

**THE ZONING  
ORDINANCES OF THE  
TOWN OF  
SHARPSBURG,  
MARYLAND**  
**Modified 08-2019**



**A MUNICIPALITY EXISTING UNDER  
AND ABIDING BY THE LAWS OF  
THE STATE OF MARYLAND**

# **TOWN OF SHARPSBURG, MARYLAND**

## **ZONING ORDINANCE**

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## **ARTICLE 1. TITLE AND GENERAL PROVISIONS**

### **100 TITLE**

This Ordinance shall be known and may be cited as "The Town of Sharpsburg Zoning Ordinance."

### **101 SCOPE**

An Ordinance to regulate and restrict within the Town of Sharpsburg: a) the location, height, bulk, and size of structures; b) building lines, minimum frontages, depths and areas of lots, and percentages of lots which may be occupied; c) the size of yards and other open spaces; d) temporary uses and structures; e) the density and distribution of population; f) to divide the Town into Zoning Districts as shown on the attached "Zoning Map -Town of Sharpsburg" attached to and adopted as part of this Ordinance; g) the types of businesses, residences, or other purposes permitted within each zoning district for which land may be used or structures may be erected, expanded or used; h) within each District to regulate the location, height, bulk, and size of structures, building lines, minimum frontages, depths and areas of lots, and percentages of lots which may be occupied, the size of yards and other open spaces, and ) to provide for the administration of this Ordinance, including for fees to compensate the Town for administrative costs, and for the enforcement of this Ordinance; and ) to regulate Sensitive Areas as required under State law.

### **102 PURPOSES**

The purposes of this Ordinance are the promotion of the public health, safety, morals, or the general welfare by:

- A. Encouraging the most appropriate use of land.
- B. Preventing the overcrowding of land.
- C. Conserving the value of land and buildings.
- D. Lessening congestion in the road and streets.
- E. Avoiding undue congestion of population.
- F. Providing for adequate light and air.
- G. Securing safety from fire, panic, and other dangers.
- H. Facilitating the adequate provision of transportation, water, sewerage, and other public facilities.
- I. Giving reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses.
- J. Giving effect to the goals, policies and proposals of the Comprehensive Development Plan for Sharpsburg, Maryland.
- K. Preserve the architectural integrity and the historic, small-town identity of Sharpsburg.
- L. Provide for housing types to assure that adequate housing is available to every family and individual in Sharpsburg.
- M. Serving such other purposes for zoning as are authorized under State law.
- N. Carrying out the Visions as established in the 1992 State Economic Growth, Resource Protection and Planning Act and the Smart Growth and Neighborhood Conservation Act of 1997.

### **103 INTERPRETATION**

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the protection of the public health, morals, safety, comfort, convenience, and general welfare. This Ordinance shall not be deemed to interfere with, abrogate, annul, or otherwise affect in any manner whatsoever any easements, covenants, other agreements between parties; provided, however:

- A. where a provision of this Ordinance imposes greater restrictions upon the use of land or structure than are imposed or required by any statute, other ordinance, regulation, permit, easement, covenants, or agreement, the provision of this Ordinance shall prevail; and
- B. where any statute, other ordinance, regulation or permit imposes greater restriction than this Ordinance, such other statute, other ordinance, regulation or permit shall be controlling if applicable.

#### **104 REPEALER**

Other previous ordinances and resolutions adopted by the Mayor and Town Council of Sharpsburg are hereby repealed to the extent that they directly conflict with or impose less restrictive standards than the provisions of this Ordinance.

#### **105 SEVERABILITY**

It is hereby declared to be the legislative intent that:

- A. If a court of competent jurisdiction declares any provision of this Ordinance to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and all other provisions of this Ordinance shall continue to be separately and fully effective.
- B. If a court of competent jurisdiction finds the application of any provision or provisions of this Ordinance to any lot, building, or other structure, or tract of land, to be invalid or ineffective, in whole or in part, the effect of such decision shall be limited to the person, property, or situation immediately involved in the controversy, and the application of any such provision to other persons, property, or situations shall not be affected.

## ARTICLE 2. DEFINITIONS

### 200 **GENERAL**

- A. For the purpose of this Ordinance, words and terms used herein shall be interpreted as follows:
- 1) words used in the present tense include the future;
  - 2) the singular includes the plural;
  - 3) the word "person" includes a corporation, institution, partnership, and association, as well as the individual;
  - 4) the word "lot" includes the word "plot" or "parcel";
  - 5) the term "shall" is always mandatory;
  - 6) the word "used" or "occupied" as applied to any land or building shall be construed to include the words "arranged or designed to be used or occupied";
  - 7) the word "Council" and the words "Town Council" shall always mean the Town Council of Sharpsburg, Maryland;
  - 8) the word "Commission" and the words "Planning Commission" shall always mean the Sharpsburg Planning Commission;
  - 9) the word "Board" shall always mean the Board of Zoning Appeals of Sharpsburg, Maryland;
  - 10) the word "Town" shall always mean the Town of Sharpsburg, Maryland.
- B. Any word or term not defined herein shall be used with a meaning of standard usage.

### 201 **DEFINITION OF TERMS**

Unless a contrary intention clearly appears, the following words and phrases shall have for the purpose of this Ordinance, the meanings given in the following clauses.

Accessory Building. See Building, Accessory.

Accessory Use. See Use, Accessory.

Adult Use. A use involving one or more of the following and which shall only be permitted in a zoning district where the use is specifically permitted by this Ordinance:

- 1) Adult Bookstore. A use with a significant portion of the market value of all items offered for sale or rent being adult materials, or which has over 15 square feet of floor area occupied by adult materials for sale or rent.
  - a. "Adult materials" shall be defined as books, films, videotapes (including those offered on coin or token operated machines), magazines or similar printed materials, and/or paraphernalia which is distinguished or characterized by a clear emphasis on the depiction, display or description of uncovered male or female genitals.
- 2) Adult Live Entertainment Use. A commercial use or club involving employees, contractors or other workers displaying uncovered male or female genitals or nude female breasts related to some form of monetary compensation paid to the entity operating the use or to persons involved in such display.



- 3) Adult Theater. A use involving the display of film or videotape "adult materials" to 3 or more persons at a time in a room and that is related to some form of monetary compensation by the persons viewing such matter.
- 4) Massage Parlor. A use in which manipulative exercises using the hands or a hand-held mechanical device are conducted by one or more persons on the exposed skin of one or more other persons within private or semi-private rooms, and that is related to some form of monetary compensation paid by the person(s) receiving the massage.
  - a. This use shall not include any of the following: i) massages by State-licensed massage therapists or health care professionals, ii) massages involving persons who are related to each other, iii) massages within a licensed hospital or nursing home, iv) hand massages of the face, hands or feet, or v) therapeutic massages that are clearly incidental to a permitted exercise club or municipal, college or high school athletic program.

Alley. A minor way which is used primarily for vehicular service access to the back or the side of properties otherwise abutting a street.

Alterations. As applied to a building or structure, a change or rearrangement in the structural parts, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location to another.

Apartment House. Any building or part thereof containing three or more dwelling units.

Automotive Service Station. Buildings and premises where gasoline, oil, grease, batteries, tires or automobile accessories, or any combination thereof, are sold at retail and where normal mechanical repairs are conducted but not including Vehicle Auto Body Repair Garages.

Basement. Any area fully or partially below the ground.

Bed and Breakfast Use. A single-family detached dwelling unit in which a guestroom or guestrooms are provided, for compensation, as overnight accommodations for transient visitors, and in which breakfast is customarily included in the charge for the room. A bed and breakfast establishment reflects a residential setting and it is not a hotel, motel, rooming, lodging house or other use defined or regulated elsewhere in this Ordinance. (See Article 5, Section 514, Bed and Breakfast)

Board. The Board of Zoning Appeals of the Town of Sharpsburg, Maryland. This Board may also be known as the Board of Zoning Appeals.

Booking Transaction - means any transaction in which there is a charge to occupy any dwelling, sleeping, or other lodging accommodations in a lodging establishment made available for use by transient guests.

Building. A type of "structure" that is a combination of materials having a roof and walls to form a structure for the shelter of persons, animals or materials. The word "building" shall include any part thereof.

Building. Accessory. A building subordinate to the principal building on the same lot and used for purposes customarily incidental to those of the principal building or that houses an accessory use. Accessory does not refer to a separate detached living unit on the property. Unless approved by the Board

of Zoning Appeals, accessory structures shall not exceed one story in height.

Building Area. The aggregate of the maximum horizontal cross-section areas of all buildings on a lot, excluding cornices, unroofed porches, paved terraces, steps, eaves, and gutters.

Building Coverage. The percentage of the lot area covered by the building area.

Building Code. The National Building Code of the Building Officials and code Administrators International, Inc. (BOCA) as adopted by the Town of Sharpsburg, which governs the use of materials and methods of construction of all new construction and which is used as a guide in resolving questions of safety and/or adequacy in existing construction.

Building Height. A building's vertical measurement from the mean level of the finished lot grade in front of the building to the highest point in the roof line of a flat roof or of a roof having a slope in less than 15 degrees from the horizontal, and to a point midway between the peak and the eaves of the roof having a slope of 15 degrees or more.

Building Line. A line beyond which the foundation wall, any enclosed or covered porch, vestibule, or other structure of a building or part thereof shall not project; except that steps leading to the first floor for normal egress may project beyond the building line. For purposes of this Ordinance, the building line shall be the same as the innermost edge of the required yards.

Building, Principal. The primary building on a lot or a building that houses a principal use.

Churches and Similar Places of Worship. A building regularly used for religious services or worship by 10 or more unrelated persons at one time, such as a church, temple, synagogue or mosque.

Commercial. Any activity conducted with the intent of realizing a profit from the sale of goods or services.

Commercial District. The "TC" Town Center Zoning District.

Communication Antennas/Towers. Any device used for the transmission or reception of radio, television, wireless telephone, pager, commercial mobile radio service or any other wireless communications signals, including without limitation omnidirectional or whip antennae and directional or panel antennae, owned or operated by any person or entity licensed by the Federal Communications Commission (FCC) to operate those devices. This definition shall not include private residence mounted satellite dishes or television antennae or amateur radio equipment including without limitation ham or citizen band radio antennae that comply with existing regulations in all other Zoning Districts. (See Article 5, Section 517, Communication Antennas)

Conventional Construction. Buildings which are fabricated or assembled in the greater part of the site where such buildings are to be located, not including mobile/manufactured homes, modular structures, recreational trailers and vehicles, or buildings which are designed to be portable.

Convenience Store. A one-story, retail store containing less than 4,000 square feet of total floor area that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a large "supermarket"), and which includes off-street parking immediately in front of the entrance to the store. This use is designed to attract and depends upon a large volume of stop-and-go traffic.

Day Care.

- 1) Family Day Care Home. A facility registered by the Maryland Department of Human Resources as a "Family Day Care Home" and within which care is given to a child younger than 13 years old or to a developmentally disabled person younger than 21 years old in place of parental care for less than 24 hours a day, in a residence other than the child's residence, for which the provider is paid in cash or in kind.
- 2) Child Care Center. A facility licensed by the Maryland Department of Human Services as a "Child Care Center" and that, for part or all of a day, or on a 24 hour basis on a regular schedule, and at least twice a week, offers or provides child care to children who do not have the same parentage. Such a center may include but is not limited to a non-public nursery school.

Driveway. A privately owned vehicular access from a street to one or two principal buildings and which does not meet the definition of a "street" or "alley." Shared-use residential driveways are not allowed.

Dwelling. A building or portion thereof arranged or designed to provide one or more dwelling units.

- 1) Dwelling Site. A lot or parcel of land of such dimensions and zoning classification as to permit the lawful construction and occupancy of a dwelling unit thereon.
- 2) Dwelling Unit. A dwelling or portion thereof providing complete living facilities for one family (as defined in this Section); provided however that the term "dwelling unit" shall not be deemed to include rooming, boarding or lodging houses or hotels, motels, tourist homes or other similar places offering overnight accommodations for transients.
- 3) Manufactured/Mobile Home. See listed separately
- 4) Multi-Family ("Apartment") Dwelling. Three or more dwelling units that are attached to each other in some manner on one lot, other than townhouses.
- 5) Sectional Home. See listed separately.
- 6) Single-Family Detached Dwelling. A building, commonly known as a single-family house designed for and occupied exclusively as a residence having one dwelling unit from ground to roof and open space on all sides; where a private garage is structurally attached to such a dwelling, it shall be considered as a part thereof.
- 7) Townhouse or Rowhouse. A portion of a building designed for and occupied exclusively as a residence for only one family and having i) only one dwelling unit from ground to roof, ii) two points of independent outside access, iii) at least two other dwellings built in conjunction therewith, and iv) any portions of one or two walls in common with an adjoining dwelling.
- 8) Twin Dwelling. A single building containing two dwelling units completely separated by a vertical party wall, and intended and designed to be occupied as a residence by two families living independently of each other as separate housekeeping units.
- 9) Two-Family Detached Dwelling. A single building containing two dwelling units intended to each be occupied by a family living independently of each other, and that does not meet the definition of a "Twin Dwelling."

Family. An individual, or two or more persons related by blood or marriage, or group of not more than four persons not related by blood or marriage, living together as a single housekeeping group in a dwelling unit.

Family Day Care Home. A home or facility registered with the State of Maryland where care is given in lieu of parental care for part of a day to not more than 2 children under the age of 2 years or to not more

than 8 children under the age of 16 years, of whom no more than 2 may be under the age of 2 years. A family day provider's own children under the same age of 2 years shall be counted as children served. This term shall only include care and housing that routinely extends for less than 18 hours per day per person. See Definition for Day Care.

"Farmers' Market. – A retail sales use operated by a governmental agency, a nonprofit organization, or one or more Producers, that sells Farm Products and Value-added Farm Products directly to consumers. Farmers' Markets can include indoor and outdoor display and sales. A Farmers' Market may be a principal or accessory use of a property.

- 1) Farm Products. Items sold at a Farmers' Market from a Producer. Farm Products shall include agricultural products such as fruits, vegetables, mushrooms, herbs, nuts, eggs, honey or other bee products, flowers, nursery stock, livestock food products (including meat, milk, cheese and other dairy products), and seafood.
- 2) Market Manager. A person or organization that manages the operation of the Farmers' Market, assigns space to Producers and sellers, directs the maintenance of premises and records, and performs related duties as required.
- 3) Producer. The person or entity that (a) raises or produces farm products on the land that the person or entity farms and owns, rents, or leases; or (b) a person or entity that creates (by cooking, canning, baking, preserving, roasting, fermenting) Value-added Farm Products.
- 4) Value-added Farm Product. A product processed by a Producer from a Farm Product, including baked goods, jams and jellies, canned vegetables, dried fruit, syrups, salsas, salad dressings, flours, coffee and other beverages, smoked or canned meats or fish, sausages, or prepared foods.
- 5) Vendor. A farmer or other person designated as having the right to participate in the Farmers' Market."

Fence. A fixed structure designed to prevent escape or intrusion or to define property.

Front Yard. See "Yard, Front."

Floodplain, 100-Year. An area of land adjoining a stream, river, or other watercourse which has been or may hereafter be covered by flood waters of the one hundred year flood or subjected to erosion caused by a one hundred year flood.

Floodway. The designated area of the 100-Year Floodplain required to carry and discharge flood waters of a given magnitude.

Floor Area, Total. The gross area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.

Forestry. The cutting of timber for processing and sale.

Fraternity or Sorority. A residential use which does not meet the requirements for an individual dwelling unit, and which is occupied by an organized group of college or university students, and which is officially recognized as a fraternity or sorority by such college or university and/or by a legally incorporated non-profit nationwide fraternal organization.

Garage. A structure used for the storage of vehicles and household items. The only motor vehicle repairs permitted within a garage that is accessory to a dwelling unit(s) shall be of vehicles that are owned or leased

by occupants of such dwelling unit or their “relatives.”

