

Council Agenda
Regular Somerset Town Council Meeting
September 3, 2019 Council Meeting Agenda

The Somerset Town Council will meet in regular session on September 3, 2019 at 7:30 p.m. at the Somerset Elementary School All-Purpose Room (NOTE: Change of venue and day of the week).

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 minutes from Council meeting held on August 5, 2019 – 7:40
2. Motion: Resolution to authorize Town Manager as Town's Retirement Plan Coordinator with ICMA Retirement Corporation – 7:41***

NON-CONSENT

3. Discussion: Town Manager August Administrative and Fiscal Report – 7:42
4. Discussion: Building Permit Administrator Report – 8:00
5. Public Hearing/Motion: to discuss Town Hall construction project and consider approval of contractor payment of \$57,191.93– 8:05***
6. Public Hearing/Motion: To consider approval of building permit at 5526 Uppingham Street to enlarge and redesign front porch, and install new walkway to porch from parking area. – 8:10

7. Public Hearing/Motion: To submit comments to FCC in response to recent court decision regarding small cell deployment. – 8:20***

8. Public Hearing/Motion: To introduce comprehensive Town Code amendments, as prepared by General Code– 8:35

9. Discussion: Mayor's Report – 9:05

10. Adjourn – 9:10

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.

* Times listed are estimated, and may run longer or shorter than allocated.

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.

Town of Somerset

4510 Cumberland Avenue, Chevy Chase, MD 20815

Minutes for Council Meeting on

Monday, August 5, 2019

Council Members Present: Marnie Shaul; Barbara Zeughauser; Steve Surko; **Council Members Not Present:** Frannie Peale; Morris Panner; **Mayor:** Jeffrey Slavin; **Town Manager:** Matthew Trollinger; **Building Administrator:** Doug Lohmeyer; **Town Arborist:** Tolbert Feather; **Town Hall Renovation Project Manager:** Lou Baledamas; **Residents and other attendees:** James Gaston III (Village of Martin's Additions); Lucy Freeman (Dorset Avenue); Barbara Condos (Falstone Avenue); Dan Rosenthal (Surrey Street); Ann Bolten (Cumberland Avenue); Chris Landis (architect, 5813 Surrey Street)

7:00 p.m. Council Work Session

The Council and Mayor set dates for the fall events as listed below:

- Newcomers' Party: Sunday, September 8 at 2:00 p.m.
- Dog Swim/Pool Closing: Sunday, September 29 at 1:00 p.m.
- Nonagenarian Party: Thursday, October 17 at 2:00 p.m.
- Community Service Day: Saturday, November 16
- Brown Bag Lunches: Thursday, September 12 and Thursday, November 7

The Mayor suggested the Town Manager follow up to schedule the Flu Clinic depending on the provider's availability.

The Council discussed trash bin covers, specifically at the corner of Trent and Uppingham. The Mayor noted that residents can make a donation, but money would need to be allocated for the Town to buy tops in conjunction with the budgeting process. Council member Shaul noted that Mayor Slavin had made a similar donation in the past and that the Town has a template for such a donation,

The Council discussed adding a trash policy for active construction sites.

7:30 p.m. Council Meeting Convenes

Mayor Slavin called the meeting to order and opened the floor for public comments.

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

Lucy Freeman (Falstone Avenue) asked for an update on the silt fence that has fallen at 4709 Doreset Avenue. She also made sure the Town office was keeping an eye on the number of cars parked at the site, and about water flowing from the site.

Building Administrator Doug Lohmeyer explained the Town's schedule for monitoring worksites. He said that he will follow up on Ms. Freeman's concerns.

CONSENT AGENDA

7:38 p.m. Motion: To approve Town Council Committee Liaisons

Council member Shaul so moved. Council member Zeughauser seconded. All in favor.

NON-CONSENT

7:39 p.m. Town Manager July Administrative and Fiscal Report

Town Manager Trollinger gave the fiscal and administrative reports (below)

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)

Infrastructure

- **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.

7:45 Building Permit Administrator Report

Building Administrator Lohmeyer gave his report, including updates on 5800 Deal Place, 4813 Falstone Avenue, 5813 Surrey Street, and 5415 Trent Street.

Council member Surko asked if a screen porch would make 5415 Trent in violation of County or Town Code. Mr. Lohmeyer explained that the screened-in porch would be considered part of the main building and those applicable setbacks and lot coverage.

7:52 p.m. Discussion: Town Hall construction project

Mr. Balodemas gave his report, stating that painting was nearly finished on the outside of the building. The estimate for the roof repairs are larger than expected, hence the need for Council approval.

7:55 p.m. Public Hearing/Motion: To consider approval of Town Hall renovation bills (contractor payment – \$42,457; project manager invoice - \$6,857; roof repair estimate adjustment - \$13,000) totaling \$64,314

Council member Zeughauser moved to approve the above Town Hall renovation funding. Council member Shaul seconded. All in favor.

7:56 p.m. 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 as-built driveway to 16 ft.; and install 36” tall fixed planters on the side patio facing Surrey Street at 5813 Surrey

Building Administrator Lohmeyer gave his report. The improvements have received approval from MCDPS and HPC, and he recommends approval.

Town Attorney Ron Bolt noted that the Town would need to grant an exception because of the Town Code’s wall retaining wall requirements. Council member Shaul and Zeughauser recalled that when the original permit was granted for the property, there was an expectation for the 2nd wall to be placed back where it was.

Council member Surko recommended approving if HPC thought that is was appropriate.

The applicant (Dan Rosenthal) noted that HPC required the yard to be backfilled. The planters will replace fencing, and will be 1’ x 2’ long, and 3’ high.

Council member Shaul moved to approve the permit. Council member Zeughauser seconded. All in favor.

8:10 p.m. 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 porch.

Building Administrator Lohmeyer recommended the Council approve. The applicant, Ann Bolten, noted that the plans were approved by HPC and that the porch is being rebuilt in the same footprint as before, but they are changing out screening for glass.

Council member Surko moved to approve the permit. Council member Zeughauser seconded. All in favor.

8:15 p.m. Public Hearing/Motion: To consider retroactive approval of emergency HVAC permit to replace failed unit at 5527 Surrey; and retroactive approval of emergency HVAC permit to replace failed unit at 5510 Uppingham

Council member Shaul moved to approve the permits. Council member Zeughauser seconded. All in favor.

8:17 p.m. Public Hearing/Motion: To consider removal the following Town trees as recommended by the Town Arborist

- 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***

Town Arborist Tolbert Feather noted all the trees are dead. Council member Surko asked why such young trees were dying. Dr. Feather suggested that the dogwoods were near paving, so may have gotten residual road salt.

Council member Zeughauser moved to approve the removals. Council member Surko seconded. All in favor.

8:25 p.m. Discussion/Motion: To consider approval of minutes taken at Town Council Meeting held on July 1, 2019.

Council member Zeughauser expressed that it may be too difficult for the Town Manager to take detailed minutes and participate in the meeting. Mayor Slavin agreed, and suggested less detailed minutes.

Council member Shaul moved approve the minutes; Council member Zeughauser seconded. All in favor.

8:28 p.m. 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.

Council member Shaul moved to approve the contract extension; Council member Zeughauser seconded. All in favor.

8:30 p.m. 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.

Town Manager Trollinger explained that the firm would help with audit preparation and to help institute good bookkeeping practices moving forward. Council member Zeughauser asked the Council to reconsider adding a third person to Town staff.

Council member Surko noted that it is better practice to competitively bid. Mayor Slavin suggested the Town institute an official procurement policy.

Council member Shaul moved to approve up to \$7,000 to hire Weyrich, Cronin & Sorra. Council member Zeughauser seconded. All in favor.

8:40 p.m. Public Hearing/Motion: To consider approval of payroll service software at a cost of \$3,200.

Council member Shaul moved to approve the payroll service software. Council member Zeughauser seconded. All in favor.

8:42 p.m. Discussion: General Code Update

Council member Shaul suggested Council member Peale write a letter in the Town Journal explaining the changes and process.

8:46 p.m. Discussion: Mayor's Report

The Mayor gave his report, and mentioned Maryland Tax Free Week, and scholarship opportunities for Maryland college students.

8:50 p.m. Adjourn

Council member Surko moved to adjourn; Council member Zeughauser seconded; all in favor.

**Town of Somerset
Resolution Designating Plan Coordinator**

Resolution No.: 9-19-1
Introduced: September 3, 2019
Adopted: September 3, 2019
Effective Date: September 3, 2019

WHEREAS, the Town of Somerset participates in a retirement plan administered by ICMA Retirement Corporation and, according to the operational requirements of the plan, the Town must designate a Plan Coordinator;

WHEREAS, the Town Council, after proper notice to the public, considered the following resolution at an open meeting held on the 2nd day of September 2019; and

NOW, THEREFORE, the Town Council does hereby adopt the foregoing resolution.

BE IT RESOLVED, this 2nd day of September 2019, the Town Manager shall be the coordinator for the Plan; shall receive reports, notices, and the like, from ICMA Retirement Corporation or VantageTrust; shall cast, on behalf of the Employer (Town), any required votes under VantageTrust; may delegate any administrative duties relating to the Plan to appropriate departments; and the Employer (Town) hereby authorizes the Town Manager to execute all necessary agreements with ICMA Retirement Corporation incidental to the administration of the Plan;

AND BE IT FURTHER ORDAINED AND ORDERED, by the Town Council, acting under and by virtue of the authority granted to it by the Town Charter, that if any part or provision of this Resolution is declared by a court of competent jurisdiction to be invalid, the part or provision held to be invalid shall not affect the validity of the Resolution as a whole or any remaining part thereof; and this Resolution shall take effect on this 2nd day of September 2019.

ATTEST:

TOWN OF SOMERSET

Matt Trollinger, Manager/Clerk-Treasurer
Town of Somerset

Marnie Shaul, President
Town of Somerset

Approved:

Jeffrey Slavin, Mayor
Town of Somerset

Date: _____

Manager's Report
September 3, 2019

Administrative Matters

- **File Storage:** Staff has met with ShoreScan and Canon, and has had brief discussions with a solution provided by Amazon. However, the newly-installed computers came with Microsoft OneDrive, which allows the computers to share files with each other. At this time OneDrive is filling the needs of the office.
- **Accounting/Bookkeeping:** Staff met with Weyrich, Cronin & Sorra to begin discussions on budgeting, accounting, and bookkeeping best practices. The firm will help with FY19 audit preparation.
 - **Reconciling Bank Statements:** One recommendation was that someone outside the check creation and signing process be responsible for reconciling the bank statements and checks at the end of each month. Currently, the Mayor, Town Manager, and Council members Shaul and Zeughauser have check-signing permission with SunTrust. Town staff are both involved in processing checks. The Council may consider appointing someone to reconcile the bank statements (perhaps make it a responsibility of the Budget Committee liaison).
- **Bill-Paying:** Staff was encouraged to also look into a more streamlined bill-paying system, such as Bill.com, which is used by some of the nearby municipalities. The software is owned by Intuit and integrates with QuickBooks.
- **Payroll Administration:** The Town will switch over at the next payroll.
- **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.
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- **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.
- **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

- **Snow Plow:** The Town's contract with Mulheron's ended in April. Staff is putting together an RFP so that a contractor can be selected at the November meeting.

- **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.

Tree Updates

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

Town of Somerset
Budget vs. Actuals: FY 20 Budget - FY20 P&L
July 1, 2019 - August 20, 2020

	Jul 2019		Aug 2019		Total	Year-to-Date	Total	Total
	Actual	Budget	Actual	Budget	Actual	Budget	Budget	Remaining
Income								0.00
41000 Tax								
41100 Property Tax	569.69	56,971.83	31,418.18	56,971.83	31,987.87	113,943.66	683,662.00	651,674.13
Total 41000 Tax	\$ 569.69	\$ 56,971.83	\$ 31,418.18	\$ 56,971.83	\$ 31,987.87	113,943.66	\$ 683,662.00	\$ 651,674.13
42000 Intergovernmental						0.00		0.00
42100 Income Tax		95,833.33		95,833.33		191,666.66	1,150,000.00	1,150,000.00
42200 Highway User (MD)	9,164.55	3,009.00		3,009.00	9,164.55	6,018.00	36,108.00	26,943.45
42300 Revenue Sharing (MC)		4,681.08		4,681.08		9,362.16	56,173.00	56,173.00
42400 Bank Share (MC)		22.42	268.62	22.42	268.62	44.84	269.00	0.38
42500 Cable Franchise Fee						0.00		0.00
42501 Comcast		517.25	1,372.31	517.25	1,372.31	1,034.50	6,207.00	4,834.69
42502 Verizon		1,058.08	3,254.39	1,058.08	3,254.39	2,116.16	12,697.00	9,442.61
Total 42500 Cable Franchise Fee	\$ 0.00	\$ 1,575.33	\$ 4,626.70	\$ 1,575.33	\$ 4,626.70	3,150.66	\$ 18,904.00	\$ 14,277.30
Total 42000 Intergovernmental	\$ 9,164.55	\$ 105,121.16	\$ 4,895.32	\$ 105,121.16	\$ 14,059.87	210,242.32	\$ 1,261,454.00	\$ 1,247,394.13
43000 Recreation						0.00		0.00
43100 Pool Fees						0.00		0.00
43101 Camp Summerset	6,076.00	2,000.00		2,000.00	6,076.00	4,000.00	8,000.00	1,924.00
43102 Guest Fees	5,361.74	2,398.75	1,197.87	2,398.75	6,559.61	4,797.50	9,595.00	3,035.39
43103 Water Aerobics		505.00		505.00		1,010.00	2,020.00	2,020.00
43104 Morning Swim		378.75		378.75		757.50	1,515.00	1,515.00
Total 43100 Pool Fees	\$ 11,437.74	\$ 5,282.50	\$ 1,197.87	\$ 5,282.50	\$ 12,635.61	10,565.00	\$ 21,130.00	\$ 8,494.39
43200 Tennis Court Fees	150.00				150.00	0.00		-150.00
43201 Regular Fees	198.50	166.67	50.00	166.67	248.50	333.34	2,000.00	1,751.50
43202 Camp Summerset - Tennis	140.00	50.00		0.00	140.00	50.00	100.00	-40.00
Total 43200 Tennis Court Fees	\$ 488.50	\$ 216.67	\$ 50.00	\$ 166.67	\$ 538.50	383.34	\$ 2,100.00	\$ 1,561.50
Total 43000 Recreation	\$ 11,926.24	\$ 5,499.17	\$ 1,247.87	\$ 5,449.17	\$ 13,174.11	10,948.34	\$ 23,230.00	\$ 10,055.89
44000 Interest						0.00		0.00
44100 Interest - MCPIP	8,096.00	929.66		929.66	8,096.00	1,859.32	11,156.00	3,060.00
44200 Interest - PNC	468.55	268.83	446.10	268.83	914.65	537.66	3,226.00	2,311.35
44300 Interest - Capital One	6.82	4.50	6.71	4.50	13.53	9.00	54.00	40.47
Total 44000 Interest	\$ 8,571.37	\$ 1,202.99	\$ 452.81	\$ 1,202.99	\$ 9,024.18	2,405.98	\$ 14,436.00	\$ 5,411.82
45000 Rental to Residents						0.00		0.00
45100 Town Hall Fees		166.67		166.67		333.34	2,000.00	2,000.00
Total 45000 Rental to Residents	\$ 0.00	\$ 166.67	\$ 0.00	\$ 166.67	\$ 0.00	333.34	\$ 2,000.00	\$ 2,000.00
46000 Permit						0.00		0.00
46100 Building Permits	600.00	935.00	575.00	935.00	1,175.00	1,870.00	11,220.00	10,045.00
46200 Fence/Wall		83.33		83.33		166.66	1,000.00	1,000.00
46300 Storage Pods		16.67		16.67		33.34	200.00	200.00
46400 Dumpster		85.00		85.00		170.00	1,020.00	1,020.00
46500 Curb/Driveway		25.00		25.00		50.00	300.00	300.00

