and 6:30 p.m., except on Saturdays, Sundays and holidays.

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[Ord. No. 2-78, eff. 1-1-1979; amended 4-3-2017 by Ord. No. 1-17, eff. 9-5-2017; 4-3-2017 by Ord. No. 3-17, eff. 9-5-2017 (formerly Ch. 9, § 9-203, of the 1989 Code)]

§ 195-11. Limited parking areas.

Parking shall be limited to two hours Monday through Friday from 9:30 a.m. to 4:30 p.m., as follows:

Name of Street	Side	Location
Cumberland Avenue	North	Wisconsin Avenue to Deal Place
Deal Place	West	Cumberland Avenue to Dorset Avenue
Dorset Avenue	North	Wisconsin Avenue to the 4603-4605 Dorset Avenue property line
Essex Avenue	North	4700 Block
Falstone Avenue	North	Warwick Place to Surrey Street
Greystone Street	West	Uppingham Street to River Road
Uppingham Street	Northwest	From Falstone Avenue to the property line between 5518 and 5520 Uppingham Street
Warwick Place	West	Entire length

[Ord. No. 2-78, eff. 1-1-1979; amended by Ord. No. 3-89, eff. 5-1-1989; Ord. No. 5-89, eff. 6-25-1989; Ord. No. 10-90, eff. 10-21-1990; Ord. No. 2-99, eff. 6-8-1999; Ord. No. 3-99, eff. 10-13-1999 (formerly Ch. 9, § 9-204, of the 1989 Code)]

§ 195-12. Authority of Mayor.

The Mayor of Somerset or the Montgomery County Police may at any time temporarily prohibit parking on any public street by designating same as an "Emergency No Parking" zone, or may temporarily prohibit traffic on any public street or sidewalk in the event of an emergency. The Mayor is further authorized to temporarily prohibit parking on any street for any other public purpose, such as repairs or cleaning of streets, sidewalks, or adjacent public property.

[Ord. No. 2-78, eff. 1-1-1979; amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 9, § 9-205, of the 1989 Code)]

§ 195-13

ARTICLE III Additional Regulations

§ 195-13. Sledding areas.

- A. Cumberland Avenue from Surrey Street west to the 4902 Cumberland Avenue driveway is designated as a sledding area. For the twenty-four-hour period following each substantial snowfall, as determined by the Mayor, snow in the sledding area shall be left unplowed and unsanded.
- B. The Mayor shall submit sledding rules to the Town Council for its approval. Each year, such rules shall be published in the Town Journal, along with the Town's plowing and sanding policy.
- C. During the sledding period, appropriate signs shall be erected to alert drivers of the sledding area. Rules shall be posted at the top and bottom of the sledding hill.
- D. Each year the Mayor shall communicate the sledding policy, along with a map outlining affected streets and alleys, to the Montgomery County Police and Fire Departments and the Bethesda-Chevy Chase Rescue Squad.

[Ord. No. 2-78, eff. 1-1-1979; amended 4-2-1979; Ord. No. 9-03, eff. 12-10-2003; Ord. No. 3-15, eff. 12-7-2015 (formerly Ch. 9, § 9-301, of the 1989 Code)]

ARTICLE IV

Enforcement and Penalties

§ 195-14. Enforcement by state and county officers.

- A. The provisions of this chapter may be enforced by any law enforcement officer of the State of Maryland or Montgomery County.
- B. Violations of the provisions of Article II of this chapter may be enforced by the following parking control officers: any law enforcement officer of the State of Maryland or Montgomery County, the Mayor, the Clerk-Treasurer, or any other person authorized by resolution of the Town Council.
- C. The Mayor is hereby authorized to enter into and execute on behalf of the Town of Somerset an agreement with the County Executive of Montgomery County for the enforcement of Article II of this chapter in form and substance materially consistent with the attached agreement.

[Ord. No. 2-89, eff. 4-24-1989; amended by Ord. No. 7-07, eff. 10-25-2007 (formerly Ch. 9, § 9-401, of the 1989 Code)]

§ 195-15. Moving violations.