Grandfathering. A process that generally allows existing non-conforming uses and non-conforming structures to continue in place, provided they were legal when they were established, even though such uses and structures do not conform with the current requirements of this Ordinance. See Article 8 concerning nonconformities in general.

Group Home. The use of a lawful dwelling unit to house persons who need special care and oversight because of mental retardation/ developmental disability, old age, physical disability, physical or emotional abuse committed against themselves, or mental illness. Such persons shall function as a common household unit.

- 1) A Group Home may also serve other types of persons if the applicant proves to the Board of Zoning Appeals that such persons are protected under the Americans With Disabilities Act as having "disabilities." In such case, the applicant shall also prove to the Board of Zoning Appeals that the use will involve adequate on-site supervision.
- 2) A Group Home shall not include the housing or treatment of persons who can reasonably be considered a threat to the physical safety of others.
- 3) A Group Home shall not include any use meeting the definition of a "Treatment Center." See Treatment Center definition.

Home Occupation. A routine and customary non-residential use conducted within or administered from a portion of a dwelling or its permitted accessory building, and which is: a) clearly accessory to the dwelling, b) primarily conducted by resident(s) of the dwelling, and c) meets the standards of Article 5, Section 518.

Hotel. See Motel

Junk. Any discarded, unusable, scrap or abandoned man-made or man-processed materials or articles, such as but not limited to the following: metal, appliances, motor vehicles that are abandoned, motor vehicle parts, machinery, and building materials. This term shall not include solid waste that is temporarily stored in an appropriate container that is awaiting imminent disposal, or waste within a permitted solid waste transfer or disposal facility or area, or vehicles currently being restored.

Junkyard. Land used for the outdoor storage of: a) 5 or more motor vehicles that do not display current State vehicle registration (other than vehicles that are not required to be registered in order to operate on a public street), b) one or more mobile/ manufactured homes that are not in habitable condition and/or c) "junk" covering 1,000 or more square feet of land area.

Kennel. A commercial operation that: (i) provides food and shelter and care of animals for the purpose not primarily related to medical care (a kennel may or may not be run by or associated with a veterinarian), or (ii) engages in the breeding of animals for sale.

Livestock. Domestic animals raised for commercial use or sale and not commonly considered as household pets.

Loading Space, Off-Street. A space designed and not designed as off-street parking. Space designed for bulk pickup and deliveries by transport or delivery vehicles.

Lot. A parcel of land used or set aside and available for use as the site of one or more buildings and buildings accessory thereto or for any other purpose, in one ownership and not divided by a street nor including any land within the limits of a public or private street right-of-way. The term "record lot" means the land designated as a separate and distinct parcel of land on a legally recorded deed filed among the Land Records of Washington County.

Lot, Corner. A lot abutting two or more streets at their intersections, where the interior angle of the intersection does not exceed 135 degrees.

Lot, Coverage. The total percentage of the lot area that is covered by all building(s) on the lot, unless specifically stated otherwise.

Lot Frontage. The front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and front yards shall be provided along each street.

Lot, Interior. A lot other than a corner lot with only one frontage on a street other than alley.

Lot Line, Front, A property line running along a public street right-of-way. If a lot abuts two or more streets, the Zoning Administrator shall determine which is the front lot line.

Lot Line, Rear, The lot line or lines generally opposite or parallel to the front lot line, except for a through lot there is no rear lot line. If the rear lot line is less than 10 feet long or the lot comes to a point at the rear, said rear lot line is assumed to be a line not less than 10 feet long, lying wholly within the lot, parallel to the front lot line, or in the case of a curved front lot line, parallel to the chord of the arc of said curved front lot line.

Lot of Record, A lot which is recorded as a separate parcel of land in the official Land Records of Washington County.

Lot Line, Side, Any lot line other than a front lot line or a rear lot line.

Lot, Reversed Frontage, A lot where the street frontage is approximately at right angles to the general pattern in the area involved. A reversed frontage lot may also be a corner lot or an interior lot.

Lot, Through, A lot other than a corner lot with frontage on more than one public street.

Lot Types: The diagram which follows illustrates corner lots, interior lots, reversed frontage lots and through lots.

Mayor and Council, The Mayor and Town Council of the Town of Sharpsburg, Maryland.

Mining, Quarrying, or Earthmoving, The excavation of any natural mineral deposit or soil for commercial sale.

Mobile or Manufactured Home, A single-family detached dwelling unit manufactured in one complete section, designed for a long-term occupancy, containing sleeping accommodations, a flush toilet, a bathtub or shower and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems; and designed to be transported, after fabrication, on its own wheels, or on flatbed or other trailers, arriving at the site where it is to be occupied as a complete dwelling, and ready for occupancy except for minor and incidental unpacking and assembly operations. Mobile Homes may only be located within a approved Mobile Home Park. See Section 515.

1. Double-wide" manufactured homes and "sectional homes" shall be considered single family detached houses instead of mobile homes. The term Mobile Home shall not include "travel trailers" (see definition).

Mobile/Manufactured Home Park, A lot of under single ownership which includes two or more mobile/manufactured homes intended for non-transient use. See Section 515.

Motel or Hotel, An establishment serving overnight transient visitors to the area and consisting of 5 or more sleeping rooms, with each room or suite of rooms in a permanent building, and with each room or suite of rooms having its own sanitary facilities. This term shall not include a boarding and lodging house,

or recreational trailer park. A motel or hotel may include an attached accessory restaurant and meeting facilities.

Non-Commercial. Any activity conducted for personal use or enjoyment without the intent of realizing a profit or recovering costs through the sale of goods or services.

Non-Conforming Use. A use of a building, structure, or land lawfully existing at the time this and/or previous ordinances or amendments thereto became effective and which does not conform with the use regulations of the district in which it is located.

Open Space. Land intended for recreation or conservation of nature resource purposes, and free or residential, business, or industrial structures and uses.

Parking Lot, Commercial. A permanently surfaced area (asphalt or concrete) of one or more parking spaces designed or used for the parking of self-propelled vehicles and available to the public whether for a fee or as an accommodation to customers or clients.

Parking Space, Off-Street. A space adequate for parking an automobile and which is located in such a way that no parking or maneuvering incidental to parking shall be on: a) any front yard of a primarily residential use, b) public street or road, c) sidewalk, or d) alley. Required parking spaces shall be located so that any automobile may be parked or moved without moving another.

Person - means any individual, corporation, company, association, firm, co-partnership, or legal entity or any group of individuals acting as a unit, and includes any trustee, receiver, assignee or personal representative thereof.

Personal Care Home. A use providing residential and support services to persons who are a) age 60 and over, b) have physical disabilities and/or c) have mental disabilities, and who as a result need oversight and assistance with daily activities, such as meal preparation.

Permitted Principal Use of a Structure. Subject to applicable district and other regulations such use or structure may be conducted or erected on any legal lot within the districts.

Pets. Animals for personal use or enjoyment and not bred, fed, raised, or processed for commercial purposes.

Planning Commission. The Planning and Zoning Commission of Sharpsburg, Maryland.

Premises. A tract of land including the structures and buildings thereon.

Principal Use. The primary activity for which a site or a structure is used. A principal use may be either a permitted principal use or a special exception.

Private. Any use or structure not owned or operated by a public or semi-public organization.

Public. Owned or operated by a governmental jurisdiction or agency.

Reclassification. The changing of the zoning classification which applies to a particular area of land or structure.



Recreation Trailer. A vehicle built on a chassis designed to be pulled by another vehicle and used as a temporary dwelling for travel or recreational purposes, and also including trailers for the conveying of boats.

Recreation Vehicle. A vehicle built to be self-propelled, and used as a temporary dwelling for travel or recreational purposes.

Related or Relative. Persons who are related by blood, marriage, adoption or formal foster relationship to result in one or more of the following relationships: brother, sister, parent, child, grandparent, great-grandparent, grandchild, great-grandchild, uncle, aunt, niece, nephew, sister-in-law, brother-in-law, parent-in-law or first cousin. This term shall not include relationships such as second or more distant cousins. This term shall include similar "step" relationships established by marriage, such as step-father or step-son.

Residence. See "Dwelling."

Residential District. The "TR" Town Residential zoning districts.

Residential Dwelling Unit - means:

- (1) a single-family dwelling unit, including attached structures such as porches and stoops; or
- (2) a single-family dwelling unit in a structure that contains more than 1 separate residential dwelling unit, and in which each such unit is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of 1 or more persons.

Restaurant. An establishment for the accommodations of the public equipped with a dining room with facilities for preparing and serving regular meals to be consumed primarily on the premises and wherein the average daily receipts from the sale of foods exceed the average daily receipts from the sale of alcoholic beverages.

1. A Restaurant with Drive- Thru Service shall be a Restaurant that has facilities for customers to order and receive their food while seated within their motor vehicle.

Restaurant, Take-out. A public facility that prepares food for consumption on the premises in parked automobiles, with the requisite amount of off-street parking.

Roomer, Boarder or Lodger. A person occupying any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes, and paying compensation for lodging or board and lodging by prearrangement for a week or more at a time to an owner or operator. Any person occupying such room or rooms and paying such compensation without prearrangement or for less than a week at a time shall be classed for purposes of this Ordinance not as a roomer, boarder, or lodger but as a guest of a commercial establishment (motel or hotel).

Rooming, Boarding or Lodging House. A building or part of a building (other than an institutional building) occupied or intended to be occupied by 3 or more roomers, boarders or lodgers.

Satellite Dish. A type of [parabolic antenna](#) designed with the specific purpose of transmitting signals to and/or receiving from [satellites](#). A satellite dish is a particular type of [microwave antenna](#). Satellite dishes come in varying sizes and designs, and are most commonly used to receive [satellite television](#) and internet access.

Sectional ("double-wide") Dwelling. A single family detached dwelling unit designed for permanent

occupancy, manufactured in two or more sections, and transported to a building site in sections which are fastened together and mounted on a permanent foundation ready for occupancy except for minor and incidental unpacking and assembly operation. For purposes of this Ordinance, sectional dwellings include modular, pre-fabricated and other similar types, but mobile homes, manufactured homes and travel trailers as herein defined are not considered as sectional homes.

Semi-Public, Owned and operated by the civic or non-profit organization for the use or benefit or the general public.

Sewage System.

- 1) Central Sewage System. A utility system, serving 2 or more dwelling units, business, commercial, industrial or other establishments, which is designed and operated for the collection , transportation, treatment and disposal of sewage, in compliance with County and State Health Regulations.
- 2) Private Sewage System. A system of sewers, pipes, treatment tanks or other facilities serving only a single dwelling unit or single business, commercial, industrial or other establishment, which is designed and operated for the collection, treatment and disposal of sewage in compliance with County and State Health Regulations.

Shopping Center. A group of 3 or more retail stores service establishments and/or other similar uses in one ownership and designed as a unit.

Short Term Rental(STR) - means the use of a residential dwelling unit, including any single-family house or dwelling, or multifamily house or dwelling or any portion of the unit to provide accommodations to transient guests for sleeping or lodging purposes in exchange for a charge or fee imposed in a booking transaction. Stays of 30-days or less are classified as Short term Rentals.

Sign. Any structure, part thereof, or device attached thereto or painted thereon, or any material or thing, which displays or includes any numerals, letters, model, banner, emblem, device, trademark, or other representation used as, or in the nature of, an announcement, advertisement of direction of any person, organization, place, product, service or business, which is located upon any land, on any structure, in or upon a window, or indoors in such a manner as to attract attention from outside the building. See Article 7.

- 1) On-Premises Sign. A sign which directs attention to a person, business, service, product or activity conducted or offered on the same lot or the sale or lease of real estate on the lot.
- 2) Off-Premises Sign. A sign which directs attention to a person, business, product, service or activity not conducted or sold on the same lot.

Solid Waste Disposal Site. Landfills and other areas where waste, refuse, and discarded materials are abandoned.

Special Exception. A use that would not be appropriate generally or without restriction throughout a district but which, if controlled as to number, area, location, or relation to the surrounding land, could be appropriate within that district. A use may only be permitted as a special exception if authorized by the applicable district regulations.

Story. That portion of a building included between the surface of any floor and the surface of the floor next above it or, if there be no floor above it, the space between such floor and the ceiling above it. A basement shall be counted as a story if an average of 5 feet or more is located above the ground level at the front of the building and if the basement includes an inside height of at least 6.5 feet.

Street. A publicly- or privately-owned vehicle accessway that has a total right-of-way width of 20 feet or more.

Street Line. The existing or proposed right-of-way line of any road or street.

Street, Public. A "street" that is publicly-owned.

Structure. Anything constructed or erected, including but not limited to residential, commercial, accessory and utility, additions and driveways.

Structural Alterations. Any change in the structural members of a building, such as walls, columns, or beams.

Spa and/or Hot Tub. A permanent structure intended for recreation located either indoors or outdoors.

Survey. The process by which boundaries are measured and land areas are determined; performed by a Registered Land Surveyor.

Surveyor, Registered Land. A land surveyor licensed by the State of Maryland.

Swimming Pool. A permanent man-made structure intended for bathing or swimming located either indoors or outdoors. All outdoor pools shall be completely enclosed by a wall or fence at least 4 feet high and designed to prevent the unauthorized entry by children and other persons.

Tavern. An establishment used primarily for the serving of liquor by the drink to the general public, wherein the average daily receipts from the sale of alcoholic beverages exceed the average daily receipts from the sale of food.

Townhouse. See under "Dwellings."

Transient - means any person who, for any period of not more than thirty (30) days, obtains sleeping accommodations or space, either at his or her own expense or at the expense of another, in any STR for which there is a room, building or similar place rental.

Travel Trailer and Trailer Camp.

- 1) Travel Trailer or Trailer. A habitable vehicular, portable structure designed to be used as a temporary and not year-round dwelling for travel, camping and recreational purposes. Such units shall not include mobile homes.
- 2) Trailer Camp. Any site, lot, parcel or tract of land which is improved, used, or intended to provide a location for the servicing or temporary accommodation of one or more travel trailers which are used for travel, camping, or recreational purposes.

Treatment Center. A use, other than a prison, providing housing facilities for persons who need specialized housing, treatment and/or counseling because of:

- 1) criminal rehabilitation, such as a criminal halfway house or a treatment/housing center for persons convicted of driving under the influence of alcohol,
  - 2) addiction to alcohol and/or a controlled substance, or
  - 3) a type of mental illness that involves or has involved behavior related to violent felony crime.
- See also definition of "Group Home."

Use. Any activity, occupation, business, or operation carried on, or intended to be carried on, in a building or other structure or on a tract of land.

Use. Accessory. Use of a building, lot or portions thereof, which is customarily incidental or subordinate to the principal use of the main building or lot.

Utility. Any activity or use which provides and offers such services as water supply, sewerage collection, sewerage treatment, electricity, natural gas or electronic communication.

Variance. A modification only of density, bulk or area requirements of this Zoning Ordinance where such modification will not be contrary to the public interest and where owing to conditions peculiar to the property, and not the results of any action taken by the applicant, a literal enforcement of the Ordinance would result in either unnecessary hardship or practical difficulty.

Vehicle Auto Body Repair Garage. A building or other structure used or intended to be used for the repair of motor vehicles, including but not limited to body-work, painting, spraying, or welding or for the storage of motor vehicles not in operating condition.

Warehouse, Self Storage. A building or group of buildings primarily used for the indoor storage, transfer and distribution of products and materials, but not including retail uses or a truck terminal, unless such uses are specifically permitted in that zoning district.

#### Water Supply System.

- 1) Central Water System. A utility system serving 2 or more dwelling units, business, commercial, industrial or other establishments, which is designed and operated to supply potable water in compliance with County and State health regulations.
- 2) Private Water Supply. A utility system serving only one dwelling unit or a single commercial, business, industrial or other establishment, which is designed and operated to supply potable water in compliance with County and State health regulations.