46600 Late fee	50.00	50.00		100.00	600.00	600.00		
46700 Waiver	8.33	8.33		16.66	100.00	100.00		
Total 46000 Permit	\$ 600.00	\$ 1,203.33	\$ 575.00	\$ 1,203.33	\$ 1,175.00	2,406.66	\$ 14,440.00	\$ 13,265.00
47000 Miscellaneous - Revenue						0.00		0.00
47200 Miscl. Revenues	70.00	85.00	85.00	70.00	170.00	1,020.00	950.00	
47400 Compost Bins Fee	4.17	4.17			8.34	50.00	50.00	
Total 47000 Miscellaneous - Revenue	\$ 70.00	\$ 89.17	\$ 0.00	\$ 89.17	\$ 70.00	178.34	\$ 1,070.00	\$ 1,000.00
Total Income	\$ 30,901.85	\$ 170,254.32	\$ 38,589.18	\$ 170,204.32	\$ 69,491.03	340,458.64	\$ 2,000,292.00	\$ 1,930,800.97
Gross Profit	\$ 30,901.85	\$ 170,254.32	\$ 38,589.18	\$ 170,204.32	\$ 69,491.03	340,458.64	\$ 2,000,292.00	\$ 1,930,800.97
Expenses						0.00		
61000 Personnel						0.00		0.00
61100 Payroll Expense						0.00		0.00
61101 Suntrust			-1,306.48		6,354.37	0.00		-6,354.37
61102 Pension Expense	531.54	83.33	83.33	531.54	166.66	1,000.00	468.46	
Total 61100 Payroll Expense	\$ 531.54	\$ 83.33	-\$ 1,306.48	\$ 83.33	\$ 6,885.91	166.66	\$ 1,000.00	-\$ 5,885.91
61200 Salary Expense						0.00		0.00
61201 Mayor	2,165.76	1,250.00	1,153.84	1,250.00	3,319.60	2,500.00	15,000.00	11,680.40
61202 Town Clerk	19,123.07	8,333.33	7,038.46	8,333.33	26,161.53	16,666.66	100,000.00	73,838.47
61203 Public Works Regular	16,512.30	10,458.50	9,657.20	10,458.50	26,169.50	20,917.00	125,502.00	99,332.50
61204 Public Works Overtime	917.14	83.33	83.33	917.14	166.66	1,000.00	82.86	
61207 Office Employee	5,713.75	4,463.33	2,768.12	4,463.33	8,481.87	8,926.66	53,560.00	45,078.13
Total 61200 Salary Expense	\$ 44,432.02	\$ 24,588.49	\$ 20,617.62	\$ 24,588.49	\$ 65,049.64	49,176.98	\$ 295,062.00	\$ 230,012.36
61300 Employer Retirement Cont.	2,705.13	1,666.67	1,335.66	1,666.67	4,040.79	3,333.34	20,000.00	15,959.21
61400 Health Insurance-Employer Paid	4,168.92	3,500.00	4,168.92	3,500.00	8,337.84	7,000.00	42,000.00	33,662.16
61600 Workman's Comp		500.00	500.00			1,000.00	6,000.00	6,000.00
61700 FICA, Medicare & UI	3,065.43	2,916.67	1,732.47	2,916.67	4,797.90	5,833.34	35,000.00	30,202.10
61800 Staff Training	250.00	41.67	41.67	250.00	83.34	500.00	250.00	
Total 61000 Personnel	\$ 55,153.04	\$ 33,296.83	\$ 26,548.19	\$ 33,296.83	\$ 89,362.08	66,593.66	\$ 399,562.00	\$ 310,199.92
62000 Professional Services						0.00		0.00
62100 Arborist		1,166.67	1,166.67			2,333.34	14,000.00	14,000.00
62101 Garden Supervisor		1,166.67	1,166.67			2,333.34	14,000.00	14,000.00
62200 Audit/Accounting		1,141.67	1,141.67			2,283.34	13,700.00	13,700.00
62300 Storm Water		83.33	83.33			166.66	1,000.00	1,000.00
62400 Traffic Calming		416.67	416.67			833.34	5,000.00	5,000.00
62500 Legal Fees						0.00		0.00
62501 Attorney		5,833.33	9,029.40	5,833.33	9,029.40	11,666.66	70,000.00	60,970.60
62502 Code		833.33	833.33			1,666.66	10,000.00	10,000.00
Total 62500 Legal Fees	\$ 0.00	\$ 6,666.66	\$ 9,029.40	\$ 6,666.66	\$ 9,029.40	13,333.32	\$ 80,000.00	\$ 70,970.60
62600 Police	1,895.75	4,166.67	1,952.50	4,166.67	3,848.25	8,333.34	50,000.00	46,151.75
62600_1 Security Camera Rebate		166.67	166.67			333.34	2,000.00	2,000.00
62700 IT						0.00		0.00
62701 Web Site		343.25	343.25			686.50	4,119.00	4,119.00
62703 Web Site Credit Card Fee		41.67	41.67			83.34	500.00	500.00
Total 62700 IT	\$ 0.00	\$ 384.92	\$ 0.00	\$ 384.92	\$ 0.00	769.84	\$ 4,619.00	\$ 4,619.00
62800 Code Enforcement Officer						0.00		0.00
62801 Enforcement Officer		1,666.67	1,666.67			3,333.34	20,000.00	20,000.00
62802 Building Adminstrator		4,166.67	3,950.00	4,166.67	3,950.00	8,333.34	50,000.00	46,050.00

Total 62800 Code Enforcement Officer	\$	0.00	\$	5,833.34	\$	3,950.00	\$	5,833.34	\$	3,950.00	11,666.68	\$	70,000.00	\$	66,050.00
62907 Town Code Consultant				250.00				250.00			500.00		3,000.00		3,000.00
62908 Project Management Support				416.67				416.67			833.34		5,000.00		5,000.00
62909 Lighting Consultant		1,228.53							1,228.53		0.00				-1,228.53
Total 62000 Professional Services	\$	3,124.28	\$	21,859.94	\$	14,931.90	\$	21,859.94	\$	18,056.18	43,719.88	\$	262,319.00	\$	244,262.82
64000 Civic Affairs											0.00				0.00
64100 Special Events											0.00				0.00
64101 Community Service				0.00				0.00			0.00		1,000.00		1,000.00
64102 4th July		333.33		250.00				0.00	333.33		250.00		500.00		166.67
64103 New Comers				300.00				300.00			600.00		1,000.00		1,000.00
64104 Summer Kick-off				0.00				0.00			0.00		1,500.00		1,500.00
64105 Social Events											0.00				0.00
64108-1 Nonagenarian				0.00				250.00			250.00		500.00		500.00
64108-2 Tennis				0.00				0.00			0.00		200.00		200.00
64108-3 History				41.66				41.66			83.32		500.00		500.00
64108-4 Pool				0.00				0.00			0.00		1,000.00		1,000.00
Total 64105 Social Events	\$	0.00	\$	41.66	\$	0.00	\$	291.66	\$	0.00	333.32	\$	2,200.00	\$	2,200.00
64107 Guest Speakers				333.33				333.33			666.66		4,000.00		4,000.00
Total 64100 Special Events	\$	333.33	\$	924.99	\$	0.00	\$	924.99	\$	333.33	1,849.98	\$	10,200.00	\$	9,866.67
64200 Membership Dues											0.00				0.00
64201 CCCFH				100.00				0.00			100.00		100.00		100.00
64202 Other				0.00		782.00		0.00	782.00		0.00		400.00		-382.00
64203 MCCMA				150.00				0.00			150.00		150.00		150.00
Total 64200 Membership Dues	\$	0.00	\$	250.00	\$	782.00	\$	0.00	\$	782.00	250.00	\$	650.00	-\$	132.00
64300 MML											0.00				0.00
64301 Chapter Meetings				125.00				125.00			250.00		1,500.00		1,500.00
64302 Dues		6,699.12		516.25				516.25	6,699.12		1,032.50		6,195.00		-504.12
64303 Conference Registration				272.00				272.00			544.00		3,264.00		3,264.00
64304 Travel and Lodging		702.96		340.00				340.00	702.96		680.00		4,080.00		3,377.04
64305 Misc.				20.83				20.83			41.66		250.00		250.00
Total 64300 MML	\$	7,402.08	\$	1,274.08	\$	0.00	\$	1,274.08	\$	7,402.08	2,548.16	\$	15,289.00	\$	7,886.92
64400 Cable TV-Channel 16 Local Gov't				125.00				125.00			250.00		1,500.00		1,500.00
Total 64000 Civic Affairs	\$	7,735.41	\$	2,574.07	\$	782.00	\$	2,324.07	\$	8,517.41	4,898.14	\$	27,639.00	\$	19,121.59
65000 Publications											0.00				0.00
65100 Journal											0.00				0.00
65101 Postage		278.30		416.67				416.67	278.30		833.34		5,000.00		4,721.70
65102 Printing		467.50		561.00		868.58		561.00	1,336.08		1,122.00		6,732.00		5,395.92
65103 Graphic Designer		832.00		666.67				666.67	832.00		1,333.34		8,000.00		7,168.00
Total 65100 Journal	\$	1,577.80	\$	1,644.34	\$	868.58	\$	1,644.34	\$	2,446.38	3,288.68	\$	19,732.00	\$	17,285.62
65200 Directory & Handbook				314.50				314.50			629.00		3,774.00		3,774.00
Total 65000 Publications	\$	1,577.80	\$	1,958.84	\$	868.58	\$	1,958.84	\$	2,446.38	3,917.68	\$	23,506.00	\$	21,059.62
66000 Insurance											0.00				0.00
66100 Property/Liability - LGIT		5,609.00		500.00				500.00	5,609.00		1,000.00		6,000.00		391.00
66200 Truck Insurance - LGIT		1,918.00		141.67				141.67	1,918.00		283.34		1,700.00		-218.00
Total 66000 Insurance	\$	7,527.00	\$	641.67	\$	0.00	\$	641.67	\$	7,527.00	1,283.34	\$	7,700.00	\$	173.00
67000 Town Hall/Garage											0.00				0.00
67100 Town Hall											0.00				0.00