Violations of the provisions of Article I of this chapter shall be cited and prosecuted as offenses of Title 21 of the Transportation Article of the Annotated Code of Maryland,

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punishable as misdemeanors under the provisions of Title 27 of the Transportation Article of the Annotated Code of Maryland.

[Ord. No. 2-89, eff. 4-24-1989 (formerly Ch. 9, § 9-402, of the 1989 Code)]

§ 195-16. Parking violations.

Violations of the provisions of Article II of this chapter, or of Chapter 31 of the Montgomery County Code when such violation occurs within the Town, shall be cited on a form provided by the county. The fines for such violations will be those established from time to time by written regulation of the County Council pursuant to Section 31-51 of the Montgomery County Code. All fines shall be payable to the county when enforced by the county.

[Ord. No. 2-89, eff. 4-24-1989; amended by Ord. No. 7-07, eff. 10-25-2007; at time of adoption of Code (see Ch. 1, General Provisions, Art. I) (formerly Ch. 9, § 9-403, of the 1989 Code)]

APPENDIX

DERIVATION TABLE

Chapter DT

DERIVATION TABLE

§ DT-1. Derivation Table of 1989 Code to 2019 Code.

In order to assist Code users in the transition to the new Code's organization, the Derivation Table indicates where chapters and articles of the 1989 Code have been included in the 2019 Code, or the reason for exclusion.

§ DT-1. Derivation Table of 1989 Code to 2019 Code.

- REP = Repealed effective with adoption of Code; see Ch. 1, Art. I.
- NI = Not included in Code but saved from repeal.
- NLP = New legislation is pending.

Chapter/Title from 1989 Code	Location in 2019 Code	
Chapter 1, General Provisions		
Art. I, The Code		
§§ 1-101 through 1-105, 1-107 and 1-108	NLP; see Ch. 1, Art. I	
§ 1-106, Definitions and Rules of Construction	Ch. 1, Art. II	
Art. II, Penalties	Ch. 1, Art. III	
Chapter 2, Administration and Procedures	Ch. 5	
Art. VII, Town Tent	Repealed by Ord. No. 4-2014	
Chapter 3, Streets and Sidewalks	Ch. 170	
Chapter 4, Grounds		
Art. I, Maintenance of Property	Ch. 155	
Art. II, Protection of Town Property	Ch. 177	
Art. III, Litter Control	Ch. 164, Art. I	
Art. IV, Refuse Collection	Ch. 164, Art. II	
Chapter 5, Parks and Recreation	Ch. 149	
Chapter 6, Building Code	Ch. 112	
Chapter 7, Utility Line Construction	Ch. 189	
Chapter 8, Protection of Trees	Ch. 182	
Chapter 9, Vehicles and Traffic	Ch. 195	

§ DT-1	SOMERSET CODE		§ DT-1
Chapter/Title from 1989 Code		Location in 2019 Code	
Chapter 10, Montgomery County Legislation Adopted in Somerset		Ch. 123	
Chapter 11, Miscellaneous			
Art. I, Cable Communications		Ch. 118	
§ 11-106, Cable TV Committ	tee (Res. No. 1-98)	REP	
Art. II, Animal Control		Ch. 105	
Art. III, Noise Control		Ch. 140	
Art. IV, Town History Committee		NI	
Art. V, Security Committee		NI	
Art. VI, Special Events Committee		NI	

DISPOSITION LIST

Chapter DL

DISPOSITION LIST

§ DL-1. Disposition of legislation.

The following is a chronological listing of legislation of the Town of Somerset adopted since the 2019 publication of the Code, indicating its inclusion in the Code or the reason for its exclusion. [Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).] The last legislation reviewed for the 2019 publication of the Code was Ord. No. 1-18, adopted 5-7-2018.

§ DL-1. Disposition of legislation.

Enactment	Adoption Date	Subject	Disposition

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