Yard. A required open space unoccupied and unobstructed by any structure or portion of a structure from 30 inches above the general ground level of the graded lot upward, provided however, that fences and walls may be permitted in any yard subject to height limitation as indicated herein.

Yard, Front. Front yard shall be bounded by the front yard setback line, the front lot line and the side lot line.

Yard, Rear. Rear yard shall be bounded by the rear yard line, the rear set back line and the side yard set back line.

Yard, Side. Side yard shall be bounded by the front set back line, the rear lot line, the side lot line and the side set back line.

Zoning Administrator. The person(s) appointed by the Mayor and Town Council to administer and enforce this Ordinance.

Zoning Ordinance or "this Ordinance." The Town of Sharpsburg Zoning Ordinance, as amended.

## **ARTICLE 3. ZONING DISTRICTS**

### **300 ESTABLISHMENT OF DISTRICTS**

For the purposes of these regulations, the Town is hereby divided into classes of Districts, which are established as follows:

- A. TR Town Residential District
- B. TC Town Center District

Every parcel of land and every building or other structure in the Town, except as otherwise provided by law, shall be subject to the regulations, restrictions, and requirements specified for the district in which it is located.

### **301 ZONING MAP**

The location of boundaries and districts established in the Town shall be as shown on the map attached to this Ordinance entitled "Zoning Map -Town of Sharpsburg," as amended, and said map, together with all notations, dimensions, designations, references, and other data shown thereon, are made a part of these regulations to the same extent as if the information set forth on said map were fully described and incorporated herein.

### **302 INTERPRETATION OF DISTRICT BOUNDARIES**

- A. Where uncertainty exists with respect to the boundaries between districts as indicated on the Zoning Map, the following rules shall apply:
- B. Where district boundaries are indicated as approximately coinciding with the center lines of streets, such center lines shall be construed to such boundaries.
- C. Where district boundaries are so indicated that they approximately coincide with lot lines, such lot lines shall be construed to be said boundaries.
- D. Where district boundaries are indicated as approximately parallel to street rights-of-way, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the Zoning Map.
- E. In unsubdivided property or where a district boundary divides a lot, the location or any such boundary, unless the same is indicated by dimensions shown on said map, shall be determined by use of the scale shown thereof, and scaled to the nearest foot.

### **303 NEWLY ANNEXED AREAS**

- A. All areas to be annexed to the Town after the effective date of this Ordinance shall be zoned according to the provisions of Article 23A, Section 9c of the Annotated Code of Maryland, as amended. In the event that such areas are not covered by the duly adopted Comprehensive Development Plan for Washington County, or are shown thereon as Residential, such areas shall automatically be classified in the Town Residential District, provided the Mayor and Town Council may, after required public notice and a hearing, provide for the classification of such annexed areas

or part thereof in another zoning district or districts, effective upon the date of such annexation, subject to the provisions of Article 23A, Section 9C of the Annotated Code.

- B. If the Mayor and Town Council do not provide in advance for the zoning classification of newly annexed areas as provided in subsection A. above, the Planning Commission may prepare and recommend to the Mayor and Town Council a Comprehensive Development Plan amendment and/or recommendations for the appropriate zoning classification(s) for such annexed areas.

## **ARTICLE 4. PRIMARY DISTRICT REGULATIONS**

### **400 APPLICABILITY: SIMILAR USES**

Unless otherwise provided by law or in this Ordinance, no structure shall be constructed, placed or expanded and no structure or land shall be used or occupied except for the uses permitted in this Article, except:

- A. If a use is proposed that is not addressed in any part of Article 4 in any district, then the applicant may make an application for a Special Exception to the Board of Zoning Appeals. The Board of Zoning Appeals shall only approve such use if the applicant proves all of the following:
  - 1. The use will not generate significant nuisances or hazards to the public health and safety, after considering any conditions that the Board of Zoning Appeals may place upon the approval; and
  - 2. The use is closely similar in character and impacts to uses that are permitted within the same zoning district.

### **401 USES BY RIGHT AND USES BY SPECIAL EXCEPTION**

- A. A use listed in this Article 4 is permitted by right in any district under which it is listed subject to such requirements as may be specified.
- B. A use listed in Article 4 may be permitted if the Board of Zoning Appeals so determines and issues a special exception as provided in Article 10 in any district under which it is listed subject to such requirements as may be specified in this article and Article 10 and such further restrictions as the Board may establish.

### **402 USES ARE SUBJECT TO OTHER REGULATIONS**

Uses permitted by right or by special exception shall be subject, in addition to use regulations, to such regulations of yard, lot area, lot width, building coverage, height, provisions for off-street parking, and to such other provisions as are specified in other Articles hereof.

### **403 PRE-EXISTING SPECIAL EXCEPTION USES**

Any use existing on the effective date of this Ordinance which is classified as requiring a special exception in the district in which the land occupied by the use is located shall be deemed to have been granted a special exception subject to maintaining the character and extent of operations and structures existing on that date. Any application for change in use or structure after effective date of this Ordinance shall require a special exception from the Board of Zoning Appeals as provided in Article 10.

### **404 TEMPORARY USES AND STRUCTURES**

- A. The Zoning Administrator may grant a temporary permit for a nonconforming temporary structure or use incidental to a construction project when such structure or use is reasonably required for such a project.
- B. The Board of Zoning Appeals may grant a temporary permit for routine and customary temporary structures and uses, other than as provided in the above subsection "A."

- C. A Temporary Permit shall be granted for an initial period of not more than one year and may be renewed for a period not exceeding one additional year.

#### **405 WATER AND SEWAGE REQUIREMENTS**

A non-agricultural principal building shall not be constructed following the adoption of this Ordinance unless it is served by both central sewage and central water systems, if such systems are available, except:

- A. A single family detached dwelling with private water and sewage systems or agricultural building shall be permitted in the TR District, subject to the dimensional requirements in Section 500 and State and County Health Department regulations.
  - 1. This exception shall not apply if another Town Ordinance requires connections to central sewage and/or central water systems.

#### **406 “TR” TOWN RESIDENTIAL DISTRICT**

This district would provide land for single-family detached homes on minimum 10,000 square foot lots. The Town Residential area will provide area for strictly residential development, yet one that is convenient to Sharpsburg’s Town Center.

- A. Principal Permitted Uses and Structures: Only the following principal uses and structures are permitted in the “TR” district.
  - 1. Single-Family Detached Dwelling
  - 2. Private or public primary or secondary schools (other than Child Care Center or other similar uses or trade schools), subject to the following additional provisions.
    - a) Dormitories or other living accommodations for faculty or students shall meet the minimum requirements of Section “A” as applicable.
    - b) A lot area of not less than 5 acres shall be required.
    - c) Lot width of 300 feet shall be required.
    - d) No part of any building shall be located less than 75 feet from any adjoining lot line in separate ownership.
  - 3. Recreational facility owned by or operated by Sharpsburg or other government.
  - 4. Public building or use owned or operated by Sharpsburg.
- B. Special Exceptions: Only the following uses and structures are permitted in the “TR” District as special exceptions after approval by the Board of Appeals.
  - 1. Group Home within a Lawful Existing Dwelling Unit, and meeting the additional requirements of Section 513.
  - 2. Churches and other places of worship.
  - 3. Library or museum, open to the public or connected with a permitted educational use, and not conducted as a private gainful business.
  - 4. Community center, adult education center, or other similar facility operated by an educational, philanthropic or religious institution subject to the following provision:
    - a) The use shall not be conducted as a private gainful business
    - b) No outdoor active recreation area shall be located nearer to any lot line than the required yard depth.



5. Recreation facility owned or operated by a nongovernmental agency subject to the following additional provisions:
  - a) The use shall not be conducted as a private gainful business (See below for recreational facilities operated as a gainful business).
  - b) If the facility includes a swimming pool, the pool including the apron, filtering and pumping equipment and any related building, shall be at least 75 feet from any lot line except that, where the lot upon which it is located abuts land in the TC District, said pool may be constructed not less than 25 feet from the nearest lot line of such land in the “TC” District.
  - c) Outdoor recreation areas including pools shall be sufficiently screened and sound insulated so as to protect the neighborhood from glare, noise and other disturbance.
6. Emergency Service Station.
7. Mobile/Manufactured Home Parks meeting the requirements of Section 515
8. Child Care Center, subject to the following additional condition:  
(See also as an accessory use in Section C).
  - a) In a Residential District the use shall be conducted in a building designed for residential occupancy.
  - b) A lot area of not less than 20,000 square feet shall be required.
  - c) On a lot having the permissible minimum area, the total number of children registered and/or cared for on the premises shall not exceed 10 and for each additional child 1,000 sq. ft. of lot area above the minimum, one additional child may be registered and/or cared for on the premises.
  - d) Any outdoor play area shall be located in the rear yard and its boundaries shall be at least 10 feet from any lot line.
  - e) Outdoor play areas shall be sufficient screened and sound insulated so as to protect the neighborhood from noise and other disturbance. To fulfill this requirement, screening may be located anywhere on the lot as needed.
9. Office or clinic for medical or dental examination or treatment of persons as out-patients including laboratories incidental thereto.
10. Transformer stations, structures housing switching equipment and regulators, pumping stations, power transmission line right-of-way, towers, communication antennas/towers or stations excluding commercial studios subject to the following provision:
  - a) In TR District, the proposed use at the location selected is necessary for public convenience and service and cannot be supplied with equal public convenience at another location.
  - b) In TR District, when practical, structures shall have the exterior appearance of residential buildings.
  - c) In TR Districts no public business office nor any storage yard or storage building shall be operated in connection with it.
  - d) In the case of radio and/or television transmitter towers any such tower shall meet the requirements of Section 517.
11. Home occupation (see definition in section 201 and regulations in Article 5 Section 518)
12. Bed and Breakfast (see Article 5 Section 514)
13. Other Family Day Care Home.
14. Short Term Rentals, subject to and in accordance with the requirements of Section 520.

- C. Accessory Uses and Structures: The following accessory uses and structures shall be permitted in the “TR” district:
1. Non-commercial greenhouse, tool shed, private garage, swimming pool, or similarly accessory structure and other accessory uses customarily incidental to a permitted use and not normally conducted as an independent principal use, provided that any accessory to a use permitted only under a special exception shall be established only if and as provided in such exception.
  2. Utility trailer, RV and boat storage as accessory uses subject to the following additional provisions:
    - a) The trailer, RV or boat shall not be occupied or used for dwelling purposes.
    - b) In a residential district the use shall not be located in the required front or side yard.
    - c) The trailer, RV or boat shall not be stored on the public street.
  3. Fences, walls and landscaping subject to the traffic visibility requirements and provisions of Section 504.
  4. Family Day Care Home serving a Maximum of 4 persons at a time who are not relatives of the operator.
  5. Off-street parking subject the requirements of Article 6.
  6. Signs subject to the requirements of Article 7.
  7. No satellite dish shall be located within the required front yard setback or attached to the front of any primary structure that fronts on a public street.
- D. Agricultural Uses: The following agricultural uses shall be permitted in the “TR” district:
1. Crop farming, orchards and forestry.
- E. Specifically Prohibited Uses:
1. Adult Uses
  2. Junk Yards
  3. Warehousing, Self Storage
- F. Lot, Yard and Height Requirements: The following minimum requirements shall apply to all uses and structures in the TR district, except as superseded by more restrictive provisions elsewhere in this Ordinance. See also Section 505 for an exception for accessory structures.
1. Lot area
    - a) Single family detached 10,000 square feet lot area
    - b) Mobile/Manufactured home park 5 Acres minimum lot area
    - c) Other structure or use 20,000 square feet lot area
  2. Front Yard depth
 

	Front	Side	Rear
a) Single family detached	15	8	20
b) Mobile/Manufactured home park	(See Section 516)		
c) Other structure or use	75	8	20
(see also Section 503.)			
  3. Lot Width

- |                                  |     |
|----------------------------------|-----|
| a) Single family detached        | 50  |
| b) Mobile/Manufactured home park | 400 |
| c) Other structure or use        | 50  |
- 
- |                         |                   |
|-------------------------|-------------------|
| 4. Building Height      | 2 stories maximum |
| 5. Maximum Lot Coverage | 50 percent        |

G. Design Provisions: These provisions are required for any proposed new principal residential or commercial building or expansion in floor area in order to implement the recommendations of the Comprehensive Plan. These required design standards will be used to create attractive living environments and protect the Town's Cultural Resources. A Site Plan detailing the following design provision is required and must be submitted to the Planning Commission for review and approval prior to the issuance of any building permits.

1. A consistently high quality of architecture shall be used throughout the design process. The mass and spatial relationships should emulate traditional villages and local character.
2. New buildings should be compatible in size, scale and mass with buildings and architectural style prevalent in the area.
3. Sidewalks shall be constructed along street frontages, at the discretion of the Planning Commission.
4. Building frontage shall face the street.
5. Front porches are encouraged on all single family detached homes.
6. Exterior materials shall be natural in appearance, with preference, wood siding, stone, brick or to materials and details that closely replicate such traditional materials.
7. Shade trees and other plant materials shall be provided along street frontages occupied by homes and can be provided within sidewalks.
8. All deciduous trees planted next to right of ways shall meet State Highway Administration's Street Tree Criteria.
9. All new vehicle parking spaces and driveways shall be located outside of the front yard. Shared use residential driveways are not allowed. On a corner lot, such restriction shall only apply adjacent to the more heavily traveled street, as determined by the Planning Commission.

#### **407    "TC" TOWN CENTER DISTRICT**

This District provides area where single-family detached homes would each be on minimum 10,000 square foot lots. Retail, service, office and other appropriate non-residential uses would also be directed to the Town Center for the purpose of perpetuating this area as Sharpsburg's "business district".

A. Principal Permitted Uses and Structures: Only the following principal uses and structures are permitted in the "TC" district.

1. One dwelling unit in combination with permitted commercial use.
2. Group Home within a Lawful Existing Dwelling Unit, and meeting the additional requirements of Section 513.
3. Churches and other places of worship.
4. Private or public primary or secondary schools (other than Child Care Center or other similar uses or trade schools), subject to the following additional provisions.

- a) Dormitories or other living accommodations for faculty or students shall meet the minimum requirements of Section “A” as applicable.
  - b) A lot area of not less than 5 acres shall be required.
  - c) Lot width of 300 feet shall be required.
  - d) No part of any building shall be located less than 75 feet from any adjoining lot line in separate ownership.
- 5. Child Care Center, subject to the following additional condition:  
(See also as an accessory use in Section C).
  - a) In a Residential District the use shall be conducted in a building designed for residential occupancy.
  - b) A lot area of not less than 20,000 square feet shall be required.
  - c) On a lot having the permissible minimum area, the total number of children registered and/or cared for on the premises shall not exceed 10 and for each additional child 1,000 sq. ft. of lot area above the minimum, one additional child may be registered and/or cared for on the premises.
  - d) Any outdoor play area shall be located in the rear yard and its boundaries shall be at least 10 feet from any lot line.
  - e) Outdoor play areas shall be sufficient screened and sound insulated so as to protect the neighborhood from noise and other disturbance. To fulfill this requirement, screening may be located anywhere on the lot as needed.
- 6. Trade or professional school, music, dancing or hobby school.
- 7. Library or museum, open to the public or connected with a permitted educational use, and not conducted as a private gainful business.
- 8. Community center, adult education center, or other similar facility operated by an educational, philanthropic or religious institution subject to the following provision:
  - a) The use shall not be conducted as a private gainful business
  - b) No outdoor active recreation area shall be located nearer to any lot line than the required yard depth.
- 9. Public building or use owned or operated by Sharpsburg.
- 10. Office or clinic for medical or dental examination or treatment of persons as out-patients including laboratories incidental thereto.
- 11. Offices for professional, business or governmental purposes, including but not limited to medical, law, real estate, insurance, accounting and manufacturer's representatives offices. All offices must meet the requirements of the Maryland State Fire Marshal’s Office.
- 12. Retail stores selling antiques, apparel, art supplies, beverages, books, cards, confections, dry good, drugs, fabrics, floor covering, flowers, foodstuffs, furniture, garden supplies, gifts, hardware, hobbies, appliances, jewelry, luggage, music, musical instruments, novelties, paint, equipment, periodicals, shoes, sporting goods without firearm or ammunition sales, fishing supplies, stationery, tobacco and similar use.
- 13. Service business including barber, beauty shop, laundry and dry cleaning, shoe repair, photographer, caterer, health club, pet grooming, travel agency, tailor repair shop for watches, guns, bicycle, locks.
- 14. Bank or savings and loan association.
- 15. Non Franchised Restaurant without drive-thru service
- 16. Newspaper; printing establishment
- 17. Theater, indoor.