67101 Equipment	5,280.00	250.00		250.00	5,280.00	500.00	3,000.00	-2,280.00
67102 Maintenance		208.33		208.33		416.66	2,500.00	2,500.00
67103 Supply	19.99	208.33		208.33	19.99	416.66	2,500.00	2,480.01
67104 Utilities	279.53	416.67	510.03	416.67	789.56	833.34	5,000.00	4,210.44
67105 Renovation/Improvements	2,710.68	80,000.00	51,001.41	80,000.00	53,712.09	160,000.00	400,000.00	346,287.91
67105-1 Project Manager		4,200.00	21,717.46	4,200.00	21,717.46	8,400.00	21,000.00	-717.46
Total 67105 Renovation/Improvements	\$ 2,710.68	\$ 84,200.00	\$ 72,718.87	\$ 84,200.00	\$ 75,429.55	168,400.00	\$ 421,000.00	\$ 345,570.45
Total 67100 Town Hall	\$ 8,290.20	\$ 85,283.33	\$ 73,228.90	\$ 85,283.33	\$ 81,519.10	170,566.66	\$ 434,000.00	\$ 352,480.90
67200 Garage	805.54				805.54	0.00		-805.54
67201 Supplies	520.53	125.00	227.93	125.00	748.46	250.00	1,500.00	751.54
67202 Utilities	24.44	187.92	187.29	187.92	211.73	375.84	2,255.00	2,043.27
67203 Maintenance		250.00		250.00		500.00	3,000.00	3,000.00
67205 Renovation/Improvements		250.00		250.00		500.00	3,000.00	3,000.00
67207 Truck	12.48		170.04		182.52	0.00		-182.52
67207-1 Gasoline	177.35	208.33		208.33	177.35	416.66	2,500.00	2,322.65
67207-2 Repairs		175.00		175.00		350.00	2,100.00	2,100.00
67207-3 Inspection		0.00		0.00		0.00	14.00	14.00
Total 67207 Truck	\$ 189.83	\$ 383.33	\$ 170.04	\$ 383.33	\$ 359.87	766.66	\$ 4,614.00	\$ 4,254.13
Total 67200 Garage	\$ 1,540.34	\$ 1,196.25	\$ 585.26	\$ 1,196.25	\$ 2,125.60	2,392.50	\$ 14,369.00	\$ 12,243.40
67300 Office	285.96		290.72		576.68	0.00		-576.68
67301 Supplies	498.97	427.08	369.70	427.08	868.67	854.16	5,125.00	4,256.33
67302 Web-hosting/Domain	11.95	17.08		17.08	11.95	34.16	205.00	193.05
67303 Phone		341.67		341.67		683.34	4,100.00	4,100.00
67304 Uniform	117.45	85.42		85.42	117.45	170.84	1,025.00	907.55
67306 Miscellaneous		191.67	1,650.00	191.67	1,650.00	383.34	2,300.00	650.00
Total 67300 Office	\$ 914.33	\$ 1,062.92	\$ 2,310.42	\$ 1,062.92	\$ 3,224.75	2,125.84	\$ 12,755.00	\$ 9,530.25
Total 67000 Town Hall/Garage	\$ 10,744.87	\$ 87,542.50	\$ 76,124.58	\$ 87,542.50	\$ 86,869.45	175,085.00	\$ 461,124.00	\$ 374,254.55
68000 Streets & Sidewalks						0.00		0.00
68100 Streets						0.00		0.00
68101 Sweeping		333.33		333.33		666.66	4,000.00	4,000.00
68102 Maintenance	97.20	250.00		250.00	97.20	500.00	3,000.00	2,902.80
68104 Supplies/Signs		166.67		166.67		333.34	2,000.00	2,000.00
68105 Street Lighting	1,545.23	1,874.25	1,591.38	1,874.25	3,136.61	3,748.50	22,491.00	19,354.39
68106 Street Snow Removal		2,083.33		2,083.33		4,166.66	25,000.00	25,000.00
Total 68100 Streets	\$ 1,642.43	\$ 4,707.58	\$ 1,591.38	\$ 4,707.58	\$ 3,233.81	9,415.16	\$ 56,491.00	\$ 53,257.19
68200 Sidewalk						0.00		0.00
68203 Sidewalk Snow Removal		0.00		0.00		0.00	50,000.00	50,000.00
Total 68200 Sidewalk	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	0.00	\$ 50,000.00	\$ 50,000.00
Total 68000 Streets & Sidewalks	\$ 1,642.43	\$ 4,707.58	\$ 1,591.38	\$ 4,707.58	\$ 3,233.81	9,415.16	\$ 106,491.00	\$ 103,257.19
69000 Trees, G. & P						0.00		0.00
69100 Contract-Trees & Grounds						0.00		0.00
69101 Maintenance	10,125.00	5,000.00	937.50	5,000.00	11,062.50	10,000.00	60,000.00	48,937.50
69102 Tree Removal	5,398.00	2,333.33	4,500.00	2,333.33	9,898.00	4,666.66	28,000.00	18,102.00
Total 69100 Contract-Trees & Grounds	\$ 15,523.00	\$ 7,333.33	\$ 5,437.50	\$ 7,333.33	\$ 20,960.50	14,666.66	\$ 88,000.00	\$ 67,039.50
69200 Equipment		416.67		416.67		833.34	5,000.00	5,000.00
69202 Trees		833.33		833.33		1,666.66	10,000.00	10,000.00
69203 Landscaping/Stormwater						0.00		0.00

69203-1 Landscaping/Stormwater Project Manager		166.67		166.67		333.34	2,000.00	2,000.00
69203-2 Landscaping/Stormwater		1,500.00		1,500.00		3,000.00	18,000.00	18,000.00
Total 69203 Landscaping/Stormwater	\$	0.00	\$	1,666.67	\$	0.00	\$	1,666.67
69204 Lighting		5,833.33		5,833.33		11,666.66	70,000.00	70,000.00
69204-1 Lighting Consultant		1,250.00		1,250.00		2,500.00	15,000.00	15,000.00
69300 Dumping Fees						0.00		0.00
69301 Recycling		79.58		125.00		221.72	250.00	1,278.28
Total 69300 Dumping Fees	\$	79.58	\$	125.00	\$	142.14	\$	125.00
69400 General						0.00		0.00
69401 Supplies		621.00		416.67		1,419.08	833.34	3,580.92
69402 Maintenance		307.55		166.67		307.55	333.34	2,000.00
69404 WSSC Meter				62.50		125.00	750.00	750.00
Total 69400 General	\$	928.55	\$	645.84	\$	798.08	\$	645.84
Total 69000 Trees, G. & P	\$	16,531.13	\$	18,104.17	\$	22,908.85	\$	1,726.63
70000 Sanitation						36,208.34	217,250.00	194,341.15
70100 Trash Contract		0.35		5,500.00		0.35	11,000.00	65,999.65
70200 Recycling Contract		0.00		5,500.00		0.00	11,000.00	66,000.00
70300 Leaves Contract				3,000.00			6,000.00	36,000.00
70400 Blue Bins				416.67			833.34	5,000.00
70500 Composting		2,193.60		2,500.00		6,627.12	5,000.00	23,372.88
70600 Composting Bins				66.67		48.00	133.34	800.00
70700 Yard Waste		-0.13		1,287.50		-0.13	2,575.00	15,450.13
Total 70000 Sanitation	\$	2,193.82	\$	18,270.84	\$	4,481.52	\$	18,270.84
71000 Recreation Exp							0.00	0.00
71100 Pool		34.00				34.00	0.00	-34.00
71101 Maintenance		1,656.18		1,250.00		1,656.18	2,500.00	13,343.82
71102 Equipment				3,333.33			6,666.66	40,000.00
71104 Management Fees				10,833.33		31,100.50	21,666.66	130,000.00
71105 Management Misl. Fees				291.67		1,192.50	583.34	3,500.00
71107 Coaches Fee				1,666.66		28,672.00	3,333.32	20,000.00
71108 Aerobics Class				166.66			333.32	2,000.00
71109 MCSL Fee		227.94		41.67		227.94	83.34	500.00
71110 Utilities							0.00	0.00
71110-1 WSSC							0.00	0.00
71110-a Water		1,134.38		750.00		1,134.38	1,500.00	9,000.00
71110-b Sewer		1,674.75		666.67		1,674.75	1,333.34	8,000.00
Total 71110-1 WSSC	\$	2,809.13	\$	1,416.67	\$	0.00	\$	1,416.67
71110-2 Electric		1,426.71		816.67		2,943.87	1,633.34	9,800.00
71110-3 Gas		221.54		250.00		329.00	500.00	3,000.00
71110-4 Phone							0.00	0.00
71110-c Reg. Phone				66.67			133.34	800.00
71110-d Fios		500.42		133.33		660.08	266.66	1,600.00
Total 71110-4 Phone	\$	500.42	\$	200.00	\$	159.66	\$	200.00
Total 71110 Utilities	\$	4,957.80	\$	2,683.34	\$	1,784.28	\$	2,683.34
71111 Plumber				333.33			666.66	4,000.00
71112 Software		99.00		66.67		99.00	133.34	800.00
71114 Pool Bridge		11,435.00				11,435.00	0.00	-11,435.00

71116 Security Monitoring	5,623.68	541.67		541.67	5,623.68	1,083.34	6,500.00	876.32
71117 Cleaning Contract	1,980.00	583.33	1,320.00	583.33	3,300.00	1,166.66	7,000.00	3,700.00
71119 Early Bird Swim		145.83	703.18	145.83	703.18	291.66	1,750.00	1,046.82
71120 Pest Inspection	354.00	125.00	84.00	125.00	438.00	250.00	1,500.00	1,062.00
Total 71100 Pool	\$ 26,367.60	\$ 22,062.49	\$ 64,856.46	\$ 22,062.49	\$ 91,224.06	44,124.98	\$ 264,750.00	\$ 173,525.94
71200 Batting Cage						0.00		0.00
71203 Supplies		166.67		166.67		333.34	2,000.00	2,000.00
Total 71200 Batting Cage	\$ 0.00	\$ 166.67	\$ 0.00	\$ 166.67	\$ 0.00	333.34	\$ 2,000.00	\$ 2,000.00
71300 Tennis Courts						0.00		0.00
71302 Supplies		41.67		41.67		83.34	500.00	500.00
71303 Maintenance		20.83		20.83		41.66	250.00	250.00
71304 Water Fountain		208.33		208.33		416.66	2,500.00	2,500.00
Total 71300 Tennis Courts	\$ 0.00	\$ 270.83	\$ 0.00	\$ 270.83	\$ 0.00	541.66	\$ 3,250.00	\$ 3,250.00
Total 71000 Recreation Exp	\$ 26,367.60	\$ 22,499.99	\$ 64,856.46	\$ 22,499.99	\$ 91,224.06	44,999.98	\$ 270,000.00	\$ 178,775.94
72000 Bank Service Charge	61.24	54.17	85.28	54.17	146.52	108.34	650.00	503.48
73000 Debt Services						0.00		0.00
73100 SunTrust Poolhouse Bond	102,174.00	9,905.00		9,905.00	102,174.00	19,810.00	118,860.00	16,686.00
Total 73000 Debt Services	\$ 102,174.00	\$ 9,905.00	\$ 0.00	\$ 9,905.00	\$ 102,174.00	19,810.00	\$ 118,860.00	\$ 16,686.00
74000 Miscl. Expenses	1,211.25	250.00		250.00	1,211.25	500.00	3,000.00	1,788.75
75000 Environmental		2,666.67		2,666.67		5,333.34	32,000.00	32,000.00
76000 Budget Contingency		0.00		0.00		0.00	50,000.00	50,000.00
77000 Wynne Case		3,333.33		3,333.33		6,666.66	40,000.00	40,000.00
Uncategorized Expense	0.50				0.50	0.00		-0.50
Total Expenses	\$ 236,044.37	\$ 227,665.60	\$ 196,647.61	\$ 227,415.60	\$ 440,352.83	455,081.20	\$ 2,239,351.00	\$ 1,798,998.17
Net Operating Income	-\$ 205,142.52	-\$ 57,411.28	-\$ 158,058.43	-\$ 57,211.28	-\$ 370,861.80	-114,622.56	-\$ 239,059.00	\$ 131,802.80
Net Income	-\$ 205,142.52	-\$ 57,411.28	-\$ 158,058.43	-\$ 57,211.28	-\$ 370,861.80	-114,622.56	-\$ 239,059.00	\$ 131,802.80

APPLICATION & CERTIFICATE FOR PAYMENT

AIA G702 SIMULATION

TO OWNER: Somerset Town Hall
4510 Cumberland Avenue
Chevy Chase, MD 20815
FROM CONTRACTOR: deMarne & Day, Inc.
VIA ARCHITECT: Balodemas Architects
4301 Connecticut Avenue, N.W., Suite 149
Washington, DC 20008

APPLICATION NO.: 5
PERIOD TO: 08/23/19
Distribution to:
OWNER ✓
ARCHITECT ✓
CONTRACTOR

CONTRACT FOR: Addition / Alterations

CONTRACTOR'S APPLICATION FOR PAYMENT

Application for payment is made for payment as shown below, in connection with the Contract.
Continuation Sheet, Document G703, is attached.

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information, and belief, the Work covered by this Application for Payment has been completed in accordance with the Contract Documents that all amounts have been paid by the Contractor for which previous Certificates of Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

1. ORIGINAL CONTRACT SUM \$310,970.00
2. Net change by Change Orders \$191,160.04
3. CONTRACT SUM TO DATE (line 1 +/- 2) \$502,130.04
4. TOTAL COMPLETED & STORED TO DATE (Column G on G703) \$300,022.29

5. RETAINAGE:

- a. 5% of completed work (Columns D + E on G703) \$15,001.11
- b. Credit of Deposit \$15,548.50 60% (Column F on G703) \$9,329.10

Total Retainage (Line 5a + 5b or Total in Column I of G703) \$24,330.21

6. TOTAL EARNED LESS RETAINAGE

(Line 4 less Line 5 Total)

7. LESS PREVIOUS CERTIFICATES FOR PAYMENT

(Line 6 from prior Certificate)

8. CURRENT PAYMENT DUE

9. BALANCE TO FINISH, INCLUDING RETAINAGE

(Line 3 less Line 6)

\$57,191.93

\$226,437.96

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner.		
Total approved this month		
TOTALS		
NET CHANGES by Change Order	See Attached	

CONTRACTOR:

By:  Date: 8/27/19

State:

County:

Subscribed and sworn to before me this day of

Notary Public:

My Commission expires:

ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on site observations and the data comprising this application, the architect certifies to the Owner that to the best of the Architect's knowledge, information and belief, the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED

(Attach explanation if amount certifies differs from the amount applied for. Initial figures on this Application and on the Continuation Sheet that are changed to conform to the amount certified.)

By:  Date: 8/28/19

ARCHITECT

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment, and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.