18. Entertainment and recreation facilities operated as a gainful business within a building.
19. Emergency Service Station.
20. Home occupation (see definition in section 201 and regulations in Article 5 Section 518)

B. Special Exceptions: Only the following uses and structures are permitted in the “TC” District as special exceptions after approval by the Board of Appeals.

1. Single Family Detached Dwelling.
2. Orphanage, licensed hospital, nursing homes, personal care center, or similar licensed establishment for the care of sick, aged, crippled, or convalescent persons, subject to the following provisions:
  - a) Hospital.
    - i. A lot area of not less than 5 acres shall be required;
    - ii. a minimum lot frontage of 300 feet shall be required;
    - iii. all buildings shall be located not less than 50 feet from any lot line.
  - b) Nursing home or personal care home where not more than 10 persons are cared for.
    - i. A lot area not less than 0.5 acres shall be required.
    - ii. a minimum lot frontage of 150 feet shall be required;
    - iii. all buildings shall be located not less than 25 feet from any lot line.
  - c) Nursing home or personal care home where 11 or more persons are cared for.
    - i. A lot area of not less than 0.5 acres plus 1,000 square feet for each person above 10 persons shall be required.
    - ii. a minimum lot frontage of 150 feet shall be required;
    - iii. all buildings shall be located not less than 25 feet from any lot line.
3. Tavern
4. Transformer stations, structures housing switching equipment and regulators, pumping stations, power transmission line right-of-way, towers, communication antennas/towers or stations excluding commercial studios subject to the following provision:
  - a) In TR District, the proposed use at the location selected is necessary for public convenience and service and cannot be supplied with equal public convenience at another location.
  - b) In TR District, when practical, structures shall have the exterior appearance of residential buildings.
  - c) In TR District, no public business office nor any storage yard or storage building shall be operated in connection with it.
  - d) In the case of radio and/or television transmitter towers any such tower shall meet the requirements of Section 517.
5. Recreational facility owned by or operated by Sharpsburg or other government.
6. Private club or lodge (other than a use listed), subject to the following additional provisions in Districts where permitted only by Special Exception:
  - a) The use shall not be conducted as a private gainful business.
  - b) A lot area of not less than 3 acres shall be required.
  - c) All buildings shall be located not less than 50 feet from any lot line.
7. Upholsterer, cabinet maker and similar custom crafts (see also as Home Occupation).
8. Short Term Rentals, subject to and in accordance with the requirements of Section 520
9. Bed and Breakfast ( see Article 5 Section 514)
10. Farmers’ Markets, subject to and in accordance with the requirements of Section 519.

- C. Accessory Uses and Structures: The following accessory uses and structures shall be permitted in the “TC” district:
1. Non-commercial greenhouse, tool shed, private garage, swimming pool, or similarly accessory structure and other accessory uses customarily incidental to a permitted use and not normally conducted as an independent principal use, provided that any accessory to a use permitted only under a special exception shall be established only if and as provided in such exception.
  2. Utility trailer, RV and boat storage as accessory uses subject to the following additional provisions:
    - a) The trailer, RV or boat shall not be occupied or used for dwelling purposes.
    - b) In a residential district the use shall not be located in the required front or side yard.
    - c) The trailer, RV or boat shall not be stored on the public street.
  3. Fences, walls and landscaping subject to the traffic visibility requirements and provisions of Section 504.
  4. Family Day Care Home serving a Maximum of 4 persons at a time who are not relatives of the operator.
  5. Other Family Day Care Home.
  6. Off-street parking subject to the requirements of Article 6.
  7. Signs subject to the requirements of Article 7.
  8. No satellite dish shall be located within the required front yard setback or attached to the front of any primary structure that fronts on a public street.
- D. Specifically Prohibited Uses:
1. Adult Uses
  2. Junk Yard
  3. Warehousing, Self Storage
- E. Lot, Yard and Height Requirements: The following minimum requirements shall apply to all uses and structures in the TC district, except as superseded by more restrictive provisions elsewhere in this Ordinance. See also Section 505 for an exception for accessory structures.
1. Lot area
    - a) Single family detached 10,000 square feet lot area
    - b) One dwelling unit in combination  
with a permitted commercial use 10,000 square feet lot area  
500 square feet min. for dwelling unit
    - c) Other structure or use 10,000 square feet lot area
  2. Front Yard depth 0 - 15 feet (see also Section 503.)
  3. Side Yard depth 8 feet
  4. Rear Yard depth 20 feet
  5. Lot Width 50 feet
  6. Building Height 2 stories
  7. Maximum Lot Coverage 80 Percent

- F. Design Provisions: These provisions are required for any proposed new principal residential or commercial building or expansion in floor area in order to implement the recommendations of the Comprehensive Plan. These required design standards will be used to create attractive living environments and protect the Town's Cultural Resources. A Site Plan detailing the following design provision is required and must be submitted to the Planning Commission for review and approval prior to the issuance of any building permits.
1. A consistently high quality of architecture shall be used throughout the design process. The mass and spatial relationships should emulate traditional villages and local character.
  2. New buildings should be compatible in size, scale and mass with buildings and architectural style prevalent in the area.
  3. Sidewalks shall be constructed along street frontages, at the discretion of the Planning Commission.
  4. Building frontage shall face the street.
  5. Front porches are encouraged on all single family detached homes.
  6. Exterior materials shall be natural in appearance, with preference, wood siding, stone, brick or to materials and details that closely replicate such traditional materials.
  7. Shade trees and other plant materials shall be provided along street frontages occupied by homes and can be provided within sidewalks.
  8. All deciduous trees planted next to right of ways shall meet State Highway Administration's Street Tree Criteria.
  9. All new vehicle parking spaces and driveways shall be located outside of the front yard. Shared use residential driveways are not allowed. On a corner lot, such restriction shall only apply adjacent to the more heavily traveled street, as determined by the Planning Commission

## **ARTICLE 5. DIMENSIONAL AND MISCELLANEOUS REQUIREMENTS**

### **500 TABLE OF DIMENSIONAL REQUIREMENTS**

The regulations for each District pertaining to minimum lot area, minimum lot area per dwelling unit, minimum lot width, maximum height, and minimum required yards shall be as specified in Article 4 and Article 5.

### **501 LOT AREA AND YARDS REQUIREMENTS**

The lot or yard areas required for any new building or use shall not include any part of a lot that is required by any other building or use to comply with the requirements of this Ordinance. No required lot or area shall include any property, the ownership of which has been transferred subsequent to the effective date of this Ordinance, if such property was a part of the area required for compliance with the dimensional requirements applicable to the lot from which such transfer was made.

### **502 EXCEPTIONS TO MINIMUM LOT AREA AND LOT WIDTH**

- A. If 2 or more adjoining lots of record, one or both of which fail to meet the requirements of this Ordinance with regard to lot area and/or lot width, have continuous frontage and are in single ownership at any time after the application of the provisions of this Ordinance to such lots, and if such lots taken together would form one or more lots, each meeting the requirements of this Ordinance with regard to lot area and lot width, such lot or lots shall no longer be considered nonconforming, and must be used in compliance with the lot area and lot width requirements and the two lots shall be surveyed and registered as a single fee simple lot.
- B. In any zone in which single family dwellings are permitted, subject to the provisions of Section 502.A. above, if a lot which is of record at the time of application of the provisions of this Ordinance has insufficient lot area and/or lot width, then a single family detached dwelling may be constructed on such lot regardless of the lot area and/or lot width requirements of this Ordinance, provided:
  - 1. Such building and lot conforms to all other regulations of the district in which such lot is located.
  - 2. That no single family dwelling shall be constructed unless a lot or contiguous lots have a total width of at least 50 feet.

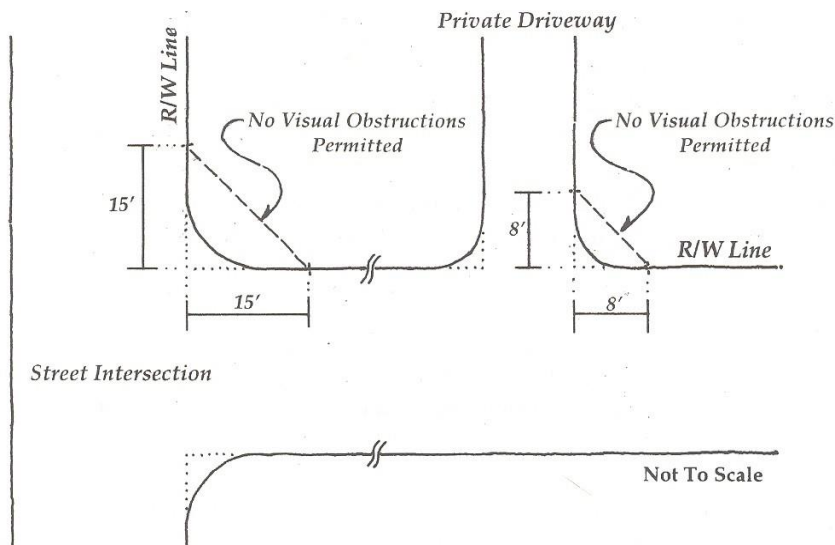
### **503 FRONT YARD REDUCTION**

When there is an existing building on each of 2 lots adjacent on either side to a lot on which a proposed building is to be erected, where both such existing buildings have an alignment nearer to the street line than the required front yard depth elsewhere specified in this Ordinance, and when both such existing buildings are within 100 feet of the proposed building, the average of the existing front yard depths of such adjacent lots shall be the minimum required front yard depth on which the proposed building is to be erected, provided that the above reduction shall not apply to any special exception uses.



**504 TRAFFIC VISIBILITY ACROSS CORNERS (clear sight triangle)**

- A. In order to provide a clear view of intersecting rights-of-way to motorists, an area free of fences, walls, hedges, shrubs, planting, or other visual obstruction shall be maintained. This area shall extend from thirty (30) inches to ten (10) feet above the curb level within the triangular area formed by the right-of-way lines of two intersecting streets and a line connecting them at points fifteen (15) feet from the intersection of the right-of-way lines, or in the case of a rounded property corner, from the intersection of the right-of-way lines extended. The same sight line limitations shall apply on any lot within ten (10) feet from the intersection of a street right-of-way line and an alley right-of-way line.
- B. On any lot where a public alley or private driveway enters a street, no visual obstruction shall be maintained between thirty (30) inches and ten (10) feet above curb level within the triangular area formed by the street right-of-way line, the private driveway line, and a line connecting them at points eight (8) feet from their intersection.
- C. In any zone where signs are permitted, a pole(s) or standard(s) may be located at any point within a required yard if, between the level of thirty (30) inches above curb level and the level of ten (10) feet above curb level, the diameter or greatest dimensions of the supporting pole(s) or standard(s) does not exceed twenty (20) inches.



**Required minimum street and driveway sight lines**

**505     ACCESSORY STRUCTURES IN SIDE AND REAR YARDS**

Completely detached accessory structures may occupy required side and rear yards but shall not be located closer than 5 feet to any side or rear property line.

**506     WALLS NOT PARALLEL TO LOT LINES**

Where a wall of a building is not parallel with its corresponding lot line, the required width or depth of any yard on that side of the building shall be taken as the average width or depth, provided that said yard shall not be narrower at any point than three-fourths of the required width or depth.

**507     CORNER LOTS**

On a corner lot, a side yard alongside a public street shall meet the same minimum yard requirement as a front yard.

**508     TRIANGULAR LOTS**

In the case of a triangular lot with no rear lot line, the distance between any point on the building and corner of the lot farthest from the front line shall be at least twice the minimum depth specified in Section 500.

**509     MAXIMUM HEIGHT**

- A.     A maximum height of two (2) stories shall apply for structures in all districts, and except as stated otherwise for specific types of structures, such as signs.
- B.     Maximum height regulations shall not apply to church spires, chimneys, water towers, aerials and other structures normally built or located above the roof and not devoted to human occupancy.

**510     STEEP SLOPES (OVER 25%)**

- A.     New Slopes. If any new slope will be created of greater than 4:1, the application shall provide a written description of the measures that will be used to stabilize such slope, together with a legally binding timetable for the implementation of such measures.
- B.     Over 30 Percent Slopes. Any construction of a new principal building or a new parking lot on land with an existing natural slope of over 30 percent shall require special exception approval by the Board of Zoning Appeals. When special exception approval is required, the applicant shall:
  - 1)     show that existing trees and other vegetation will be preserved to the maximum reasonable extent, or be immediately replaced by new trees and other vegetation, while avoiding excessive coverage by impervious surfaces,
  - 2)     submit a plan showing that stormwater runoff will be properly controlled,
  - 3)     submit and carry out a detailed soil erosion and sedimentation control plan, which shall be submitted in advance for review and acceptance by the Town or its designee, and
  - 4)     submit a grading plan prepared by a qualified professional in a manner that holds grading to a reasonable minimum.

## **511     STREAM BUFFERS**

- A.     Setback. No new principal building, off-street parking, loading area or commercial or industrial outdoor storage area shall be located:
  - 1)   within 25 feet of the top of the primary bank of any perennial waterway.
- B.     No new or expanded paving or stone surface shall be placed within the setback established by Section 512.A., except for:
  - 1)   trails that will not serve motor vehicles,
  - 2)   necessary road and driveway crossings that are approximately perpendicular to the stream, and
  - 3)   temporary waterway crossings related to construction, provided such crossings are approved by applicable State agencies.
- C.     Property-owners are strongly encouraged, but not required, to maintain the stream buffers in natural vegetation, and to plant new trees in areas without significant existing vegetation. Persons subdividing are encouraged to establish deed restrictions to limit tree cutting within this buffer.

## **512     SPECIES AND WETLANDS**

- A.     All activity shall comply with the Town of Sharpsburg Floodplain Ordinance, as amended.
- B.     In any area suspected of being a wetland, where development or other alterations are proposed, the applicant shall provide evidence that he/she is complying with the regulatory procedures of the State of Maryland.
- C.     The Zoning Administrator should notify an appropriate Federal agency if an application for development is submitted that could affect a site known to the Town to have been identified by a Federal agency as a habitat for a Federally designated Rare, Threatened or Endangered Species.
- D.     If proposed development activity would require one or more State permits, then State agencies are encouraged to identify any affected Rare, Threatened or Endangered Species habitats on the State of Maryland list, and to work cooperatively with property-owners to minimize impacts on such habitats.

## **513     GROUP HOMES**

- A.     See definition of Group Homes in Section 201 and provisions in Article 4.
- B.     See provisions for modifications in Section 1006.E.
- C.     A Group Home meeting the requirements of this Section 513 shall house a maximum of 8 unrelated persons, in addition to any staff-persons necessary to assist and supervise such persons.
- D.     A minimum of one off-street parking space shall be provided for each employee on-site during peak periods.
- E.     A copy of any relevant Federal, State or County license or certification shall be provided to the Zoning Administrator. The Zoning Administrator shall be notified in writing within 7 days by the operator of the use if such license or certification is suspended, expired or withdrawn, or if there is a significant change in the type of residents housed.

- F. The Group Home shall apply for and obtain a Zoning Permit. The permit application shall state the maximum number of residents, general type of treatment/care, level of staffing, any sponsoring agency and a phone number and address of a responsible supervisor of the use.
- G. Any medical or counseling services on-site within a residential district shall be limited to a maximum of 3 persons who do not live on-site.
- H. If a group home is within a residential district: a) it shall be maintained and/or constructed with a clearly residential appearance, and b) no exterior signs shall identify the use.

#### **514 BED AND BREAKFAST**

Bed and Breakfast Use: An establishment that only serves transient visitors to the area with sleeping rooms and at least one meal per day, and that is within a setting reflecting a residential rather than commercial character. Bed and breakfast uses, limited to a maximum of (six) 6 guestrooms, and limited to serving transient visitors to the area. (See definition Section 201)

- A. Bed and Breakfast establishments shall meet the following standards:
  - 1) No bed and breakfast facility shall contain more than six (6) guestrooms.
  - 2) Only designated rooms shall be used for sleeping.
  - 3) In the Town Center District the owner will certify they will play a regular and active role in the management and oversight of the rental property by having a principal residence in the Town of Sharpsburg or when authorized by the town of Sharpsburg may have made arrangements with an agent having a principal residence in the Town of Sharpsburg. In the Town Residential District the owner shall reside in the dwelling. In both the Town Center and Town Residential Districts the owner or authorized agent shall provide the name, address, and 24-hour phone contact information of the property owner and resident agent shall be provided with the application.
  - 4) A minimum of one full lavatory, toilet and shower or tub or combination thereof shall be available for every two guestrooms as well as one for the owner occupant.
  - 5) No guestroom shall contain more than two beds.
  - 6) One off-street on-site parking space required per guestroom. On lots where this requirement cannot be met, see Section 514, B.
  - 7) No cooking facilities shall be permitted in any guestroom.
  - 8) Upon conversion of an existing dwelling to a bed and breakfast facility, no additional entrance shall be permitted in the front facade.
  - 9) No more than four (4) adult persons shall simultaneously occupy any one guest room in a bed and breakfast facility.
  - 10) One sign flush-mounted against the dwelling advertising the establishment, which shall not exceed 4 square feet in area, and one directional sign, which shall not exceed 2 square feet, are permitted.
  - 11) A Bed and Breakfast must meet the requirements of the Maryland State Fire Marshal's Office. The owner must provide official documentation showing that the requirements of the Maryland State Fire Marshal's Office have been met. All documentation must be provided to and approved by the Town of Sharpsburg Zoning Administrator prior to issuing a permit and opening the Bed and Breakfast.
  - 12) A Bed and Breakfast must meet all applicable, local, county and state requirements. The owner must provide pictures and official documentation to prove the Short Term Rental is in compliance with the requirements of the Short Term Rental Regulations, insurance requirements and all applicable laws and codes. All pictures and documentation must be

provided to and approved by the Town of Sharpsburg Zoning Administrator prior to issuing a permit and opening the Bed and Breakfast.

- 13) A Bed and Breakfast cannot be rented for less than one night's lodging.
- 14) A Bed and Breakfast shall maintain a guest log including the name, address and telephone number of all overnight lodgers. The guest log must be made available upon request to any Sharpsburg Town employee or agent tasked with enforcing the Zoning Ordinance.
- 15) Bed and Breakfast and Short Term Rental Caps: The number of Bed and Breakfasts and Short Term Rentals is limited to a total of eight (8) in the town of Sharpsburg and two (2) or less per block.

- B. Required off-street, on-site parking spaces shall be located on the same lot where the principal structure is located, except through other suitable arrangement required parking spaces serving the Short Term Rental may be placed up to 400 feet from the lot containing such use.

## **515 MOBILE/MANUFACTURED HOME PARKS**

- A. As of the effective date of this Ordinance all new Mobile Homes shall only be located within an approved Mobile/Manufactured Home Park.
- B. A Mobile/Manufactured Home Park must be at least 5 acres in size and be under single ownership.
- C. Individual mobile home spaces within a Mobile Home Park shall include a minimum of 10,800 square feet of lot area, and a minimum width at the building setback line of 90 feet, exclusive of easements.
- D. The maximum number of mobile homes permitted on a lot shall be determined by deleting 10 percent from the total lot area (to account for usable open space), and then deleting land within the 100 year floodplain or with a slope in excess of 25 percent or occupied by overhead utility easements, and then dividing the remaining lot area by 10,800 square feet.
- E. All mobile homes shall be setback a minimum of 75 feet from any street right-of-way line that is exterior to the Mobile home Park and 100 feet from any other exterior lot line.
- F. A minimum setback of 25 feet shall be provided between an individual mobile home and street cartway, common parking area or common recreation area.
- G. All mobile homes shall be setback a minimum of 20 feet from each other and from other principal building on the lot.
- H. Each mobile home shall be placed on a concrete pad or otherwise be securely anchored to the ground in a manner approved by the Town.
- I. Vehicle access to a mobile home park shall be designed to minimize congestion and hazards at entrances and exits, and to allow free traffic movement on adjacent streets. Each mobile home park including 10 or more units shall have at least 2 vehicle access points onto an adjacent street(s). Each vehicle access point to a public street shall be separated by 150 feet from each other.
- J. Safe and convenient paved vehicle access shall be provided to reach each mobile home space. The alignment and slope of streets and driveways shall be properly adapted to topography. No interior street shall have a slope in excess of 12 percent.
- K. Streets within a Mobile Home Park shall have a minimum right-of-way of 40 feet and a minimum paved cartway of 20 feet, except that a street for one-way traffic shall have a minimum paved cartway of 14 feet. If on-street parking is to be permitted, then an additional 8 feet wide stone shoulder shall be provided. All streets shall be kept in good repair and include at least 6 inches of suitable stone base and 3 inches of asphalt, unless an alternate surface is approved in advance by the Town Council.
- L. No individual mobile home shall have its own individual driveway access directly onto a public road.

- M. Parking shall comply with Article 6. At least one of the required parking spaces for each dwelling shall be located immediately adjacent to the dwelling. Other parking spaces shall be within 300 feet of the dwelling that they serve.
- N. A substantial landscaped buffer shall be planted by the developer at least 10 feet wide around the perimeter of the mobile home park.
- O. Any mobile home park involving 5 or more units shall include at least 10 percent of the total lot area being set aside for usable recreation and open space areas for residents. Such areas shall be located to minimize conflicts with traffic. Where topography permits, such areas shall be located where they will be conveniently accessible to all residents.
- P. No enclosure attached to a mobile home shall exceed 100 percent of the floor area of a mobile home. A building permit shall be required for such enclosures.
- Q. Safe, convenient, durable all-season pedestrian walkways or sidewalks with a minimum width of 4 feet shall be provided to link together homes within the site and pedestrian attractions within and adjacent to the site.

## **516 SCREENING AND BUFFERING**

- A. If any new principal commercial or industrial use is developed directly adjacent to or directly across the street from a residential use in a residential district, and such use is visible from such residence, then a substantial landscaped buffer shall be provided alongside the edge of the commercial or industrial use.
  - 1. A substantial landscaped buffer shall also be provided along the edge of a storage area if new or expanded outdoor commercial or industrial storage of machinery, equipment, materials or "junk" is visible from a public street or dwelling.
  - 2. Such landscaping shall primarily include evergreen trees and shrubs within an initial height of 3 feet. Such landscaping shall include choices of species and locations so that it can reasonably be expected that a mostly solid visual screen 6 feet in height will result within 5 years.
  - 3. Screening shall not be required at driveway crossings or where it would obstruct safe sight distances.
- B. A landscaped buffer shall not be required along a front yard, except to buffer an outdoor storage area. A landscaped buffer shall not be required where existing vegetation will serve the same purposes, and there is a legal commitment to preserve such vegetation.
- C. The Zoning Administrator may permit a landscaped buffer to be replaced by an attractive mostly solid weather-resistant fence made of wood or materials with a similar appearance or brick or other decorative masonry if the applicant proves good cause in writing for such substitution. Such fence shall have a minimum height of 6 feet. The Zoning Administrator may base his/her decision upon a review by the Planning Commission or Town Council.
- D. The Mayor and Town Council may waive any fencing or buffer where the applicant proves such features would not serve any valid purpose, or is unneeded because of major changes in elevation or similar features.

## **517 COMMUNICATION ANTENNAS/TOWERS**

Wireless telecommunication towers and antennas may be installed, erected, modified, and maintained pursuant to the provisions of this section.

- A. Existing towers or antennas and accessory structures for which a building permit or special use permit has been properly issued prior to the effective date of this ordinance are, after the effective date hereof, declared to be nonconforming uses subject to the provisions of this section.

- B. This section shall apply to all persons, partnerships, limited liability companies, limited liability partnerships, corporations, and other entities seeking to locate, site, place, modify, or construct wireless telecommunications facilities within the corporate boundaries of the Town.
- C. This section reserves to the Town all authority contained in state law and existing town ordinances regarding land use as to the placement, construction, and modification of personal wireless service facilities.
- D. This section does not apply to the use or location of private residential citizen band radio towers, amateur radio towers, television antennas/satellite dishes, or public safety communication facilities owned or operated by the Town of Sharpsburg.
- E. Wireless telecommunication antennas shall be allowed as a permitted use in those zoning districts where antennas are permitted as a Special Exception and if located or attached as follows:
  - 1. Water Towers. Wireless telecommunication antennas shall be permitted upon Town-owned structures provided the applicant has a lease agreement with the Town has been approved by the Mayor and Town Council, a building permit has been obtained, and all applicable fees have been paid.
  - 2. Co-Location on Existing Towers. Wireless telecommunication antennas shall be permitted to be attached to existing, conforming church steeples, bell towers, smokestacks, municipal, utility, hospital, and school buildings and radio towers in accordance with applicable guidelines of this ordinance after the applicant has provided to the Town a written statement of approval from the tower or structure owner or lessor, has obtained a building permit from the Town and paid all applicable fees. The antenna shall not serve to extend the height of the existing, conforming steeple, tower, smokestack, or radio tower by more than fifteen (15) feet.
  - 3. Utility Poles. Wireless telecommunication antennas shall be permitted to be attached to utility poles after the applicant has provided a written statement of approval from the utility owner or lessor, has obtained a building permit from the Town, and paid the necessary fees. The height of the antenna shall not extend more than fifteen (15) feet above the pole. Existing lattice utility pole structures may also be utilized provided the approval from the owner and building permit is obtained.
- F. Co-Location Requirements.

No proposal for the construction of a new wireless telecommunication tower shall be approved unless the applicant documents to the satisfaction of the Mayor and Town Council, the Planning Commission and Board of Zoning Appeals that the antenna planned for the proposed tower cannot reasonably be accommodated on a Town-owned structure, on an existing, conforming co-location tower or structure, or on a utility pole within the applicant's search ring transcending the municipal borders for the purpose of providing service to the residents and businesses of the Town due to one or more of the following:

  - 1. The antenna would exceed the structural capacity of an existing tower or building; (new towers antenna support structures must be built with a base structural capacity which would have the ability to locate up to three additional users).
  - 2. The antenna would cause interference with other existing or planned equipment at the tower or building;
  - 3. Existing or approved towers and buildings cannot reasonably accommodate the antenna at a height necessary for the proposed antenna to provide services to the residents and businesses of the Town;

4. Existing or approved towers and commercial buildings are outside of the documented search area; or
  5. The owners or lessors of the existing or approved towers and buildings are unwilling to allow co-location upon their facilities.
- G. **Accessory Equipment Structures.** All accessory equipment structures adjacent to an antenna system and/or tower shall be screened or architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements of the applicable zoning district. The accessory equipment structure, or accessory equipment land parcel, shall have the capacity to house the equipment of up to three additional co-locators.
- H. **Fencing.** When deemed applicable by the Planning Commission and Board of Zoning Appeals, appropriate safety fencing shall be incorporated within the site accommodating the tower and its accessory equipment structures.
- I. **Landscaping and Screening.** When deemed applicable by the Planning Commission and Board of Zoning Appeals, proper landscaping and screening shall be incorporated into the site accommodating the tower and its accessory equipment structures.
- J. **Color.** The wireless telecommunication tower and antenna shall be of a neutral color such as light gray or sky blue except as dictated by the Federal Aviation Administration (FAA) and be designed to minimize visibility and to blend into the surrounding environment.
- K. **All towers with antennas shall be designed to withstand applicable wind load requirements as prescribed in the State of Maryland Building Code. Towers and/or antenna systems shall be constructed of or treated with corrosive resistant material. A regular maintenance schedule shall be followed.**
- L. **Roof-Mounted Wireless Communication Antennas.** Roof-mounted wireless telecommunication antennas shall not be permitted on buildings with pitched roofs unless they are stealth antennas incorporated into upward-thrusting architectural elements such as a church steeple, spire, or bell tower smokestack or radio tower. On flat roofs, the height of the antenna and mounting hardware may not be more than fifteen (15) feet above the highest point of the roof to which the antenna is attached.
- M. **Structurally-Mounted Wireless Communication Antennas.** Telecommunication antennas mounted on the sides of buildings shall be attached flush with the side of the building and shall not protrude more than three (3) feet from the side of the building. Structurally-mounted antennas not affixed to towers shall be made to blend into the design and contours of the structure.
- N. **Lights.** No antenna or tower shall have affixed or attached to it in any way any lights, reflectors, flashers, daytime strobes, or steady nighttime light or other illuminating devices except as may be required by the Federal Aviation Administration (FAA).
- O. **Signs and Advertising.** No signs and/or advertising messages shall be affixed to the antenna or tower structure.
- P. **Other Attachments.** No antenna or tower shall have constructed thereon or attached thereto any platform, catwalk, crow's nest, or like structure for the purpose of human support except during periods of construction and repair.

## **518 HOME OCCUPATIONS**

A commercial activity that is a routine and customary accessory use to a dwelling unit, and that if within a residential district, is conducted by a person on the same lot where such person resides.

A. **Standards:** A Home Occupation shall meet each of the following standards:

1. The use shall be non-intense so as to not involve any negative external effects on adjacent streets



and properties.

2. The use shall be conducted without causing any significantly adverse impacts on the surrounding neighborhood.
3. The use shall not include the display visible from outside of the dwelling of any goods, stock in trade, or other commodities.
4. The use shall not include on-premises retail sales.
5. The use shall employ only residents who reside on the premises.
6. The use shall not create noise, fumes, odor, dust or electric interference that is objectionable to neighboring uses.
7. The use shall involve a maximum of 25 percent of the total floor area of a residential building plus any other building housing the proposed home occupation. However, in no case shall the home occupation occupy a total of more than 250 square feet of gross floor area.
8. An existing dwelling shall not be altered in exterior appearance to accommodate a home occupation in such a way as to reduce its residential appearance, other than historic restoration improvements, and except for one sign as provided in Article 7.
9. Traffic. If a proposed home occupation would routinely involve vehicles visiting the property more than 15 times per day for business persons, then special exception approval by the Board of Appeals shall be required. In such case, the Board of Appeals may place additional conditions upon the use, such as requiring additional off-street parking, if rejecting the use if the location is unsuitable.
10. Hours. A home occupation shall not operate between the hours of 9 p.m. and 7 a.m. in such a manner as is discernable from other dwellings.
11. A barber or beauty shop home occupation shall include a maximum of one person cutting or styling hair at any one period of time.
12. Day Care. A Family Day Care Home shall be permitted by right as a home occupation with the following restrictions:
  - a. See the definition in Article 2, which establishes the maximum number of children.
  - b. A family day care home serving 3 or more children shall include a fenced outdoor play area of at least 500 square feet, or be within 1,000 feet of a public park or playground that will be accessible to the children.