CONTINUATION SHEET			CLIENT: Somerset Town Hall		
[CHANGE ORDERS]					
			SCHED.	%	
NO.	ACCEPT	DESCRIPTION	VALUE	COMPLETE	AMOUNT BILLED
1	Yes	Window Revisions.	\$2,436.50	100	\$2,436.50
2	Yes	Misc. Framing Revisions.	\$26,925.00	100	\$26,925.00
3	Yes	Plumbing Fixture Allowance.	\$2,903.75	100	\$2,903.75
4	Yes	Added Bond Costs for (#1-#3).	\$967.96	100	\$967.96
5	Yes	Upgrade Roof Shingles.	\$1,077.38	100	\$1,077.38
6	Yes	Relocation of Existing Water Heater.	\$2,533.80	100	\$2,533.80
7	Yes	Added Crawlspace Beams.	\$8,773.54	100	\$8,773.54
8	Yes	Stair Finish Revision.	\$1,626.76	50	\$813.38
9	Yes	Added Floor Hatch.	\$5,402.00	100	\$5,402.00
10	Yes	Fire Rated Door & Glass.	\$4,911.04	50	\$2,455.52
11	Yes	Sprinkler Related Items.	\$76,737.81	25	\$19,184.45
12	Yes	Insulation Revisions.	\$2,334.19	-	
13	Yes	Final Doors & Hardware.	\$13,627.48	100	\$13,627.48
14	Yes	Electrical Revisions.	\$6,508.83	100	\$6,508.83
15	Yes	Credit Pantry Cabinets.	(\$5,750.00)	100	(\$5,750.00)
16	Yes	Exterior Rot Repair Allowance.	(\$850.00)	100	(\$850.00)
17	Yes	Meeting Room Structure.	\$40,994.00	80	\$32,795.20
18					
19					
20					
			\$191,160.04	63%	\$119,804.79

Date:	<u>AUGUST 27, 2019</u>
Project:	<u>Somerset Town Hall</u>
Address:	<u>4510 Cumberland Avenue</u>
City:	<u>Chevy Chase</u>
County:	<u>Montgomery</u>
State/Zip:	<u>Maryland, 20815</u>
Owner:	<u>Somerset Town Hall</u>
Contractor:	<u>deMarne & Day, Inc.</u>

Contract Date: 9/7/18
Contract Price: \$310,970.5
Net Extras & Deductions: \$191,160.04
Adjusted Contract Price: \$502,130.04
Amount Previously Paid: \$218,500.15
Current Payment Due: \$57,191.93
Balance Due: \$226,437.96

The undersigned further covenants and agrees that it will not claim or file a mechanic's lien or other lien in connection with the Project or against any fund applicable thereto for any of the labor, material or equipment furnished and work performed by the undersigned and requisitioned through the date of the attached requisition.

CONTRACTOR/SUBCONTRACTOR:

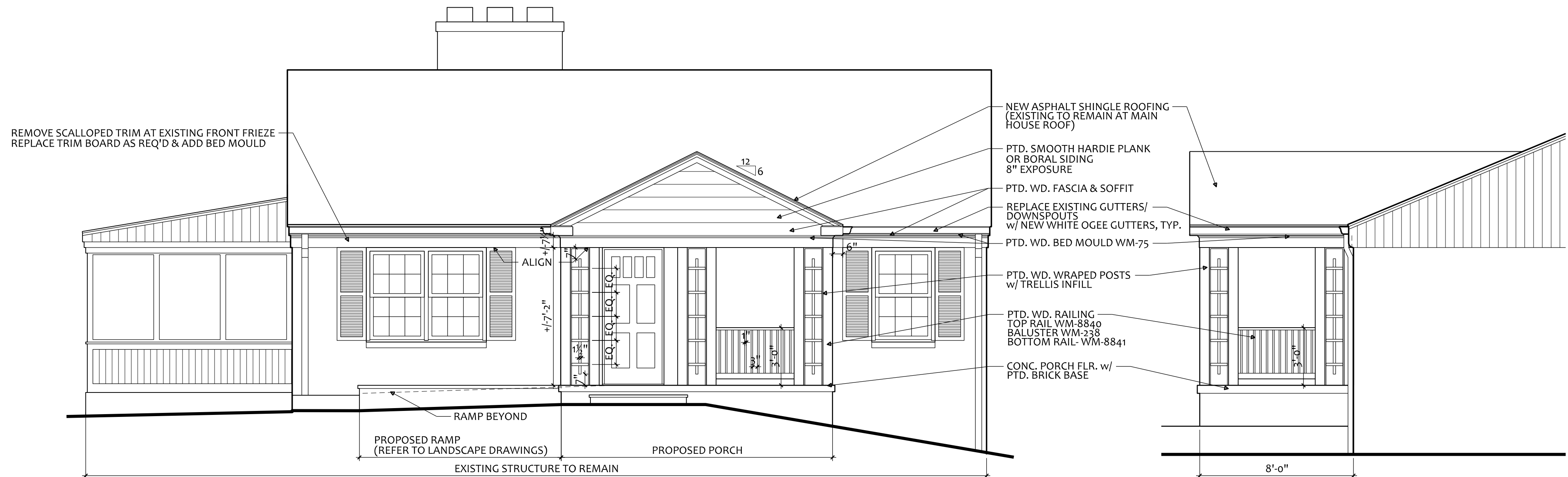
Signature: 
Print Name: Michael J. Sullivan
Title: PRESIDENT

On this 27TH day of AUGUST, in the year 2017, before me personally came MICHAEL J. SULLIVAN, to me known, who, being by me duly sworn, did depose and say that he/she resides at 7822 STRATFORD RD, BETHESDA, MD 20814, that he/she is the PRESIDENT of the DEMAREE 4 DAY INC., the corporation described in and which executed the foregoing Partial Release and Lien Waiver, and that he/she signed his/her name thereto by authority of the board of directors of the corporation.

Notary Public
NOTARY SEAL
 Matthew J. McPhail, Notary Public
 Montgomery County, Bethesda, Maryland
 My Commission Expires May. 25, 2021

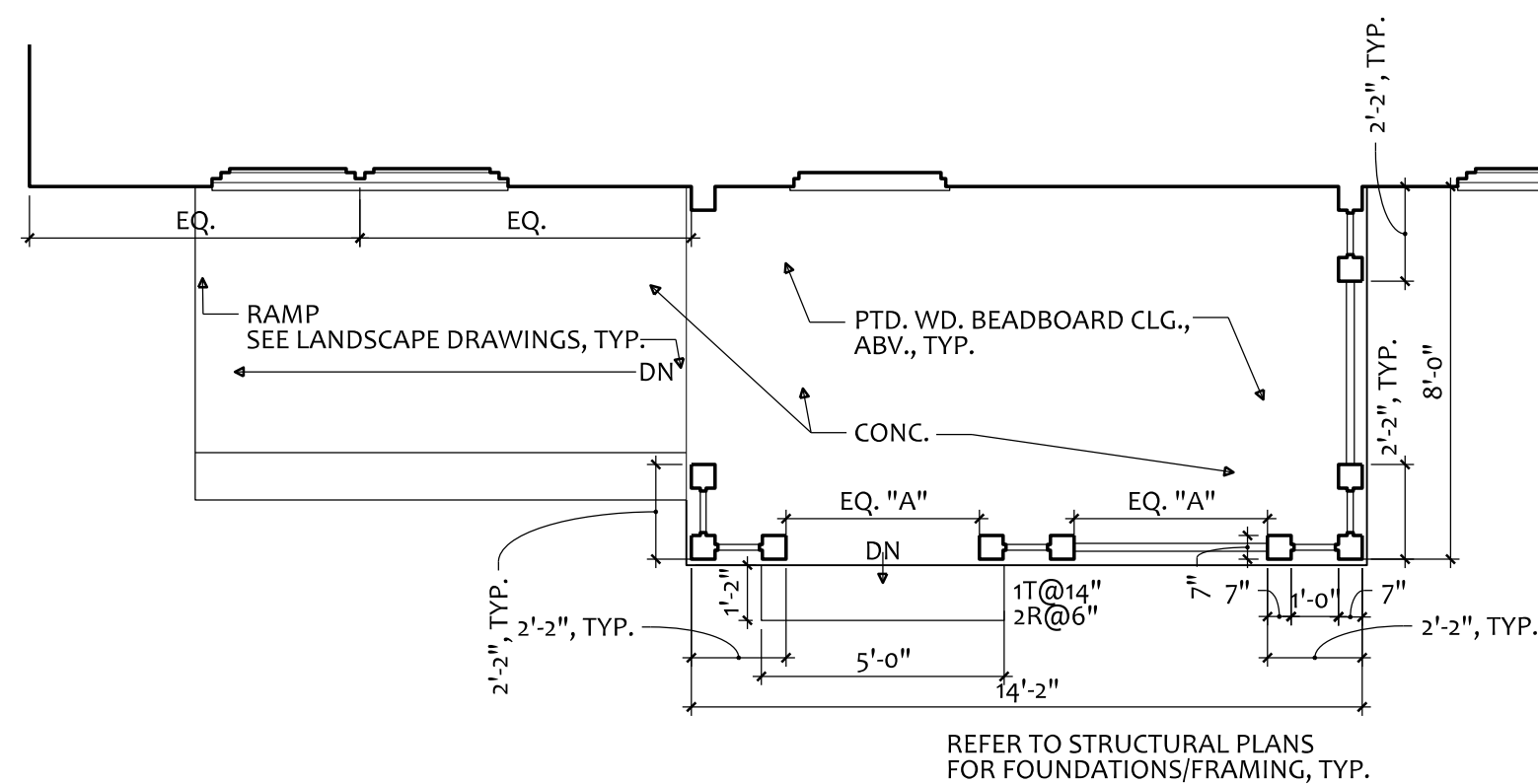
PERMITS REVIEWED BY DOUG
DATE OF REPORT 08/29/2019

ADDRESS	STREET NAME	APPLICANT	PHONE NO.	EMAIL	DESCRIPTION OF WORK	CONTRACTOR	PHONE	PERMIT EXP.	DOUG'S COMMENTS
5800	Deal Pl.	5800 Deal Pl, LLC	202-812-9278	designbulddc@gmail.com	Add front & rear decks. Build addition adding 2nd & 3rd floors.	Bianca Peters	202-812-9278	12/3/2019	Plans revised at MCDPS - waiting Council 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	12/16/2019	
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 St.	Dan & Aveva Rosenthal	301-927-2272	dkrosenthal@gmail.com	Wall permit	Landis	202-489-1599 202-271-4464	2/14/2020	Wall permit and driveway
5415	Trent St.	Kumar/Swain	202-910-7131	kellyswain@gmail.com	Landscaping and driveway	Will Pinto, WWK Construction	240-464-4749	7/1/2019	Building permit closed
4715	Cumberland Ave.	Josh & Ann Bolten	202-972-3255	josh@jbolten.com annkelly411@gmail.com	Altering covered porch to sunroom	TBD	TBD	8/22/2020	
4602	Dorset Ave.	Fauzia Rashid	301-312-5561	fauziasrashid@hotmail.com	Add one story rear addition	TBD	TBD	8/22/2020	Expecting to receive permit application in October
4712	Essex Ave.	TBD	TBD	TBD	Demo and New House	Paramount Construction Co.	301-370-6463	TBD	Expecting to receive permit application

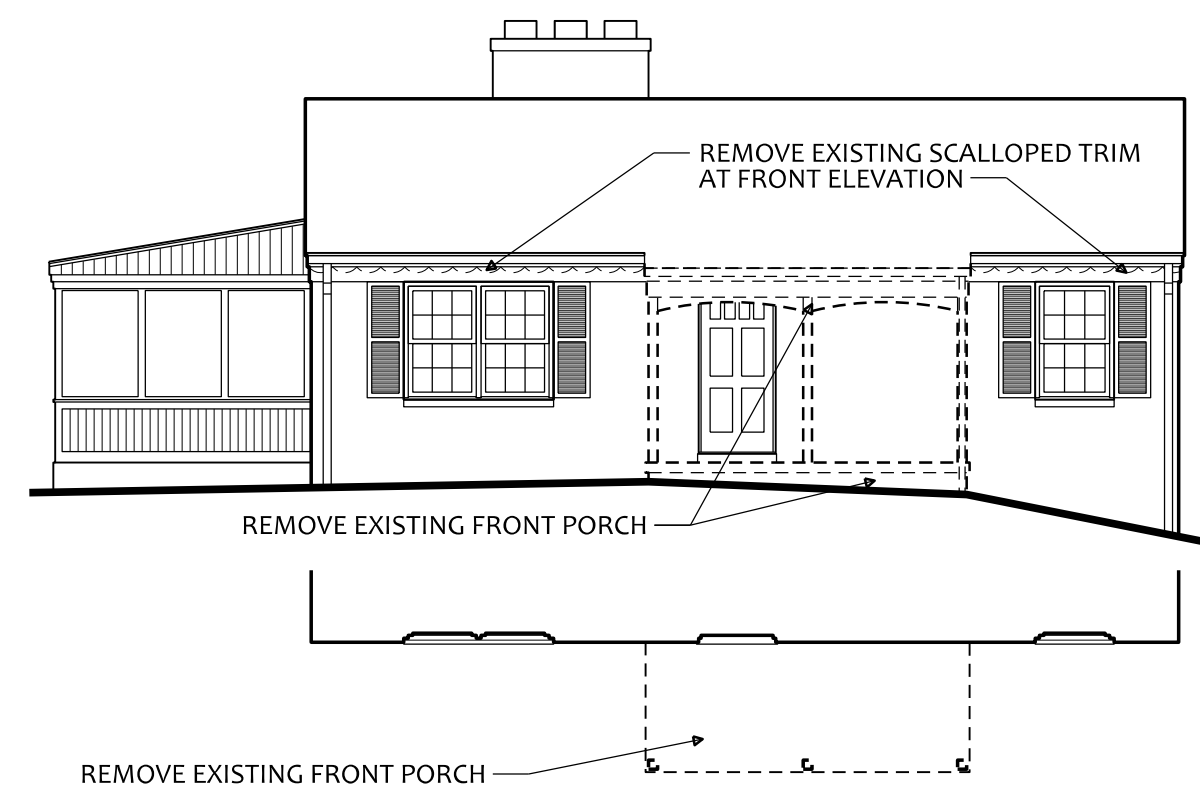


1
A1.1
FRONT PORCH FRONT (SOUTH) ELEVATION
SCALE: 1/4" = 1'-0"

2
A1.1
EAST ELEVATION
SCALE: 1/4" = 1'-0"



3
A1.1
FRONT PORCH PLAN
SCALE: 1/4" = 1'-0"



4
A1.1
DEMO PLAN
SCALE: 1/8" = 1'-0"

- NOTES:
1. DASHED LINES INDICATE ITEMS TO BE REMOVED FOR NEW WORK, TYPICAL. GC TO COORDINATE AND VERIFY PRECISE DIMENSIONS OF WORK TO BE REMOVED WITH PROPOSED PLANS.
 2. CONSULT WITH OWNER/ARCHITECT TO VERIFY ITEMS TO BE SALVAGED.
 3. COORDINATE DEMOLITION PLAN WITH ALL PROPOSED DRAWINGS TO VERIFY WORK TO BE REMOVED.
 4. BE SURE NOT TO DAMAGE ITEMS TO REMAIN WHILE REMOVING ITEMS TO BE DEMOLISHED.