## **519 FARMERS MARKETS**

Farmers' Markets shall meet the following requirements:

- A. Setbacks.
  1. Outdoor Farmers' Market structures, including display stands, booths, tables, and stalls shall comply with the accessory building setbacks in the district in which it is located unless a more restrictive setback is required by this section.
  2. Outdoor Farmers' Market structures, including display stands, booths, tables, and stalls shall be setback ten feet (10') from adjacent property lines and zoning districts.
- B. Area/Coverage - The retail sales area shall be considered to be calculated plan area within a boundary which encompasses all display stands, booths, tables or stalls, plus any adjoining aisles and/or walkways from which consumers can inspect items for sale. The retail sales area shall include all indoor and outdoor areas as listed above.
- C. Height - Outdoor Farmers' Market structures shall be in conformity with applicable building height regulations for accessory structures in the zoning district in which they are located.
- D. Parking.
  1. Off-street parking shall be provided at the rate of one (1) space per each two hundred (200) square feet of retail sales area.

2. The applicant must demonstrate that sufficient parking spaces and loading spaces will be available or provided for all uses proposed.
  3. In the event that a Farmers' Market is located on a property that has a principal use with days or hours of operation that do not overlap with the days or hours of operation of a Farmers' Market, any parking spaces serving the principal use may be counted toward the required number of parking spaces for a Farmers' Market. In the event that a Farmers' Market is located on a property that has a principal use with hours of operation that overlap with the hours of operation of a Farmers' Market, shared parking may be permitted only if the applicant can demonstrate that the parking provided will be sufficient for each use.
  4. An application for a permit to operate a Farmers' Market shall include a parking plan showing the number and location of parking spaces. The plan shall also include locations used for unloading and loading products.
  5. No vehicles shall block access to neighboring properties or traffic flow while unloading and loading products and other material.
  6. Vehicles used for unloading and loading products shall be parked only on the premises on the days of operation.
  7. All parking areas must be an all-weather dust-free surface.
  8. The ingress/egress shall be improved with a dustless surface.
- E. Hours of Operation.
1. A Farmers' Market may operate no more than two (2) day(s) per week and for no more than six (6) hours per day. A Farmers' Market may operate only between the hours of 8:00 a.m. and 7:00 p.m. A Farmers' Market may operate only between April 1 and December 15.
  2. The Board of Zoning Appeals may further limit Farmers' Market hours of operation, including hours for set-up and removal of all displays and products, so as to protect neighbors from light, noise, disturbance and interruption.
  3. During all permitted hours of operation, Vendors shall park only along street or in adjoining parking lot(s) as permitted by law.
- F. Market Operations.
1. Each Farmers' Market shall have present on site during all hours of operation a Market Manager authorized to direct the operations of all participating Vendors.
  2. Each Farmers' Market shall have an established set of operating rules addressing the governing structure of the Farmers' Market, the hours of operation, all maintenance and security requirements and responsibilities, and the appointment of a Market Manager, a written copy of which shall be kept on site and available for inspection during all hours of operation.
  3. All (100%) of the products offered for sale shall be Farm Products or Value-Added Farm Products; no other products of any kind may be offered for sale. All (100%) of the Vendors participating during the Market's hours of operation shall be Producers, or family members or employees of Producers. No cottage foods may be sold except those processed and packaged in Maryland in conformity with Code of Maryland Regulations (COMAR) 10.15.03.27.
  4. There shall be no use of outdoor public address systems associated with Farmers' Market activities.
  5. All outdoor temporary structures used for Farmers' Markets shall be set up and removed on the same day of operation.
  6. Outdoor Farmers' Market activities shall not obstruct any roadway, sidewalk, walkway, bicycle lane or other path that is part of any pedestrian or bicycle transportation system.
  7. The Farmers' Market permittee and each Vendor shall at all times carry general commercial liability insurance (with general and product liability coverage for bodily injury and property damage) in an amount no less than \$1,000,000 per occurrence and a \$2,000,000 aggregate limit; each permittee Market Manager and each Vendor shall have written proof of such insurance available for inspection at all times during operation.
  8. In accordance with and subject to Sections 902 and 1010D of this Ordinance, a site plan shall be submitted with the permit application showing all existing improvements on the subject

- property, off-street parking areas and driveways (including traffic control patterns), and the specific area (dimensioned) of the property to be occupied by the Farmers' Market.
9. All trash, garbage and other waste shall be disposed of immediately following the closing of each day's operations.
10. All Farmers' Market Vendors shall (a) comply with all applicable federal, state and local laws and health and safety requirements, (b) obtain and maintain all applicable federal, state, and/or local licenses, permits and certifications required by law. All applicable licenses, permits, and certifications, including business licenses, or copies thereof, shall be in the possession of the Farmers' Market Manager and the Vendor, on the site of the Farmers' Market, and available for inspection, during all hours of operation.
11. All products sold in a Farmers' Market shall be clearly labeled with the city or county and state of the Producer."

## **520 SHORT TERM RENTALS**

A. Short Term Rental establishments shall meet the following standards:

- 1) Short Term Rental facility located in the Town Center District shall contain no more than four (4) bedrooms. Short Term Rental facility located in the Town Residential District shall contain no more than two (2) bedrooms.
- 2) Only designated guest rooms shall be used for sleeping.
- 3) In the Town Center District the owner will certify they will play a regular and active role in the management and oversight of the rental property by having a principal residence in the Town of Sharpsburg or when authorized by the town of Sharpsburg may have made arrangements with an agent having a principal residence in the Town of Sharpsburg. In the Town Residential District the owner shall reside in the dwelling. In both the Town Center and Town Residential Districts the owner or authorized agent shall provide the name, address, and 24-hour phone contact information of the property owner and resident agent shall be provided with the application.
- 4) A minimum of one full lavatory, toilet and shower or tub or combination thereof shall be available for every two guestrooms. In addition in Town Residential there will be one for the owner occupant.
- 5) One off-street on-site parking space required per guestroom. On lots where this requirement cannot be met, see Section 520, B.
- 6) Cooking is not permitted in any guestroom.
- 7) Upon conversion of an existing dwelling to a short term rentals, no additional entrance shall be permitted in the front facade.
- 8) No guest shall be permitted in a Short Term Rental facility more than thirty (30) consecutive nights.
- 9) No more than four (4) adult persons shall simultaneously occupy any one guest room in a Short Term Rental facility
- 10) One flush-mounted sign, which shall not exceed 4 square feet in area, advertising the

establishment and one directional sign, which shall not exceed 2 square feet, are permitted.

11) Short Term Rentals must meet the requirements of the Maryland State Fire Marshal's Office. The owner must provide official documentation showing that the requirements of the Maryland State Fire Marshal's Office have been met. All documentation must be provided to and approved by the Town of Sharpsburg Zoning Administrator prior to issuing a permit and opening the STR.

12) Short Term Rentals must meet all applicable, local, county and state requirements. The owner must provide pictures and official documentation to prove the Short Term Rental is in compliance with the requirements of the Short Term Rental Regulations, insurance requirements and all applicable laws and codes. All pictures and documentation must be provided to and approved by the Town of Sharpsburg Zoning Administrator prior to issuing a permit and opening the STR.

13) Short Term Rentals cannot be rented for less than one night's lodging.

14) The Short Term Rental shall maintain a guest log including the name, address and telephone number of all overnight lodgers. The guest log must be made available upon request to any Sharpsburg Town employee or agent tasked with enforcing the Zoning Ordinance.

15) Bed and Breakfast and Short Term Rental Caps: The number of Bed and Breakfasts and Short Term Rentals is limited to a total of eight (8) in the town of Sharpsburg and two (2) or less per block.

- B. Required off-street, on-site parking spaces shall be located on the same lot where the principal structure is located, except through other suitable arrangement required parking spaces serving the Short Term Rental may be placed up to 400 feet from the lot containing such use.

## ARTICLE 6. OFF-STREET PARKING

### 600 **REQUIRED NUMBERS OF PARKING SPACES**

Off-street parking spaces shall be provided and satisfactorily maintained in accordance with the following provisions for each building which, after the effective date of this Ordinance, is erected, enlarged, or altered for any of the following purposes:

- A. Residential, other than Multi-Family Dwellings. Two spaces per dwelling unit.
- B. Multi-Family Dwellings. 1.5 spaces per dwelling unit.
- C. Home Occupation. One parking space per non-resident employee.
- D. Institutional. Recreation. and Educational. other than uses listed separately in this Section. One space per 5 seats plus one space per 2 employees on the premises. Where fixed seats are not provided, one space for every 80 square feet of floor area intended to be used by patrons, guests, members, clients, or customers, plus one space per 2 employees on the premises.
- E. Recreation. Non-Governmental or Club or Lodge. One space per 3 patrons of maximum capacity.
- F. Nursing Home. Personal Care Home or Hospital. One space for each 3 patient beds.
- G. Office. One space for each 200 square feet of floor area used for office purposes.
- H. Retail Sales and Consumer Services. other than uses listed separately in this Section. One space for each 150 square feet of gross floor area. Where retail sales are combined with a gasoline service station, then up to 50 percent of the required parking spaces may be met by spaces in front of gasoline pumps. If a lot includes over 20,000 square feet of retail sales floor area and other related uses typically found in a shopping center, then one space shall be required for every 225 square feet of leaseable floor area.
- I. Restaurants or Similar Establishments. One space for each 50 square feet of floor area devoted to patron use, or one space per 3 seats for a primarily sit-down restaurant.
- J. Hotel or Motel. One space for each rental unit. If other uses are included that typically serve persons who are not staying overnight, such as a restaurant, then parking shall also be provided for such uses.
- K. Gasoline Service Station. Auto Sales. Repair Garage. Sufficient spaces on the premises shall be provided for the parking or storing of all vehicles left for service or awaiting customer pick-up. The parking of such vehicles on the street or sidewalk is prohibited. See also "Retail Sales" above.
- L. Funeral Home. One space per 5 seats in rooms intended to be in use at one time for visitors.
- M. Theater. One space per 4 seats.

- N. Haircutting or Hairstyling. One space per seat intended to be in use at one time for haircutting, hairstyling, washing or similar work.
- O. Industrial Uses. One space per 1.2 employees on-site during peak times, plus spaces for trucks and company vehicles as needed.
- P. Other Uses. The applicant shall provide sufficient information for the Zoning Administrator to determine that sufficient space will be provided for all reasonably expected parking demand.

#### **601 GENERAL REQUIREMENTS FOR PARKING**

- A. Existing Parking. Structures and uses in existence at the date of adoption of this Ordinance shall not be subject to the requirements of this Article so long as the kind or extent of use is not changed, provided that any parking facility now serving such structures or uses shall not in the future be reduced below such requirements.
- B. Changes in Requirements. Whenever there is an alteration of a structure or a use which increases the parking requirements according to the standards of Section 600, the total additional parking required for the alteration, change, or extension shall be provided in accordance with the requirements of that section.
  - 1) No required parking spaces shall be reduced in area to less than the number of spaces required by this Ordinance.
- C. Conflict With Other Uses. No parking area shall be used for any use that interferes with its availability for the parking need it is required to serve.
- D. Continuing Character of Obligation. All required parking facilities shall be provided and maintained so long as the use exists which the facilities were designed to serve. Off-street parking facilities shall not be reduced in total extent after their provision, except when such reduction is in conformity with the requirements of this Article. Reasonable precautions shall be taken by the owner of a particular use to assure the availability of required facilities to the customers, employees, or other persons whom the facilities are designed to serve.
- E. Joint Use. Two or more uses may provide for required parking in a common parking lot if the total space provided is not less than the sum of the spaces required for each use individually.
- F. Fractional Spaces. Where the computation of required parking space results in a fractional number, only the fraction of one-half or more shall be counted as one.
- G. Location of Parking Space. Required off-street parking spaces shall be on the same lot or premises with the principal use served, or where this requirement cannot be met, within 400 feet of the principal use served within the same district.

#### **602 PARKING DESIGN STANDARDS**

- A. The minimum dimensions of stalls and aisles shall be as follows:
  - 1. Stall width shall be at least 9 feet.
  - 2. Stall depth shall be at least 18 feet for all angle parking and 22 feet for parallel parking.

3. Minimum width of aisles providing access to stalls for one-way traffic only, varying with the angle of parking shall be:

<u>Angle of Parking</u>	<u>Minimum Aisle Width</u>
Parallel	12 Feet
30°	11 Feet
45°	13 Feet
60°	18 Feet
90°	20 Feet

4. Minimum width of aisles providing access to stalls for two-way traffic shall be 24 feet.

- B. Parking areas shall be designed so that each motor vehicle may proceed to and from the parking space provided for it without requiring the moving of any other vehicle.
- C. The width of entrance and exit drives shall be:
  1. A minimum of 12 feet for one-way uses only.
  2. A minimum of 20 feet for two-way use.
  3. A maximum of 30 feet at the street line.
- D. In no case shall parking areas for 3 or more vehicles be designed to require or encourage cars to back into a public street in order to leave the lot.
- E. For parking areas of 3 or more vehicles, the area not landscaped and so maintained, including driveways, shall be graded, surfaced with asphalt or other suitable material, and drained to the extent necessary to prevent dust, erosion, or excessive water flow across streets or adjoining property.
- F. All lighting used to illuminate any parking space or spaces shall be arranged so as not to cause a glare into abutting lots.
- G. Handicapped Parking.
  - 1) Number of Spaces. Any lot including 4 or more off-street parking spaces shall include a minimum of one handicapped space. The following number of handicapped spaces shall be provided, unless a revised regulation is officially established under the Federal Americans With Disabilities Act:
  - 2) Location. Handicapped parking spaces shall be located where they would result in the shortest reasonable accessible distance to a handicapped accessible building entrance. Curb cuts shall be provided as needed to provide access from the handicapped spaces.
  - 3) Minimum Size. Each required handicapped parking space shall be 8 by 18 feet. In addition, each space shall be adjacent to a 5 feet wide access aisle. Such access aisle may be shared by 2 handicapped spaces by being placed between them. However, one out of every 8 required handicapped parking spaces shall have an adjacent access aisle of 8 feet width instead of 5 feet.
  - 4) Slope. Handicapped parking spaces shall be located in areas of less than 6 percent slope in any direction.
  - 5) Marking. All required handicapped spaces shall be well-marked by clearly visible signs or pavement markings.
  - 6) Paving. Handicapped parking spaces and adjacent areas needed to access them with a wheelchair shall be covered with a smooth surface that is accessible with a wheelchair.

- 7) Bicycle Parking. To comply with 1995 amendments to Article 66B of the Code of Maryland, any new use required to provide 10 or more new off-street parking spaces shall include a suitable area for the parking of bicycles. Such area should allow for locking of bicycles to a secure feature, but shall not result in obstructions to fire exits or handicapped access.

### **603    OFF-STREET LOADING**

- A. All permitted uses requiring truck loading and unloading space for normal operations shall provide adequate loading space so that no vehicle being loaded or unloaded in connection with the normal operations shall stand in or project into any public street.
- B. Size. The applicant shall provide evidence acceptable to the Zoning Administrator that the loading space(s) will be large enough to reasonably accommodate the size of trucks expected to routinely service the use. To serve medium sized trucks, each loading space is intended to be at least 30 feet in length by 12 feet in width by 14 feet in height.
- C. Number. The applicant shall provide evidence acceptable to the Zoning Administrator that the number of off-street loading spaces will be sufficient.



## **ARTICLE 7. SIGNS**

### **700 SIGN DEFINITIONS**

See Section 201 under "Signs."

### **701 NONCONFORMING SIGNS**

An existing lawful nonconforming sign may be replaced with a new sign, provided that the new sign is not more nonconforming in any manner than the existing sign, and provided that in no case shall the new sign exceed an absolute maximum of 200 square feet per side in sign area.

### **702 APPLICABILITY**

- A. No sign shall be erected, hung, placed, or painted in any District except as hereinafter provided.
- B. Tacking, painting, posting, or otherwise affixing of signs or posters of a miscellaneous character on the walls of structures, trees, posts, poles, fences, walls, or other structures except as provided for in this Ordinance is prohibited.
- C. A sign erected before the effective date of this Ordinance shall not be expanded or moved, except in compliance with the provisions of this Ordinance.
- D. The flag, emblem, insignia or symbol of a nation, other governmental unit, non-profit education, charitable, or religious group shall be exempt from the terms of this Article.
- E. Art. If an applicant proves to the satisfaction of the Zoning Administrator that a proposed display is "art" instead of being a "sign," then the art shall not be regulated under this Ordinance. For such purpose, the applicant shall prove:
  - 1. that the display will not be internally illuminated, and
  - 2. that the display clearly is primarily intended to serve an artistic or public service purpose, as opposed to any commercial purpose.

### **703 INTERPRETATION**

For the purposes of regulating signs in this Ordinance, any of the following words are intended to include any tense or to read with the prefix "re": affix, alter, attach, display, erect, hang, move, paint, paper, paste, place, post, repair.

### **704 AREA OF SIGN**

- A. The area of a sign shall be construed to include all lettering, wording, and accompanying designs and symbols, together with the background, whether open or enclosed, on which they are displayed, but not including any supporting framework and bracing which are incidental to the display itself.
- B. The area of a sign painted upon or applied to a building shall be construed to include all lettering, wording, and accompanying designs or symbols together with any backing associated with the sign.
- C. Where the sign consists of individual letters or symbols attached to or painted on a surface, building, wall, or window, the area shall be considered to be that of the smallest rectangle or other shape which encompasses all of the letters and symbols.
- D. In computing square foot area of a double-face sign, only one side shall be considered, provided both faces are identical.

**705     PERMIT REQUIREMENTS FOR SIGNS**

No on-premises sign and no off-premises sign (except official governmental signs) of any size shall be erected, affixed, painted, hung, or otherwise displayed, altered, or repaired, unless a permit therefore has been issued. No permit shall be required for the repainting, repapering or change of copy of an existing lawful sign. All signs of any size must comply with all the regulations contained herein, irrespective of whether a permit is required.

**706     SIGNS PERMITTED IN RESIDENTIAL DISTRICTS**

The following signs shall be permitted in Residential Districts:

**A.     On-Premises Signs.**

- 1) Official Signs. Official traffic signs and other official federal, state, county or town government signs.
- 2) Identification or Home Occupation Signs. A sign indicating the name of the building or premises or the accessory use of a dwelling for a home occupation, provided that such sign shall not exceed 2 square feet in area that not more than one such sign shall be erected on a property. Such sign shall not be internally illuminated.
- 3) Bed and Breakfast Signs. One sign flush-mounted against the dwelling advertising the establishment, which shall not exceed 4 square feet in area, and one directional sign, which shall not exceed 2 square feet, are permitted
- 4) Farm Signs. A sign advertising the sale of farm products grown or produced on the premises, provided that the area of any such sign shall not exceed 12 square feet and not more than one such sign shall be placed on the property.
- 5) Bulletin Boards. Bulletin or announcement board or identification signs for schools, churches, hospitals, and other principal uses and buildings other than dwellings, provided that the area of any such sign shall not exceed 12 square feet and not more than one such sign shall be placed on a property.
- 6) Real Estate Signs. Signs advertising exclusively the prospective sale or lease of the land or building upon which such signs are displayed, provided that the area of any such signs shall not exceed 6 square feet and not more than one such sign shall be placed on a property. Such signs shall be removed immediately upon final settlement or renting of a property.
- 7) Development Signs. A temporary sign advertising the development of the property upon which it stands or the opening of a new subdivision, provided that the area of any such sign shall not exceed 100 square feet, that not more than one such sign may be placed on a property. Such signs shall be removed immediately upon completion of the development. Such signs shall not be illuminated. Such a sign may be attached to a brick or other decorative masonry wall with a maximum height of 6 feet and a maximum length of 20 feet.
- 8) Contractor's Signs. Temporary contractors', architects' or building signs, provided that the area of any such sign shall not exceed 12 square feet. Such signs shall be removed immediately upon completion of the work or 18 months after erection of the signs, whichever shall occur first.
- 9) Directional Signs. Traffic control and directional signs not exceeding 2 square feet in area. Such signs shall not be illuminated, but may be of the beaded reflector type. No advertising matter whatsoever shall be contained on signs of this type.
- 10) No Trespassing Signs. No trespassing signs, signs indicating the private nature of a road, driveway, or premises, provided that the area of any such sign shall no exceed 2 square feet.

- 11) Non-Profit Signs. Temporary signs announcing a campaign, drive, or event of a civic, philanthropic, education, or religious organization. Such signs shall not exceed 12 square feet in area and shall be removed not more than 5 days after the event.
- 12) Historic Markers. Historic markers erected by a Federal, State or County agency or Town-recognized semi-public organization, not exceeding 10 square feet in area, shall be permitted in every district.

**B. Off-Premises Signs.**

- 1) Signs directing patrons, members, or audience to temporary exhibits, shows, or events, subject to the following requirements:
  - i). No such sign shall exceed 12 square feet in area.
  - ii). Signs shall be removed within 5 days after the date of the exhibit, show, or event.
  - iii). No permit shall be issued for the erection of such signs until a deposit shall be made with the Zoning Administrator in accordance with a fee schedule adopted by the Town Council to guarantee removal within the time prescribed. Failure to remove such signs within the time prescribed shall result in forfeiture of the deposit.
  - iv). No such signs shall be posted earlier than 2 weeks before the occurrence of the event to which it relates.
- 2) Official traffic signs and other federal, state, county, or town government signs.

**707 SIGNS PERMITTED IN THE “TC” TOWN CENTER DISTRICT**

The following signs shall be permitted in Town Center District:

**A. On-Premises Signs.**

- 1) All signs permitted in Section 706 at the standards prescribed therein except as otherwise provided in this Section.
- 2) Business Signs. Signs shall be permitted on the premises of a lawful business to advertise only the business conducted and/or the products produced or sold on the premises. Such sign shall not exceed 30 square feet on each of 2 sides, not more than one such sign may be placed on a property.
- 3) Signs for permitted principal non-residential uses provided:
  - i). The aggregate area of all signs attached to or printed on a building shall not exceed 10% of the area of the building face to which they are attached or painted, or 100 square feet, whichever is less.
  - ii). Free standing signs identifying a single building or its business or shopping center in accordance with the following schedule:

<u>Total Street Frontage</u>	<u>Number of Signs Permitted</u>
1 to 1,000 feet	One
Each additional 1 ,000 feet	One

The area of any free standing sign shall not exceed one square foot for each lineal foot of street frontage occupied by the use on which or in connection with which the sign is to be erected, but in no case shall the area of a sign exceed 100 square feet.

A. Off-Premises Signs.

- 1) All signs permitted in Section 706 at the standards prescribed therein.
- 2) Signs used for directing patrons, members, or audience to service clubs, churches, or other non-profit organizations, provided signs shall indicate only the name, emblem, meeting hours, address, and direction of the facility, and shall not exceed 4 square feet in area.

**708 GENERAL SIGN REGULATIONS**

- A. No sign shall project more than 3 feet above the roof nor more 3 feet from the wall to which it is attached. A sign may be incorporated into a durable awning or canopy that projects up to 3 feet from a wall. Any sign attached to and placed approximately perpendicular to a building face shall have a maximum sign area of 4 square feet and a minimum clearance of 8 feet above the ground level.
- B. No sign shall be located within any street right-of-way, except official signs, non-commercial banners and directional signs approved by the Town Council, and signs permitted by Sections 706.A.1) and 706.B.2). Signs permitted by Section 708.A. may project into a street right-of-way if the wall of an existing building is located immediately adjacent to the right-of-way.
- C. Height. Signs shall not exceed the height limit permitted in any district in which they are located.
- D. Signs shall not obstruct any window, door, fire, escape, stairway, or other opening intended to provide light, air, ingress, or egress for any building.
- E. No sign shall constitute a public safety and traffic hazard, such as by obstructing traffic signals, road warning signs, street name signs, or the full view of the traffic in all directions.
- F. Signs located in a residential district shall not be internally or externally illuminated.
- G. Signs located in commercial district may be internally or externally illuminated. Lighting devices shall be shielded so that they do not shine directly into the eyes of motorists or into a residential district.
- H. All signs except temporary signs shall be constructed of durable material and kept in good condition and repair. Whenever a sign becomes structurally unsafe or endangers the safety of a building or premises or the public safety, in the opinion of the Zoning Administrator, he/she shall order that such sign be made safe or removed. Such order shall be complied with within 5 days of receipt thereof by the person or entity owning or using the sign or the owners of the building or premises on which such unsafe sign is affixed or erected.
- I. No sign placed or constructed after the effective date of this Ordinance shall flash or mechanically rotate.

## **ARTICLE 8. NONCONFORMITIES**

### **800     DEFINITIONS**

- A.     Nonconforming Structure or Lot. A structure or lot that does not conform to a dimensional regulation prescribed by this Ordinance for the district in which it is located or to regulations for signs, off-street parking, off-street loading, or accessory buildings, but which structure or lot was in existence at the effective date of this Ordinance and was lawful at the time it was established.
- B.     Nonconforming Use. A use of a building or lot that does not conform to a use regulation prescribed by this Ordinance for the district in which it is located, but which was in existence at the effective date of this Ordinance, was lawful at the time it was established. Owners of nonconforming uses are strongly encouraged to obtain a certificate under Section 808.

### **801     CONTINUATION OF NONCONFORMITIES**

The lawful use of any structure or land existing at the effective date of this Ordinance may be continued although such use does not conform with the provision of this Ordinance except as otherwise provided in this Article.

### **802     EXPANSION OF NONCONFORMITIES**

- A.     An existing use of land or a structure which is not listed as permitted by right or by special exception in the applicable district according to the regulations shall not be expanded unless a zoning permit is issued and the following standards are met:
  - 1.     Such expansion shall not exceed 25 percent of the total land area covered by such use at the time of adoption of this Ordinance.
  - 2.     Such expansion shall comply with all other requirements of this Ordinance, including setbacks.
  - 3.     No new nonconformity shall be created as a result of the expansion.
- B.     A structure which does not conform to the regulations of this Ordinance may be altered, reconstructed or enlarged, provided that no such nonconformity is increased beyond its extent on the date that it became nonconforming, and provided that all other provisions of this Ordinance are met, including other provisions of Article 8.
- C.     See Section 805 for changes in use.

### **803     RESTORATION OF NONCONFORMITIES**

- A.     Structures damaged by fire or other causes to the extent of more than 75 percent of the market value of the structure shall not be repaired, reconstructed, or used for the same nonconforming use without the approval of the Board of Zoning Appeals. Such approval is termed a "Special Exception" (see Section 1006).
- B.     Structures with damage to the extent of 75 percent or less of the market value may be reconstructed, repaired, or used for the same nonconforming use without Board of Zoning Appeals approval.

- C. Any such reconstruction or repair shall be subject to the following provisions:
1. The reconstructed structure shall not exceed the height, area, or volume of the damaged structure.
  2. Reconstruction shall begin within one year from the date of damage and shall be carried on without interruption.

#### **804 ABANDONMENT OF NONCONFORMITIES**

Whenever a nonconforming use has been discontinued for a period of one year, such use shall not thereafter be reestablished and any future use shall be in conformity with the provisions of this Ordinance.

#### **805 CHANGES TO NONCONFORMITIES**

Once changed to a conforming use, no structure or land shall be permitted to revert to a nonconforming use. A nonconforming use may be changed to another nonconforming use if the applicant shows that the proposed change will be less objectionable in external effects than the existing nonconforming use with respect to:

- A. traffic generation and congestion, particularly involving truck traffic;
- B. noise, smoke, dust, fumes, vapors, gases, heat, odor, glare, or vibration;
- C. storage and waste disposal;
- D. appearance.

Such a change is termed a "Special Exception" requiring the approval of the Board of Zoning Appeals (see Section 1006).

#### **806 DISPLACEMENT**

No nonconforming use shall be extended to displace a conforming use.

#### **807 DISTRICT CHANGES**

Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, the foregoing provisions shall also apply to any nonconforming uses or structures existing therein.

#### **808 NONCONFORMING USE CERTIFICATE**

Nonconforming use certificates shall be issued by the Zoning Administrator if an applicant provides evidence that a nonconformity exists and was lawful when it was first established.

#### **809 NONCONFORMING LOTS OF RECORD**

See Section 502.



## **ARTICLE 9. ADMINISTRATION**

### **900     ZONING ADMINISTRATOR -DUTIES AND POWERS**

The provisions of this Ordinance shall be administered and enforced by the Zoning Administrator who shall be appointed by the Mayor and confirmed by the Town Council. One or more Deputy Zoning Administrators may also be appointed to serve in the same manner as the Zoning Administrator.

The Zoning Administrator shall have the authority and duty to:

- A. Receive and examine all applications for zoning permits.
- B. Issue permits only where there is compliance with the provisions of this Ordinance and with other Town ordinances. Permits for construction or uses requiring a special exception or variance shall be issued only upon order of the Board of Zoning Appeals.
- C. Receive applications for special exceptions, submit these applications to the Planning Commission for their comments, and then forward the applications along with Planning Commission's recommendation to the Board of Zoning Appeals for action thereon.
- D. Following refusal of a permit, to receive applications for interpretation appeals and variances and forward these applications to the Board of Zoning Appeals for action thereon.
- E. Conduct inspections and surveys to determine compliance or non-compliance with the terms of this Ordinance.
- F. Issue stop, cease, and desist order, and orders in writing for correction of all conditions found to be in violation with the provisions of this Ordinance. Such written orders shall be served personally or by certified mail upon persons, firms, or corporations deemed by the Zoning Administrator to be violating the terms of this Ordinance. It shall be unlawful for any person to violate any such order lawfully issued by the Zoning Administrator, and any person violating any such order shall be guilty of a violation of this Ordinance.
- G. With the approval of the Town Council, or when directed by them, institute in the name of the Town any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use; to restrain, correct, or abate such violation so as to prevent the occupancy of or use of any building, structure or land, or to prevent any illegal act, conduct, business, or use in or about such premises.
- H. Revoke by order, a zoning permit issued under a misstatement of fact or contrary to the law or the provisions of this Ordinance.
- I. Record and file all applications for zoning permits with accompanying plans and documents. All applications, plans, and documents shall be a public record.
- J. Maintain a map or maps showing the current zoning classification of all land in the Town.
- K. Maintain a map of all nonconforming uses and special exception uses in the Town and a file on each such use.
- L. Upon the request of the Mayor or Town Council, the Planning Commission, or the Board of Zoning Appeals, present to such bodies, facts, records, or reports which they may request to assist them in making decisions, or assist them in any other way as requested.

### **901     ZONING PERMITS**



Hereafter, no structure (except certain signs as provided in Article 7) shall be erected, constructed, reconstructed, or moved; no land or building used or occupied and no land or building changed in use, until a zoning permit has been secured from the Zoning Administrator. Upon completion of changes in use or construction, reconstruction, alteration, or moving of structures, the applicant shall notify the Zoning Administrator of such completion. No permit shall be considered as complete or permanently effective until the Zoning Administrator has noted on the permit that the work or occupancy and use has been approved as being in conformity with the provisions of this Ordinance, to the best knowledge of the Zoning Administrator.

## **902     APPLICATION REQUIREMENTS FOR ZONING PERMITS**

All applications for zoning permits shall be made in writing by the owner, tenant, vendee under contract of sale, or authorized agent on a form supplied by the Town and shall be filed with the Zoning Administrator. The application shall include the following, except where the Zoning Administrator determines such information is not necessary to determine compliance with this Ordinance:

- A. A statement as to the proposed use of the building or land.
- B. A site layout drawn to scale showing the location, dimensions, and height of proposed buildings, structures, or uses, and any existing buildings in relation to property and street lines.
- C. Lot dimensions, lot and block numbers, and subdivision name, if any.
- D. The location, dimensions, and arrangement of all open space, parking areas, and yards. Methods to be used for screening shall be included where applicable.
- E. The number, location, and design of parking areas if applicable.
- F. The dimensions, location, and methods of illumination for signs, if applicable.
- G. In the case of applications for interpretations, variances, and special exceptions, the additional information specified in Section 1010.
- H. Any other information deemed necessary by the Zoning Administrator to ascertain whether an application complies with the provisions of this Ordinance.