11928 Escalante Court
Reston, VA 20191
(703) 489 -0386
mgildea@lotusdc.net

Batson Residence

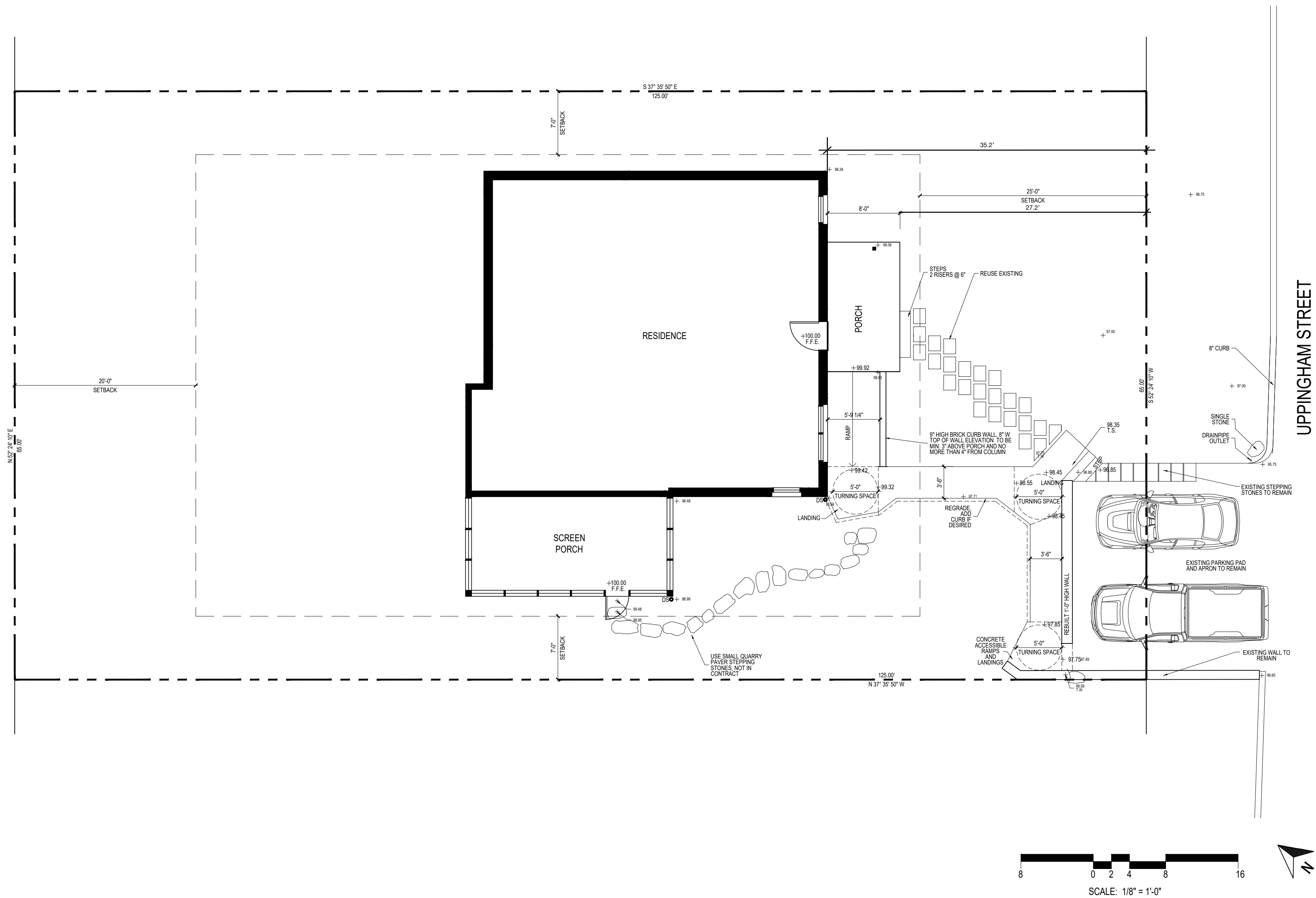
5226 Uppingham Street
Chevy Chase, MD 20815

SITE PLAN

SCALE: 1/8"=1'-0"

MARK	DATE	DESC.
	08/06/2019	CD

L1



MONTGOMERY CONSULTING
MEMO

TO: The Town of Somerset

FROM: Doug Lohmeyer

DATE OF MEMO: August 17, 2019

SUBJECT: 5526 Uppingham St. – Building Permit

1. The applicant proposes to remove the existing front porch and install a new porch in the same location, with a new ramp, running along the left side of the front of the house.
2. They plan on upgrading the sidewalk running from the new ramp to the existing parking pad.
3. The application proposes to place a 9-inch high brick edge along the south side of the ramp.
4. They also propose to rebuild the 12-inch high wall along the back edge of the existing parking pad.
5. If the brick edges do not exceed 12-inches in height, a Town wall permit will not be required.
6. The proposed porch and ramp improvements are in accordance with the EBL and front porch setback.
7. The existing curb cut and parking pad will not be altered.
8. I recommend the Council approve the applicant's building permit.



Account #	00538672
Address	5526 UPPINGHAM ST CHEVY CHASE, 20815
Zone	R-60
Overlay Zone	N/A
TDR Overlay Zone	N/A
Landuse	Single Family Detached
Parcel, Lot, Block	N/A, 5, J
WSSC Grid	207NW05
Map Amendments	G-666 G-956

Parking District	N/A
CBD	N/A
Special Protection Area	N/A
Urban District	N/A
Enterprise Zone	N/A
Arts & Ent. District	N/A
Special Tax District	N/A
Legal Description	SOMERSETHGTS

Bike/Ped Priority Area	N/A
Urban Renewal Area	N/A
Metro Station Policy Area	N/A
Priority Funding Area	Yes
Septic Tier	Tier 1: Sewer existing
Municipality	SOMERSET
Master Plan	BETHESDA CHEVY CHASE
Historic Site/District	N/A
Water/Sewer Categories	N/A



1 inch = 201 feet

Cable

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'Arbitrary and Capricious'

Carr Looking at Next Steps after DC Circuit Overturns Part of Small-Cell Order

FCC Commissioner Brendan Carr is weighing next steps after the U.S. Court of Appeals for the D.C. Circuit reversed a key part of the FCC's March 2018 wireless infrastructure order Friday (see [1908090021](#)). The court said in *United Keetoowah Band v. FCC*, No. 18-1129, the FCC unlawfully excluded small cells from National Environmental Protection Act and the National Historic Preservation Act review. The court upheld other parts of the order. The 9th U.S. Circuit Court of Appeals hasn't heard oral argument in a challenge to other small-cell permitting rules the FCC approved last year (see [1906180022](#)),

"I'm actually pretty pleased with the reforms that were upheld by the D.C. Circuit" though "we would have been very happy to be affirmed across the board," Carr said in an interview. "We'll keep looking at our potential next steps," he said: The court didn't "foreclose the FCC from going back and revisiting the decision or foreclose the FCC from saying again that as a matter of environment and historic preservation law small cells aren't federal undertakings or major federal actions."

Other FCC officials said the court effectively threw out the most important part of the FCC's order and the decision means small cells are now back under environmental and historic review and FCC review more generally.

"The court just vacated a large part of the @FCC's 5G deployment strategy," [tweeted](#) Commissioner Jessica Rosenworcel: "For those paying attention, that means the agency tasked with the future of connectivity didn't get it right. It's time to go back to the drawing board and do better." The FCC approved the order 3-2 over dissents by Rosenworcel and then-Commissioner Mignon Clyburn (see [1803220027](#)).

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“Today’s decision confirms that the FCC cannot just scream ‘5G’ to justify ignoring its duties to Tribal Nations and to the environment,” emailed Georgetown Law Institute for Public Representation Senior Counselor Andrew Schwartzman, a party in the case. “The decision does give the FCC more latitude than we would prefer on some of the mechanisms for tribal review, but we will deal with that on the remand.” The United Keetoowah Band, the Natural Resources Defense Council and other appellants didn’t comment.

Court’s Decision

“The Commission failed to justify its determination that it is not in the public interest to require review of small cell deployments,” the court said in a [decision](#) by Judge Cornelia Pillard. “We therefore grant the petitions in part because the Order’s deregulation of small cells is arbitrary and capricious. The Commission did not adequately address the harms of deregulation or justify its portrayal of those harms as negligible. ... The FCC’s characterization of the Order as consistent with its longstanding policy was not ‘logical and rational.’”

The FCC “inadequately justified its portrayal of deregulation’s harms as negligible,” Pillard wrote. “The FCC partly based its public-interest conclusion on a picture of small cells that the record does not support.” The decision also questioned the order’s logic in other areas. It noted the FCC has taken other steps to cut red tape: “By ignoring the extent to which it had already streamlined review, the Commission ... overstated the burdens of review.”

“The scale of the deployment the FCC seeks to facilitate, particularly given its exemption of small cells that require new construction, makes it impossible on this record to credit the claim that small cell deregulation will ‘leave little to no environmental footprint,’” Pillard wrote: The FCC “also failed to assess the harms that can attend deployments that do not require new construction, particularly the cumulative harms from densification.” The FCC “dismissed the benefits of historic-preservation and environmental review in a two-sentence paragraph, describing most of the comments that highlight those benefits as ‘generalized’ and the comments that point to specific benefits as ‘few,’” the court said: “Characterizing a concern as ‘generalized’ without addressing that concern does not meet the standard of ‘reasoned decisionmaking.’” The other panelists who heard the case were Judge David Tatel and Senior Judge Harry Edwards.

The decision’s “front end” dealt with excluding small cells from environmental and historical reviews, Carr told us. “The second half dealt with really reforming and streamlining the rules that apply to cellsite builds that are subject to environmental and historic preservation” rules, he said. “Those reforms on the back end are really pretty significant.” The FCC “eliminated entirely” upfront fees for reviews of cellsites, Carr said: “The financial incentives for abuse of the system” for all cellsites “has been taken out of the system.” The record found “an increase in tribes requesting upfront fees, a significant increase in the amounts of fees being requested. That was a big roadblock to 5G build,” he said. Those changes stand, he said: “It’s a pretty big win.”

“We also accelerated the timeline for some of these tribal reviews,” Carr said: “That was also upheld. We also made clear that when you’re building cellsites you don’t have to necessarily use a member of the tribe for the historic preservation review.” At least three “significant reforms ... were all affirmed,” he said.

The order was “a bold attempt to address one of the biggest obstacles to timely 5G deployment,” said Gus Hurwitz, associate professor at the University of Nebraska College of Law. “Part of it was too aggressive for the D.C. Circuit, but the rest was affirmed.” The court’s decision was very fact-driven, he said.

“The judges were far more willing to delve into the record, and even to consider statements made at trial ... than we have seen in judicial review of other recent high-profile FCC orders.” That could suggest “the judges took strong issue with the order,” he said: “It also makes clear that the order was, if aggressive, not an unreasonable effort on the part of the commission.”

Mixed Bag

The decision “was a mixed bag” for the FCC, said R Street Tech Policy Manager Tom Struble. “On net, it’s a win for the FCC, as the deployment process should be faster and cheaper now than it was before the order was passed.” Struble said next steps remain to be seen. “It’s unclear whether or how the FCC will address historic and environmental review going forward,” he said: “Perhaps they’ll be able to restart the process and re-enact those same or similar provisions in a future order, but I’m not sure. I’ll have to review the opinion more closely to decide whether the better process ... can save those historic and environmental reforms or whether that’s simply beyond the FCC’s scope and only Congress will be able to address it.” An appeal is unlikely since the decision was unanimous, he said, noting the stakes are even higher for the FCC in the pending 9th Circuit case.

“Over the past few years, the FCC has made considerable progress in removing barriers to 5G deployment, including eliminating unnecessary regulations and streamlining siting processes,” said Wireless Infrastructure Association President Jonathan Adelstein. “The D.C. Circuit upheld part of the FCC Infrastructure Order that will help speed deployment across the United States.”

CTIA also emphasized that parts of the order still stand. “The FCC has rightfully sought to modernize outdated siting rules to accelerate the deployment of 5G technologies, and it’s been working,” said CTIA General Counsel Tom Power: “We are pleased that the court affirmed some of these steps today, particularly with respect to fees and deadlines for siting reviews. The court’s decision also underscores the need for further legislative, judicial and regulatory action to remove barriers to deployment.” — **Howard Buskirk**

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of mind and so it doesn't become the central focus of an eventual Senate Commerce confirmation hearing, lobbyists and officials said.

"This is a crucial time to have spectrum policy leadership within the executive branch," said Cool-ey's Robert McDowell, a former FCC commissioner: "This is especially true after [Redl's] sudden departure and other Commerce Department turmoil as well as White House personnel turnover." Charles Cooper took over in July as head of NTIA's Office of Spectrum Management (see [1906070021](#)). Rinaldo earlier recused herself from spectrum deployment issues because her husband works as a lobbyist for T-Mobile.

The FCC can "fill some of the leadership vacuum with its full complement of commissioners, but it is an independent agency and cannot coordinate federal spectrum users," McDowell told us: "Having a nominee for NTIA administrator would be extremely helpful right now, but the prospects of confirmation before year-end are slim. While the executive branch is in a pickle, this is a great opportunity for the FCC to shine."

"It's hugely important that we have leadership on spectrum issues, especially in the lead-up to the [World Radiocommunication Conference] and considering the infighting over 24 GHz," said Information Technology and Innovation Foundation Director-Broadband and Spectrum Policy Doug Brake. "Despite the clamoring over the need for mid-band spectrum, the U.S. and trusted partners are well ahead of other nations when it comes to the use of [high-band] spectrum for mobile broadband. It would be a shame to see that leadership ceded at the WRC." Brake said "as a practical reality," it's hard to see a new administrator being nominated soon. "As [Trump] has noted, he 'likes acting' and it seems there are other, more prominent positions that also deserve to be filled," he said: "The closer we get to the election, the more difficult it becomes."

Last fall, "U.S. spectrum policy seemed to be in great shape," said R Street Tech Policy Manager Tom Struble. "Everyone at the FCC, the White House, and NTIA were on the same page, touting the forthcoming benefits of 5G and doing everything possible to ensure that American companies and consumers would be the first to realize those benefits." Then came the fight between the FCC and other agencies on the 24 GHz band, questions from the Transportation Department on 5.9 GHz and from the Education Department on 2.5 GHz, and the "abrupt" resignation of Redl, Struble said.

"This is all very unfortunate for those, like me, who care about U.S. spectrum policy," Struble said: "Can the administration improve the situation now? I'm not sure. The confirmation process for Redl was long and contentious." Confirming another candidate might not be as difficult, "but it would still likely take several weeks or months," he said. "By that time, the WRC-19 will already be underway and the 2020 election will be looming, so it's unclear whether a new assistant secretary would have any time to implement a new spectrum agenda. So, even if spectrum policy were still the top issue for the Trump administration, they would struggle to get that done in time for it to have a real impact." — *Jimm Phillips and Howard Buskirk*

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Victory Measured Differently?

Many Broadcasters Using Temporary Antennas to Meet Repack Deadlines, Industry Execs Say

The FCC's repacking plan is successfully relocating broadcasters to their new frequencies, but to meet deadlines many are relying on interim antennas that don't necessarily reach all their viewers, said broadcasters and tower officials in interviews. "430 TV stations have moved off their pre-repack channels;

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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 — ~~Applied~~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 (formerly Ch. 1, Art. I, § 1-106, of the 1989 Code); at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

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.

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.

- 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. ~~A municipal infraction is any violation of any Town ordinance, resolution, rule or regulation (hereinafter referred to collectively as "ordinance") now in effect, or any violation of any ordinance or code of ordinances hereafter enacted by the Town Council, which violation:~~
- B. ~~Each and every day that a violation continues shall constitute a separate infraction. A municipal infraction is a civil offense. Neither conviction of a municipal infraction by the district court nor payment of a fine to the Town is a criminal conviction for any purpose, nor does it impose any of the civil disabilities imposed by a criminal conviction. 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.~~

[Ord. No. 2-87, effective 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)]

~~§ 1-19. Municipal infractions — default penalty.~~

- C. ~~Each violation shall constitute a separate infraction. Each day that a violation exists shall constitute a separate violation.~~
- 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.

Chapter 5
ADMINISTRATION OF GOVERNMENT

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

ARTICLE I
Town Personnel ²

§ 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. ³

The Mayor may hire a Town Manager who

~~The Clerk-Treasurer~~ shall:

- ~~A. Attend all meetings of the Council.~~
- ~~B. Record all proceedings of such meetings.~~
- ~~C. Maintain the official books and records of the Town, including the Town Journal, minutes of the Town meetings, the Town Charter and Code, ordinances, resolutions, as well as other documents such as Town histories.~~
- ~~D. Collect and have custody of monies due the Town.~~
- ~~E. Write checks on Town funds and serve as an authorized signatory of Town checks.~~
- ~~F. Prepare financial reports as directed by the Mayor and Council.~~
- ~~G. Serve as Town purchasing and contracting officer. Under the direct supervision of the Mayor, the Clerk-Treasurer is authorized to make purchases or contracts involving not more than \$2,500 without prior approval of the Council. In case of emergency, the Clerk-Treasurer, with the approval of the Mayor, may authorize expenditures over \$2,500, but not to exceed \$5,000, provided such expenditures are reported to the Town Council at its next meeting.~~

2. 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.

3. Editor's Note: See also Charter Sec. 83-61, Town manager.

~~HA.~~ Prepare permits and licenses issued by the Town, all of which shall be signed by the Mayor and countersigned by the Clerk-Treasurer.

~~I.~~ ~~Make the records of the Town available to the public for inspection and copying as provided by law.~~

~~KC.~~ Process applications for short-term use of the Town Hall.

~~LD.~~ Supervise maintenance of ~~the~~ Town Hall and grounds.

~~ME.~~ Supervise ~~the~~ Town maintenance force.

~~N.~~ ~~Perform secretarial work for the Mayor and Council.~~

[Res. No. R-5-80, eff. 6-2-1980; amended by Ord. No. 3-88, effective 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)]

§ 5-3. 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.~~

The Mayor of the Town ~~shall~~may be paid a salary in an amount set by ordinance. ~~of \$15,000 per annum commencing with the term of office beginning in 1992.~~

[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)]

~~B. Utilization. In order to get the most efficient and cost effective advice and representation, contact with the Town Attorney shall be limited to the Mayor unless the Mayor authorizes contact by Councilmembers, Clerk-Treasurers or others for specific purposes.~~

The Clerk-Treasurer ~~will~~may maintain a Personnel Policies Manual for the Town employees ~~which will outline at a minimum the Town policies regarding salaries, benefits, job descriptions and performance evaluations, and discrimination and bigotry.~~ 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

§ 5-86. 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.

~~PUBLIC OFFICIAL — The Mayor, Town Council members, the Clerk Treasurer, the Assistant Clerk Treasurer, and chairpersons and vice chairpersons of Town Committees established by this Code.~~

[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)]

- 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 counterclaims and to engage in third-party practice on behalf of the official or employee.
- B. Exceptions. Notwithstanding the provisions of ~~subsection a~~ 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-~~108~~. 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)]

§ 5-149. Reimbursement of legal expenses.

If the Town Council determines, pursuant to § 5-108, 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.

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

§ 5-1210. 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)]

§ 5-1311. 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 § 5-1513 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)]

§ 5-1412. 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)]

§ 5-1513. 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 ~~Ordinance~~ 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)]

§ 5-1614. 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 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—~~i~~ 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.
- B. Rental fees. The Council shall, by resolution, establish rental fees for the use of the Town Hall meeting room.
- C. Residence requirement. ~~For social, educational and cultural gatherings the Town Hall may be rented only by~~ Only residents, or nonresidents sponsored by a Town resident, ~~may rent the Town Hall.~~⁵

[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 Finances

§ 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. ~~The Clerk-Treasurer may charge a reasonable fee to cover reproduction costs for providing copies.~~

[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. 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.

§ 5-2018. Town Journal.

~~A. — Official requirements. 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)]

~~B. — Objective: to keep residents informed, in a timely, regular and efficient manner, of the Town's official business and community news, including, but not limited to, the forthcoming Council meeting agenda, Town services, Council Activities, committee activities, recreational events and neighborhood news; and to provide a vehicle for residents to communicate their views on Town-related issues to their neighbors.~~

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)]

§ 5-22.20. 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)]

~~§ 5-23. Check signing and review.~~

~~Audit Committee~~

~~The Committee shall review the draft of the annual report prepared by an independent auditor and meet with the auditor. The Committee shall conduct any investigations of Town financial procedures and practices which seem appropriate.~~

Council Procedures

§ 5-2721. 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.
- ~~C. — Publication of ordinances and resolutions. No ordinance or resolution for Charter amendment 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 in the Town Journal or, at the option of the Town Council, been published in a newspaper of general circulation in the Town. The Council shall pass an ordi-~~

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

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 ~~on or before the Thursday preceding the meeting (or as soon as possible in the case of a special meeting), with pertinent underlying or supporting material relating to any agenda item.~~ Any agenda item proposed in a timely manner by two ~~Council members~~ Councilmembers shall be included in the agenda. ~~No other matters except of routine significance or of an emergency nature shall be taken up at the meeting unless by consent of the Council.~~

[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-~~29~~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.
 - (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-~~30~~ 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 meeting⁶

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

§ 5-~~31~~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

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

§ 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)]

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§ 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 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)]

Chapter 105

ANIMALS

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

§ 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 ~~article~~ [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)]

Chapter 112
BUILDING CONSTRUCTION

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

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, effective 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

Montgomery County Building Code

§ 112-3. Adoption of Montgomery County Executive regulations.

~~In addition to the adoption of Chapter 8 of the Montgomery County Code pursuant to Town Code Chapter 123, § 123-1, all executive regulations or amendments to regulations hereafter adopted by the County Executive for Montgomery County Code shall be effective within the Town of Somerset unless the Town Council by ordinance elects not to adopt any such regulation or amendment to regulations.~~

§ 112-4. Enforcement of Montgomery County Chapter on Buildings.

~~Montgomery County, Maryland, is hereby requested to enforce within the corporate limits of the Town of Somerset the provisions of Chapter 8 of the Montgomery County Code, adopted by this chapter and Somerset Town Code Chapter 123, § 123-1.~~

§ 112-5. Applicability of Town Building Code.

~~A. In addition to the provisions of Chapter 8 of the Montgomery County Code adopted by this chapter and Chapter 123, § 123-1, the Town of Somerset shall be governed by this chapter, which contains supplemental procedures and provisions.~~

~~B. The Town of Somerset shall administer any and all provisions in this chapter that contain provisions additional to those required under Chapter 8 of the Montgomery County Code adopted by this chapter and Chapter 123, § 123-1, and may request the assistance of Montgomery County and the State's Attorney in enforcement.~~

ARTICLE II

Town Building Permits

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

~~No~~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, ~~except that no such permit is required for ordinary repairs as defined in Montgomery County Code (1984), Chapter 8, Section 8-3, which definition is incorporated herein by reference; and except repairs or changes that do not alter the exterior dimensions of the building.~~

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-~~74~~. Inapplicability of Montgomery County Code Section 8-24B(e).⁷

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-~~85~~. 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)~~ 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;

- (~~2~~b) The full name and address or addresses of each owner;

~~(3) A brief description of the work to be performed for which a building permit is requested;~~

- (~~4~~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, or and of the occupants of said property if the owners of record are not the occupants;

⁷ Editor's Note: See Montgomery County Code Sec. 8-24B, Permits for property within homeowners' associations, municipal corporations, or special taxing districts.

~~(5) The cost of the proposed work, as set forth on the Montgomery County building permit for this project;~~
posed work is to be performed;

~~(8) Name and phone number of contractor and MD~~

(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 ~~home owner~~homeowner is serving as the general contractor;

~~(9e)~~ 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-~~29(b)~~29B of the Montgomery County Code (2009);

~~(40f)~~ The location of the silt fences and super silt fences;

~~(11) For new houses and extensions in front, the front yard setback and side yard setback of corner houses measured according to Division 59 B 3.1 and 2 of the Montgomery County Zoning Ordinance for all houses on the same side of the street in the same block on lots any part of which is within 300 feet of subject lot or four consecutive adjacent lots, whichever distance is greater;~~

~~(13h)~~ 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;

~~(14i)~~ For additions or alterations to existing houses and new or altered accessory buildings, a photograph of the front of the house;

~~(15j)~~ A tree plan showing:

~~(a)~~[1] The location of all living trees on the lot on the abutting Town right-of-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;

~~(b)~~[2] The species, trunk diameter 4 1/2 feet from the ground and drip line of each of the above trees; and

~~(c)~~ ~~Location~~[3] The location of temporary fences that will be installed to protect the trees;

~~(4)~~[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:
 - (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-~~37~~;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 identi-

fy 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 ~~shall~~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-~~15~~12 below.
- F. A deposit or bond for repairs, as set forth in § 112-~~16~~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 ~~whose property is located within the Town of Somerset,~~ 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. ~~Unless there are unusual circumstances, initials of those persons who have been contacted are required on the building permit form.~~
- I. If an expedited procedure is requested, a written request for expedition, and reasons therefore, and the applicable fee.
- J. If a late filing procedure is requested, the applicable fee.

~~K. The application and all accompanying documents shall be available for public inspection at the Town Hall.~~

[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)]

§ ~~112-10~~ § 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 aban-

doned 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 ~~may determine~~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-~~13~~10 below.
- G. Revocation of building permit.
 - (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-~~13~~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-~~11~~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 ~~of \$200~~ 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 ~~of \$400~~ 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-~~966G~~.
- 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-~~8A5A~~ through E(~~8~~), is completed and the ~~\$50~~-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 ef-

forts 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.⁸
 - (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.⁹

[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)]

§ 112-129. 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.
- C. Whether the proposed work complies with all applicable subdivision and zoning requirements.

8. Editor's Note: See Ch. 140, Noise.

9. Editor's Note: See Ch. 140, Noise.

- 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, ~~and its residents~~.

[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-~~13~~10. Decisions10. 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-~~14~~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 ~~materially~~ 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 following fees for the processing of such permit, or 1/2 of the building permit fee charged fees established by a resolution of the Council. ~~Montgomery County for the same demolition and construction, whichever is greater.~~

[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-~~16~~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 of 1/2 of the Town building permit and demolition fees for the same project or \$2,000, whichever is greater, 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-~~17~~14. Increased setbacks for certain new construction.

- A. Applicability. This § 112-14 shall apply to all "~~New Building Construction~~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~~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, ~~non-corner lot~~:
 - (a) Side: eight feet one side; 18 feet sum for both sides.
 - (b) Rear: 20 feet.

- (c) ~~Not more than 10 feet beyond 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.~~
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.

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- [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.

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- [b] No more than two bay windows may project into any required setback.

- [3] Cornices, eaves, outside stairways, chimneys, air conditioners and heat pumps.

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- [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.

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- [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:

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- [a] The access ramp or wheelchair lift, and any handrails associated therewith, cannot reasonably be constructed without projecting into the required setback;

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- [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) Primary building, corner lot:~~

~~(3.2)~~ 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 feet or less	5
Over 10 feet but less than 15 feet	5 plus 1 for each foot or fraction of a foot in excess of 10
15 feet or over	10 plus 2 for each foot or fraction of a foot in excess of 15
Linear dimension (feet)	
24 feet or less	5
Over 24 feet	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 [59-C-1.326\(B\)-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
 - [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) ~~That the~~ [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. ~~Procedure for waiver~~ 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 therefore.
- (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 ~~of \$200~~ 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-~~44~~ 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. 12-13-2014; 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 County Building Permit~~the county building permit~~.
- B. Parking~~The parking~~ plan, if approved by the Town Council, must be posted on site next to County Building Permit~~the county building permit~~.
- C. Wall check. A copy of an engineer's wall check must be delivered ~~or faxed~~ 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)]

~~§ 112-19. Additions.~~

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

§ 112-~~24~~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~~, and;~~
 - (2) The blocking is not for an unreasonable period of time~~, and;~~
 - (3) The Town 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-~~22~~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-~~23~~ 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, ~~that~~ 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 VII
Miscellaneous

ARTICLE VI
Administration

§ 112-~~24~~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)]

~~§ 112-25, Town exempt.~~ § 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

~~§ 112-26, Defined.~~ § 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)]

~~§ 112-27, Restrictions.~~ § 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-~~28~~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-~~29~~25. Definitions.

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 ~~in~~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 ~~or gate posts~~.

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 ~~having access to~~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 ~~which~~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.

~~UNNECESSARY HARDSHIP — A condition under which compliance with the ordinance would prevent the property owner from securing a reasonable return from his property or from making reasonable use of it; provided, however, that undue hardship shall not include conditions of mere financial hardship or an opportunity to get an increased return from the property, conditions that are not peculiar to the property in question, or conditions that are the result of the applicant's own actions.~~

WALL — An architecturally solid erection of stone, brick, or other material, greater than 12 inches in height, ~~and intended for the purposes of privacy, security or enclosure.~~ 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)]

§ 112-26. Permit required; exemptions.

- 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 ~~article. (Part 3)~~ This article does not apply to any replacement fence or wall built as an original and integral architectural feature of a house, provided that the fence or wall has been in place continuously from the time of the house's construction and that the replacement is of identical design, materials and finish.

[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-~~34~~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 ~~59-B-2.1, Walls or Fences~~ 6.4.3.C.3 of the Montgomery County ~~Code~~ 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 59-B-2.1~~ Section 6.4.3.C.3 of the Montgomery County ~~Code~~ 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 curblin in a front yard or within 29 feet of the inside side curblin 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)]

§ 112-29. Location of finished side.

- A. Any new or replacement fence ~~or wall~~ 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 ~~or wall~~ 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. Any No new or replacement fence or wall in a back yard shall have a finished side facing be placed or constructed within three feet of a Town sidewalk, measured from the edge of the sidewalk closest to the property.
- B. of the nearest neighbor unless the A new or replacement fence or wall is not visible placed or constructed at or within 39 feet of the inside front curblin shall be 42 inches or less in height, measured from the neighbor's property 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 curblin shall be 78 inches or less in height, measured from the ground immediately under the fence.
- D. Any existing fence on the applicant's property that is visible from a neighbor's property or from a street must be removed by the applicant as a condition of the grant of a permit for the erection of a new or replacement fence, provided the new or replacement fence is located in the same yard as the existing fence and approximately parallel to, and in proximity with, the existing fence. The Town Council may grant an exception from this provision for good cause.

[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 ~~wall~~fence shall be ~~permitted~~placed or constructed within ~~39 feet 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 ~~29~~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. ~~This section shall not apply to building walls or to retaining walls necessary to retain existing earth, only to the extent of the height of the earth to be retained.~~

~~§ 112-35. Requirements for fences on interior lots.~~

D. ~~Any~~ new or replacement fence placed or constructed between 20 feet and 29 feet of the inside side curblin 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 ~~or~~.

[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)]

A. ~~C.~~ ~~On corner lots, any~~ ~~No~~ new or replacement ~~fence placed~~ wall shall be permitted within 39 feet of the inside front curblin in a front yard, or within 29 feet of the inside side curblin in a side yard.

B. ~~No new or replacement wall shall be constructed in a location other than those described in Subsections A and B shall be no~~ more than 6 1/2 feet in height, measured from the ground immediately under the ~~fence~~ wall.

DC. ~~Notwithstanding the foregoing, no new or replacement fence shall be placed within three feet of a Town sidewalk~~ 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-~~37~~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. ~~A~~ No fence permit or wall permit shall be issued ~~only if in the absence of a completed application has been provided.~~
 - 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. ~~E.~~ 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 ~~his~~ 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.
 - DE. 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 ~~by the Mayor or Town Council~~:
- (1) The street address ~~of the site upon which the fence or wall is to be placed or constructed or the and~~ legal description ~~if no address; (lot number);~~
 - (2) The full name and address of each owner of the property ~~upon which the fence or wall is to be placed or constructed;~~

- (3) A plan or drawing showing the location of the fence or wall in relation to the entire property, ~~and showing the location of~~ adjacent public streets and sidewalks, and the public right-of-way;
- (4) A description ~~of the fence or wall to be placed or constructed~~, including design, height, width ~~of wall~~, width of solid parts ~~offence~~, 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(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, if such permission is required~~ fence or wall permit;
- ~~(7) Signature of occupant of each property in and outside of Somerset whose property is adjacent to the proposed fence or wall indicating that the neighbor has seen the plans for the proposed fence or wall.~~
- (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
- E(9) A copy of the relevant permit issued by Montgomery County, if required by Montgomery County.

E. Available to public. The application and all accompanying documents shall be available for public inspection at the Town Hall.

FG. Fee. A ~~\$75 Fence~~ fence or wall permit fee shall accompany the application.

GH. Deposit. To cover possible damage to Town property, a deposit in the form of a check or bond ~~in the amount of \$1,000~~ 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-~~3834~~. Mayor's request for additional information.

The Mayor, in his discretion, may require ~~such~~ additional documents to accompany the permit application such as:

- A. A drawing of the fence or wall viewed from the public street; and

- 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. 3-91, eff. 5-7-1991; Ord. No. 6-03, eff. 8-13-2003 (formerly Ch. 6, § 6-712, of the 1989 Code)]

§ 112-~~40~~36. Criteria for decision.

The Mayor shall ~~consider, in approving only issue a fence permit or disapproving an application for a Fence or Wall Permit, such factors as:~~ consider, in approving only issue a fence permit or disapproving an application for a Fence or Wall Permit, such factors as:

- A. ~~Whether the~~ The permit application is complete ~~and;~~
- B. ~~The proposed fence or wall~~ The proposed fence or wall conforms to the requirements of this Part 3;
- B. ~~Whether the~~ The Historic Preservation Commission has approved the proposal, if applicable; and
- C. ~~Whether the~~ The proposed work complies with all other applicable ~~Town Code~~ 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-~~41~~37. Exceptions granted by Town Council.

- A. ~~Upon the application of an~~ 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 ~~any~~ a case of unnecessary hardship specific to that property; ~~or~~
 - (2) ~~For~~
 - (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 fences up to four feet high and up, 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 and with solid parts up to six inches in width, if they will otherwise meet the open streetscape purposes of this article and will not be closer than when viewed from straight ahead; or~~

~~(c) At least three feet from a Town sidewalk; or measured from the edge of the sidewalk closest to the property.~~

~~(3) For fences in the side/back yards of corner lots of up to 5 1/2 feet high and up to 65% closed and with solid parts up to six inches in width, if they will otherwise meet the open streetscape purposes of this article, will be suitably obscured from the public street by plantings, and will not be closer than five feet from a Town sidewalk. In determining whether the proposed fence will be suitably obscured from the public street, the Council shall consider the type, location, and density of proposed plantings; the degree to which the fence and plantings will be in harmony with neighboring properties; and a landscape plan, if the owner submits one; or~~

~~(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 § 112-32, if this Part 3, provided that the fence building materials are in harmony compatible with the neighboring properties and; or~~

~~(6) In the case of a fence wall or wall that does not otherwise meet the open streetscape purposes of this article, 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)]

§ 112-42. Procedures for decision on permit for fence or wall placement or construction. 38. Permit conditions; appeals.

~~The procedures and other requirements set forth in the following provisions of the Town Code relating to building and tree permits shall be applicable to a permit an exception for fence or wall placement or construction pursuant to this article:~~

~~(1) Time for completing work. Any permit issued for a permit, except 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 reference 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 Town Council in § 112-10A and B shall refer 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 the Mayor's 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.

B. Section 112-14, regarding modification of plans (7) Revocation of fence or specifications, except wall permit.

- (a) The Mayor may revoke a fence or wall permit in the case of a Fence or Wall Permit, it shall mean modifications any material false statements or misrepresentations of the information contained fact in the application and accompanying documents as to design, location, height, width or on the plans on which the permit was based or in case of wall, width violation of solid parts of fence, openness, and appearance any of the fence or wall conditions upon which the permit was issued.

C. (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, § 182-10, which, as applied to this Part 3, shall authorize appeals.

- (c) The Mayor may revoke a fence or wall permit upon the revocation of the Mayor's decisions under this article 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; and which, upon request, shall hold a hearing within 14 days, pursuant to the procedures set forth in Subsection C below.

D. Section 182-11, which as applied to this article VI of Chapter 6, shall authorize

- (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.

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 review of Town Council decisions 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; and 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.

~~E. Section 112-13 shall apply to this Part 3 to provide the procedure for and judicial review of Town Council decisions for exceptions provided for in § 112-37 above. In addition, the Town Council shall conduct the required fact finding hearing within 60 days following the filing of the exception application, after giving at least 10 days' notice of such hearing to the applicant and to all owners or occupants of property which adjoins or confronts the property which is subject to the exception application.~~

[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)]

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 ~~changed, replaced, modified or repaired so as to constitute a replacement fence or wall.~~

[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**

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.

~~The fee~~ Each applicant for a dumpster permit ~~is \$75. To cover~~ 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; a deposit in the form of a check or bond in the amount of \$1,000 is required for a dumpster permit.

[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. 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 ~~a~~ 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 for a period of 30 days from the date of issuance, and shall be subject to a fee of \$100 per day for each day after the 30th day.~~
- B. Duration if not associated with ~~a~~ 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.

[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:

A.(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

B.(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.

The fee—Each applicant for a portable storage unit permit is \$75. To cover, 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, a deposit in the form of a check or bond in the amount of \$1,000 is required for a portable storage unit permit.

[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)]

§ 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)]

Chapter 118
CABLE COMMUNICATIONS

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

§ 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~~^(a): "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-~~109~~(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-~~6~~^(a)~~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.

[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)]

Chapter 123
COUNTY LEGISLATION

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

§ 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~~[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 Somerset Code 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 this the Town Code .
Chapter 8A	Cable Communications	As modified and supplemented by Somerset Code Chapter 118 of the Town Code
Chapter 11	Consumer Protection	
Chapter 11A	Condominiums	
Chapter 17	Electricity	
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 Stand- ards	
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 this the Town Code
Chapter 31B	Noise Control	As modified and supplemented by Chapter 140 of the Somerset Town Code

Chapter	Subject Matter	Notes
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	
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, Di- vision 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:

<u>Chapter</u>	<u>Subject Matter</u>
Chapter 2, Division 7 — Department of Health	
Chapter 40 — Group Day-care centers, Division 7A	<u>Department of Health and Human Services</u>
Chapter 15	Eating and Drinking Establishments
Chapter 24	Health and Sanitation: Section 24-1 and Sections 24-4 to 24-8 of Article I; <u>Sections 24-9, 24-10 and 24-11 of Article II; Article III, Health Planning; Article IV, Mental Health; Article V, Local Alcoholism Alcohol and Other Drug Advisory Council; and Article VI, Local Drug Abuse Advisory Council</u>
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
Chapter 51	Swimming Pools
<u>Chapter 51A</u>	<u>Tanning Facilities</u>

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- 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 ~~81~~ of the Annotated Code of Maryland, ~~1957 as amended~~, or legislation adopting the county budget.
- C. Laws enacted by General Assembly: ~~Any~~ law enacted by the General Assembly which 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.
- B. Except for those laws that are hereby exempted, the county is hereby requested to 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)]

Chapter 140

NOISE

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

~~Adoption of County Noise Control Ordinance.~~

~~A. —~~

§ 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). ~~—n~~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~~ 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.
- C. Sundays. ~~—e~~Construction activities are prohibited on Sundays unless ~~it~~the activity is interior work that cannot be heard by neighbors; ~~and~~.
- D. Holidays. ~~—e~~Construction activities on a holiday weekday ~~or a holiday Saturday~~ 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, ~~and~~.
- 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.

~~A. — A violation of this article may be enforced by Montgomery County, or by the Town as a municipal infraction in accordance with Chapter 1, Article Article III, of this Code~~

[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)]

Chapter 149
PARKS AND RECREATION

[HISTORY: Adopted by the Town Council of the Town of Somerset as indicated. Amendments noted where applicable.¹⁰]

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 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 ~~Mayer~~[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.

¹⁰ 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.

- 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 ~~except on occasions for which the Town Council has granted permission.~~
- 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 ~~if authorized by the Town Council or the Mayor.~~
- K. To practice, carry on, conduct or solicit for any trade, occupation, business or profession.
- 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 ~~unless authorized by the Mayor.~~
- 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)]

ARTICLE III

§ 149-3. In general.

Swimming Pool Committee

§ 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.

A.(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.

B.(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.

C.(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 to discharge water into Town park~~ — 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 a ~~\$100~~ 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:

A.(1) The quantity of water to be discharged;

B.(2) The location of the point of discharge;

C.(3) The anticipated course of water through the Town park;

D.(4) The source of water to be discharged;

E.(5) The water quality of the water to be discharged;

F.(6) The frequency with which the water is to be discharged;

G.(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;

H.(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

I.(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.

~~Permit to discharge water into Town park~~ —

D. Town action on permit.

~~A.~~(1) The Town Council, after notice to the applicant and a public hearing, shall act upon the request for a permit.

~~B.~~(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.

~~C.~~(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:

(~~1a~~) Erosion;

(~~2b~~) Water quality of Town streams;

(~~3c~~) Damage to trees and other vegetation;

(~~4d~~) Odor;

(~~5e~~) Aesthetics;

(~~6f~~) Damage to improvements;

(~~7g~~) Interference with the use and enjoyment of the Town park and its improvements; and

(~~8h~~) Costs of implementing and maintaining control of the discharged water.

~~D.~~(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.

~~A.~~(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.

~~B.~~(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.

~~C.~~(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.

Decisions on permit applications.

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.

B.(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.

C.(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)]

ARTICLE VII

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 27, Section 36H of the Maryland 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:

A. ~~Handgun~~(1) Handguns, as defined in the Criminal Law Article 27, § 36F(a), Maryland of the Annotated Code of Maryland, § 4-201(c), as amended;

B. ~~Rifle~~(2) Rifles, as defined in the Criminal Law Article 27, § 36F(a)(2), Maryland of the Annotated Code of Maryland, § 4-201(e), as amended;

C. ~~Shotgun~~(3) Shotguns, as defined in the Criminal Law Article 27, § 36F(a)(5), Maryland of the Annotated Code of Maryland, § 4-201(h), as amended;

D.(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

§ 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.
- 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)]

§ 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 ~~misdemeanor offenses; 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 ~~misdemeanor offenses; 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.
- (1) 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 § 149-2F through P and R shall be a municipal infraction punishable by a fine of \$50 for a first offense, and by a fine of \$100 for each repeat offense.~~

§ 149-24. Violation of Articles III and IV.

(a) ~~Any violation of § 149-3 the rules and regulations promulgated pursuant to the provisions of Articles III and IV of this chapter shall be a municipal infraction punishable by a fine of \$50 for each initial offense, and by a fine of \$100 for each repeat offense.~~

~~B-(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 ~~this article~~ § 149-3 and may recover from any violator the costs of such action, including attorney's fees.

~~C-(c)~~ In addition to any other fine, penalty or remedy, the Town may abate any condition in violation of ~~this article~~ § 149-3 at the violator's expense, including legal fees, and the costs of constructing mechanisms for managing water discharge in Town parks.

~~D-(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 ~~this article~~ § 149-3.

§ 149-26. Violation of Article VII.

- (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)]

~~ARTICLE IV~~

Chapter 155
PROPERTY MAINTENANCE

[HISTORY: Adopted by the Town Council of the Town of Somerset as indicated. Amendments noted where applicable.¹¹]

§ 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 having 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. Trimming and pruning of shrubbery and trees. Any shrubbery or tree near a Town sidewalk shall be trimmed and pruned so as not to have any part of the shrubbery or tree be within one foot of the vertical plane of either edge of the Town sidewalk for a height of eight feet. The Mayor or his delegate may notify the owner or agent of the abutting property of any shrubbery or tree not in compliance with this section and may require compliance with this section within 10 days. In the event of the owner's failure to comply with such notice, the Town may correct the violation noted. In such event, the cost will be charged to the owner of the abutting property and shall be collected as delinquent taxes are collected.~~

~~C. Nonconforming shrubbery and trees. Any shrubbery or tree that is nonconforming to Subsection B may, at the discretion of the Mayor or his delegate, be exempt from compliance with Subsection B if the Mayor or his delegate determines, with regard to any such nonconforming shrubbery or tree, that compliance with Subsection B would be likely to result in the substantial disfigurement or destruction of such nonconforming shrubbery or tree and that noncompliance would not unduly interfere with the public's use of the Town sidewalk.~~

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,

¹¹ 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.

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 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 located 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. Grass and weeds.~~

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.

Chapter 164
SOLID WASTE

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

ARTICLE I
Litter

§ 164-1. Definitions.

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.

[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.

Any violation of Section 468 of Article 27 of the Annotated Code of Maryland (the Litter Control Law) shall be punishable as a municipal infraction.

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)]

~~When the litter improperly disposed of weighs two pounds or less, the fine shall be \$50 for a first offense and \$100 for each repeat offense.~~

Refuse Disposal

§ 164-4. Town to provide collection services.

The Town, through its contractors, ~~provides~~shall provide both back or side yard and front 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)]

~~The provisions of this Ordinance are designed to make refuse collection efficient and thereby keep the costs of collection as low as possible, to prevent littering on rights of way and other public property and on private property, to prevent offensive odors and attraction of vermin and to conserve recyclable materials and encourage recycling because of the growing problem of the increasing cost of solid waste disposal and the limited capacity of landfills, and the impact of solid waste disposal on our environment.~~

§ 164-5. Curbside collection.

~~A. Other than as provided above and in Subsection B below, no~~No person shall discard any refuse on any public right-of-way.

~~B. Refuse containers placed by the Town and maintained by the Town in the public right of way are for refuse such as candy and chewing gum wrappers, cigarette packages and beverage containers deposited by pedestrians. These containers shall not be used by residents for household garbage and trash, lawn and garden waste, miscellaneous household waste, mixed recyclables or special collection items.~~

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.

Chapter 170
STREETS AND SIDEWALKS

[HISTORY: Adopted by the Town Council of the Town of Somerset by Ord. No. 1-78, effective 9-5-1978 (Ch. 3 of the 1989 Code). Amendments noted where applicable.]

ARTICLE I
Obstructions and Street Openings
In General

§ 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—any street, lane, side-walk or public space or any portion thereof within the Town of Somerset or to;

(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, of any such street, lane, sidewalk or public space or to;
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.

within

C. Lighting of obstruction or excavation. It shall be unlawful for any person to leave any such street, lane, 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 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.

public space, except upon making written application and deposit of security as hereinafter prescribed.

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.

§ 170-2. Driveway apron or curb cut permits.

- ~~A. An application for a temporary permit shall be made in writing to the Mayor and shall state in full the purpose, manner, character and extent of the proposed obstruction, breaking, removal or excavation, and the length of time during which it is desired to continue the same for a~~
- ~~B. An application for a permit for a permanent driveway apron or curb cut shall be made in writing to the council and shall include a plan of the proposed driveway apron or curb cut. The application shall be accompanied by a payment of \$75a fee and a deposit to cover possible damage to Town property, in the form of a check or bond in an amount of not less than \$1,000amounts 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.

- A. ~~Temporary permit. Permit for temporary work.~~ If, in the discretion of the Mayor, a good and valid reason is presented by ~~the saidan~~ 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 ~~of \$50 for each week or fraction of a week for which such permit shall be in effect and shall have deposited with the Clerk-Treasurer a sum in the discretion of the Mayor sufficient to insure the restoration of the street, lane, sidewalk, curb or public space to as good condition as it was before it was obstructed, broken, removed or excavated, said sum to be not less than \$1,000, which sum may be applied to such restoration in default thereof by the applicant and a deposit to cover possible damage to Town property in the amounts set by the Town Council.~~
- ~~B. Driveway apron or curb cut.~~
- 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 ~~thea~~ permit application for a permanent driveway apron or curb cut in a new location or of a different size following the procedures and criteria for consideration of building permit applications and the procedures and criteria in this article.¹²
 - (2) ~~If a property has access through an existing curb cut, no additional curb cuts may be approved for that property. (This subsection is applicable even if the access is shared with another property through a single curb cut.) For a property which has access by a driveway shared with another property through a single curb cut, that property shall not be precluded from obtaining a new curb cut, provided that the shared driveway is abandoned and the shared driveway's curb cut fronting on that property is closed.~~

12. Editor's Note: See Ch. 112, Building Construction, Part 1, for provisions regarding building permits.

- (3)(2) When considering an application for any new curb cut ~~and its location~~, 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.
- (43) 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).
- (54) 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).
- (65) 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.

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 ~~of \$50~~ 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 ~~beis~~ 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)]

§ 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) ¹³]

~~§ 170-7. Provisions not applicable to 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.~~

~~§ 170-8. Indication of obstruction.~~

~~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 manner as to show the extent of such obstruction or excavation, and in case 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.~~

~~§ 170-9. 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.~~

~~§ 170-10. Penalties.~~

~~A violation of any of the provisions of this article is a municipal infraction punishable by a fine of \$250 for a first offense, and a fine of \$500 for each repeat offense.~~

~~§ 170-11. Waiver.~~

~~§ 170-7. Waivers.~~

~~The Town Council may grant a waiver from of the driveway and curb cut requirements of this article if, subject to the factors and procedures set forth regarding waivers in Chapter 112, Building Construction, § 112-14, of the Town Code, Council finds, due to conditions specific to that property, such waiver will:~~

~~A. —Lessen traffic constraints;~~

~~B. —Lessen adverse environmental effects; or~~

~~C. —Improve safety.~~

[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)]

13. 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.

Chapter 177
TOWN PROPERTY

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

§ 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)]

Chapter 182

TREES

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

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 ~~reforestation~~ 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 78, Section 2(e) 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: ~~(1)~~ destroy, mutilate, injure, cut down, girth, uproot, poison, or ~~(2)~~ undertake any action that may significantly and permanently detract from the health or growth of any 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 therefore.
- B. Town property. Except as allowed by § 182-4 below, it shall be unlawful for any person to: ~~(1)~~ destroy, mutilate, injure, cut down, girth, uproot, poison, trim or ~~(2)~~ Undertake 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 ~~(3)~~ Cut 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)]

§ 182-4. Actions for which no Town permit is required.

No permit under this chapter shall be required:

- A. Emergencies. ~~When~~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 ~~Section 5-406, 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 ~~Divisions 59 D-3~~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)]

§ 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; ~~and~~
 - (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;
 - (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 ~~equal to \$500 times the number of trees or shrubs to be planted, as indicated on the landscape plan~~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 Ord. No. 3-2014 (formerly Ch. 8, § 8-206, of the 1989 Code)]

§ 182-9. Action on permit applications.

- A. One or two trees. The Mayor shall examine all applications for permits affecting fewer 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 therefore; or in the case of an application submitted with a building permit application, he shall recommend that the Council reject the application, with reasons therefore. If he is satisfied that the proposed work conforms with the purpose and requirements of this chapter, he shall issue a permit therefore 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 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 therefore. 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 therefore 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)]

ARTICLE III Enforcement and Penalties

§ 182-12. Stop-work orders.

Whenever the Mayor ~~may determine~~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 ~~\$500~~\$1,000. Each tree affected in violation of this chapter shall constitute a separate offense; ~~and~~.

- (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.

[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

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

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. 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 ~~this~~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.
- 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, silt 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 ~~insure~~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)]

ARTICLE II Action on Permits

§ 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 ~~may determine~~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 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

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

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. 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.¹⁴

[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)]

~~§ 195-3. Speed humps and bumps authorized.~~

~~The Mayor shall cause to be constructed speed humps or bumps on Town streets in the vicinity of the following property:~~

~~4505 Cumberland Avenue—
4517 Cumberland Avenue—
4807 Cumberland Avenue—
4817 Cumberland Avenue—
4907 Cumberland Avenue—
Devon Lane midway between Cumberland Avenue and Dorset Avenue—
4509 Dorset Avenue—
4521 Dorset Avenue—
4708 Dorset Avenue—
4721 Dorset Avenue—
4817 Dorset Avenue—
4902 Dorset Avenue—
4914 Dorset Avenue—
4705 Falstone Avenue—
5407 Greystone Street—
5518 Greystone Street—
5509 Uppingham Street—
5522 Uppingham Street—~~

¹⁴ 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. I, General Provisions, Art. I).

~~5604 Warwick Place—~~

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, § 9-104, of the 1989 Code)]

§ 195-~~54~~. 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-~~65~~. Stop ~~signs~~ 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
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

Name of Street	Direction of Travel	At Intersection of
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
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)]

§ 195-76. 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)]

§ 195-87. 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

§ 195-98. 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 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) ~~Section 31-35 of~~ 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. This ordinance shall become effective immediately upon its adoption.~~

[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)]

§ 195-109. No-parking zones.

Parking shall be prohibited at all times on the following sidesportions of the following streets:

Name of Street	Side	Location
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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
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-~~11~~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.

[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-~~12~~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 street 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-~~13~~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~~ 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)]

**ARTICLE III
Additional Regulations**

§ 195-~~14~~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. ~~Such~~ Each year, such rules shall be published in the Town Journal, along with the Town's plowing and sanding policy; ~~each year.~~
- 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-~~15~~, 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-~~16~~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, 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-~~17~~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)]