## **903     FEES**

All applicants for zoning permits, special exceptions, and interpretation and variance appeals shall at the time of making application, pay to the Town for the use of the Town, a fee in accordance with the fee schedule adopted or amended by resolution of the Town Council.

## **904     TIME LIMIT ON A PERMIT**

Any erection, construction, reconstruction or moving of a structure, including a sign authorized by a zoning permit, shall be commenced, and any change in use of a structure or land authorized by a zoning permit shall be undertaken within one year after the date of issuance of the permit. If not, the permit shall be considered null and void. The Zoning Administrator may grant a written extension of one total additional year if an applicant proves good cause.

## **ARTICLE 10. BOARD OF ZONING APPEALS**

### **1000 ESTABLISHMENT OF BOARD**

In order that the objectives of this Ordinance may be more fully and equitably achieved and a means for competent interpretation of this Ordinance provided, there is hereby established a Board of Zoning Appeals.

### **1001 MEMBERSHIP, TERMS OF OFFICE**

The Board shall consist of 3 members. The terms of office of the members shall be 3 years. Members shall be appointed by the Mayor, confirmed by the Town Council, and removable for cause upon written charges and after public hearing. The Mayor shall designate one alternate member for the Board who may be empowered to sit on the Board in the absence of any member of the Board.

### **1002 PROCEDURES, MEETINGS, RECORDS AND DECISIONS**

- A. Procedures. The Board shall elect a chairman from its membership, shall appoint a secretary, and shall prescribe rules in accordance with the provisions of Article 66B of the Annotated Code of Maryland and this Ordinance for the conduct of its affairs.
- B. Meetings. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. Such chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. Two members present shall constitute a quorum.
- C. Records and Decisions. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.
  - 1. All actions or decisions of the Board shall be taken by resolution in which two members, present during the proceedings, must concur. Each resolution shall contain a statement of the grounds and any findings forming the basis of such action or decision.
  - 2. The Board shall notify the Mayor and Town Council, Planning Commission, and Zoning Administrator of all decisions and resolutions.

### **1003 NOTICE OF HEARINGS**

Upon filing with the Board of an application for a special exception, variance, or appeal from alleged error of the Zoning Administrator, the Board shall fix a reasonable time (not less than 14 days nor more than 45 days from the filing date) for a public hearing thereon and give notice as follows:

- A. At least 14 days prior to the date fixed for public hearing publish once each week for 2 successive weeks a notice containing the name of the application or appellant; the date, time, and place fixed for the hearing; and a brief statement of the special exception sought by the applicant, or the error alleged by the appellant, or of the variance or other questions which is subject to appeal, in at least one newspaper of general circulation within the town.
- B. Post, in a conspicuous place on the property involved, a notice of pending action containing the

same information as in "A." above, such posting to take place at least 14 days prior to the date fixed for the public hearing.

- C. Give written notice of the time and place of such hearing by mail or delivery to the applicant or appellant and to the owners of property contiguous to or directly across a street from the property affected.
- D. Send written notices of hearing to other interested persons, organizations, or agencies, at the Town's complete discretion.

#### **1004 INTERPRETATION BY THE BOARD**

Upon appeal from a decision by the Zoning Administrator, the Board shall decide any question 1) involving the interpretation of any provisions of this Ordinance, including determination of the exact location of any district boundary if there is uncertainty with respect thereto; 2) where it is alleged there is error in any order, requirement, decision, or determination, including any order requiring an alleged violation to stop, cease, and desist, made by the Zoning Administration in the enforcement of this Ordinance.

#### **1005 ZONING VARIANCES**

(See definition of "variance" in Section 202)

- A. Upon appeal from a decision by the Zoning Administrator, the Board of Zoning Appeals shall have the power to vary or modify the strict application of certain specific requirements of this Ordinance based upon subsection "C." below.
- B. In general, the power to authorize a variance from the terms of this Ordinance shall be sparingly exercised and only under peculiar and exceptional circumstances.
- C. Standards. No variance to the provisions of this Ordinance shall be granted by the Board unless the Board finds that the appellant has proved that the following standards are satisfied.
  - 1. The variance will not be contrary to the public interest.
  - 2. That a literal enforcement of the Ordinance would result in either practical difficulty and/or unnecessary hardship.
  - 3. The granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and shall not be injurious to the neighborhood or other wise detrimental to the public welfare.
  - 4. The granting of the variance will not permit the establishment within a District of any use which is prohibited in that District.
  - 5. There must be proof of special or unique circumstances or conditions that are peculiar to the land or buildings for which the variance is sought, such as a narrow or irregular lot. These circumstances shall be described in the findings.
  - 6. The granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the Board is the minimum variance that will provide the needed relief.
    - a) It is not sufficient proof of hardship to show that greater profit would result if the variance

were awarded.

7. The need for the variance is not self-created, and is not the result of any action taken by the applicant.

D. Conditions. The Board may establish reasonable conditions as it deems to be necessary to provide for the objectives of this Ordinance and to protect the public health and safety and to avoid significant nuisances.

## **1006 SPECIAL EXCEPTIONS USES**

- A. The Board shall have the power to approve special exceptions for any of the uses for which this Ordinance requires obtaining of such exceptions and for no other use or purpose.
- B. In granting a special exception, the Board shall make findings of fact consistent with the provisions of this Ordinance. The Board shall not grant a special exception except in conformance with the conditions and standards outlined in this Ordinance.
- C. General Requirements and Standards Applicable to All Special Exceptions. The Board shall grant a special exception only if it finds adequate evidence that any proposed use submitted for a special exception will meet all of the following general requirements as well as any specific requirements and standards listed for the proposed use. The Board shall, among other things, require that any proposed use and location:
  - 1) Be in accordance with the Sharpsburg Comprehensive Plan and consistent with the spirit, purposes, and intent of this Ordinance.
  - 2) Be suitable for the property in question, and designed so as to be in harmony with and appropriate in appearance with the existing or intended character of the general vicinity.
  - 3) Be suitable in terms of effects on street traffic and safety with adequate access arrangements to protect streets from undue congestion and hazard.
  - 4) Not result in significant nuisances or significant hazards to the public health and safety.
- D. Conditions on Approval. The Board may impose reasonable conditions regarding layout, circulation, performance and other matters it deems necessary to make sure that any proposed development will serve the objectives and standards of this Ordinance.
- E. Persons With Disabilities. After having received a complete written application, the Board of Zoning Appeals shall grant a special exception allowing modifications to specific requirements of this Ordinance that the applicant proves to the satisfaction of the Board of Zoning Appeals are necessary to provide a "reasonable accommodation" under the Americans With Disabilities Act and/or the Federal Fair Housing Act and/or applicable State law, as amended, to serve persons who the applicant proves have "disabilities" as defined in and protected by such laws.

## **1007 EXERCISING POWERS CONCERNING APPEALS**

In exercising the above mentioned powers concerning appeals, the Board may, in conformity with law and the provisions of this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirements, decision, or determination appealed from and make such order, requirements, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

### **1008 TIME LIMIT ON BOARD APPROVAL**

Within one year after a decision is issued by the Board of Zoning Appeals, a zoning permit shall be obtained by the applicant and construction or alterations shall commence. Such one year period may be extended by a total of one additional year by the Zoning Administrator if the applicant proves good cause. Otherwise, any approval by the Board shall become void.

### **1009 WHO MAY APPEAL TO THE BOARD**

Appeals to the Board may be taken by any person aggrieved or by any officer, department, board, or bureau of the Town affected by any decisions of the Zoning Administrator.

### **1010 FILING FOR DECISION BY THE BOARD**

- A. The following general rules and procedures shall apply for appeals and applications to the Board of Zoning Appeals:
  - 1) Any appeal shall be made by filing the same with the Zoning Administrator within 30 days after the date of the Zoning Administrator's decision.
  - 2) All appeals and applications made to the Board shall be in writing on standard forms prescribed by the Board.
  - 3) All appeals and applications shall refer to the specific provisions of the Ordinance involved.
  - 4) All appeals and applications shall set forth names and addresses of all adjoining owners including those across the streets from the subject property.
- B. Interpretation Appeals. Appeals concerning the interpretation of any provisions of this Ordinance shall exactly set forth the section involved and the interpretation that is claimed.
- C. Variance Appeals. Appeals for variance from the strict application of this Ordinance shall include the zoning permit applications denied by the Zoning Administrator together with a statement with any supporting data regarding the requirements listed in Section 1005.
- D. Special Exception Applications. Applications for special exceptions shall include a zoning permit application with all information required therein and a statement with any supporting data regarding the merits of the proposed use at the proposed location and how the proposal complies with the general and specific requirements of this Ordinance.

### **1011 PLANNING COMMISSION REVIEW AND RECOMMENDATIONS**

- A. Before deciding any application for special exception or variance, the Board of Appeals shall request technical information and the advice of the Planning Commission in reference to such applications to further assist the Board in reaching decisions. Any written material forwarded by the Planning Commission shall be incorporated into the public record and be made available to the applicant, should he/she so desire. The advice of the Planning Commission shall not be binding

upon the Board of Appeals. Lack of advisory action by the Planning Commission shall not delay action by the Board of Appeals.

- 1) The Planning Commission shall hear the application for special exception or variance at their regularly scheduled monthly meeting prior to the Board of Appeals hearing. A special meeting may be scheduled to accommodate the hearing schedule.

- B. The Zoning Administrator shall submit to the Board any advisory opinion provided from the Planning Commission on any application for a special exception and the Board shall consider such advisory opinion prior to making a decision on an application.

## **1012 DECISIONS BY THE BOARD**

Decisions by the Board on special exceptions, variances, and interpretation appeals shall be rendered within 10 working days of the hearing on said exception, variance or interpretation, unless a later date is mutually agreed upon by the Board and applicant.

## **1013 APPEAL TO COURT**

A decision of the Board of Zoning Appeals may be appealed by any aggrieved person(s), jointly or severally, or any aggrieved taxpayer of the Town, or any officer or agency of the Town, to the Circuit Court of Washington County.

## **ARTICLE 11. AMENDMENTS AND ENFORCEMENT**

### **1100 AMENDMENT OF THIS ORDINANCE**

The Town Council may from time to time amend, supplement, change, modify or repeal this Ordinance Text and/or Zoning Map. When doing so the Town Council shall proceed in the manner prescribed in this Article.

### **1101 WHO MAY INITIATE**

Proposals for amendment may be initiated by the Town Council on its own motion, by the Planning Commission, or by petition of one or more owners of property to be affected by the proposed amendment, subject to the following provisions:

- A. Proposals Originated by the Town Council. The Town Council shall refer every proposed amendment to the Planning Commission. Within 30 days of the submission of said proposal, the Commission should submit to the Town Council a report containing the Commission's recommendations, including any additions or modification to the original proposal.
- B. Proposals Originated by the Planning Commission. The Planning Commission may at any time transmit to the Town Council any proposal for amendment of this Ordinance.
- C. Proposals Originated by a Citizen's Petition. Each petition by one or more owners of property to be affected by a proposal for amendment shall be submitted in writing to the Town Clerk. On receipt of said petition, the Town Clerk shall transmit a copy of the petition to the Planning Commission. Within 30 days, the Planning Commission should submit a report to the Mayor and Town Council containing the Commission's recommendations, including any modifications of the original proposal. The Town Council may defer action on the petition until the recommendations of the Planning commission are received and reviewed.

### **1102 PUBLIC HEARING AND NOTICE**

No amendment of this Ordinance shall become effective until after a public hearing is held by the Town Council on the matter at which parties in interest and citizens shall have the opportunity to be heard. Notice shall be given as follows:

- A. At least 14 days prior to the date fixed for public hearing, publish a notice containing the name of the applicant; the date, time, and place fixed for the hearing; and the general nature of such hearing in at least one newspaper of general circulation.
- B. When such hearing concerns a zoning map change, a notice shall be posted in a conspicuous place on the property involved, including the information listed in subsection A. above. Such posting to take place at least 14 days prior to the date fixed for public hearing.
- C. When such hearing concerns a zoning map change, written notice of the time and place of such hearing shall be mailed or delivered to the applicant and to the owners of property contiguous to or directly across a street from the property affected.

- D. Additional notices of a hearing may be provided at the Town's option. A written notice should be provided to the Washington County Office of Planning and Zoning.

### **1103 FEES FOR AN AMENDMENT**

All applicants for zoning amendments shall, at the time of making application, pay to the Town Clerk for the use of the Town, a fee in accordance with the fee schedule adopted, and as may be amended in the future, by resolution of the Town Council. At an absolute minimum, an applicant for a zoning amendment shall be responsible to reimburse the Town for all costs of legal advertisements and similar actual administrative costs.

### **1104 CONDITIONS FOR A ZONING AMENDMENT**

As of 1996, Section 4.05 of Article 66B of the Annotated Code of Maryland generally provided the following:

"Where the purpose and effect of the proposed amendment is to change the zoning classification, the Mayor and Town Council shall make findings of fact in each specific case, including, but not limited to, the following matters:

1. population change,
  2. availability of public facilities,
  3. present and future transportation patterns,
  4. compatibility with existing and proposed development for the area,
  5. the recommendation of the planning commission, and
  6. the relationship of the proposed amendment to the Town's Comprehensive Plan;
- and  
may grant the amendment based upon a finding that there was a substantial change in the character of the neighborhood where the property is located or that there was a mistake in the existing zoning classification."

### **1105 REMEDIES**

In case any structure is erected, constructed, reconstructed, altered or converted, or any structure or land is used in violation of this Ordinance, the appropriate authorities of the Town of Sharpsburg, in addition to other remedies, may institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use; to restrain, correct, or abate such violation; to prevent any illegal act, conduct, business, or use in or about such premises. The rights and remedies provided in this Ordinance are cumulative and are in addition to all other remedies provided by law.

### **1106 VIOLATION AND PENALTIES**

- A. Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint (or the Zoning Administrator, or any agency of the Town may initiate a complaint). Such complaint, stating fully the causes and the basis thereof,



shall be filed with the Zoning Administrator. The Zoning Administrator shall record properly such complaint, immediately investigate, and take action thereon as provided by this Ordinance.

- B. Any violation of any provision of this Ordinance shall be a municipal infraction and the violator shall be fined an amount of five hundred dollars (\$500.00) for a single violation and one thousand dollars (\$1,000.00) for any second violation. Each day a violation occurs shall constitute a separate offense. Nothing contained in this subsection shall be construed to limit the power or authority of the Mayor and Town Council of Sharpsburg or its appropriate officer, agent, or employee from pursuing any other remedy available to enjoin, restrain, or recover damages and costs incurred as a result of the violation. Further, nothing contained herein shall be construed to preclude any individual, person, firm, corporation, etc., from seeking any remedy which he or it might have for any violation of this Ordinance. All fines shall be payable to the Mayor and Council.

## **1107 ENFORCEMENT PROCEDURES**

Any violation of any of the provisions of this Ordinance is a civil zoning violation and shall be called a municipal infraction. If, after investigation, a municipal infraction is believed to exist, the Zoning Administrator or his authorized agent shall deliver a citation or a warning to the property owner and other person or persons responsible for the infraction. If the person is unable to be located personally, the Zoning Administrator or his authorized agent may post the citation or warning in a conspicuous place on the property and mail a copy of same to the person, which shall be sufficient for delivery under this section. The citation or warning, as provided herein, shall be in writing and shall contain the following:

1. The name and address of the person charged (or warned);
2. The nature of the violation;
3. The location of the violation;
4. The date(s) of the violation;
5. The amount of the fine assessed (or possible assessment);
6. The manner, location and time in which the fine may be paid (or violation corrected, if applicable);
7. The person's right to stand trial for the violation (if applicable); and
8. A certification by the Zoning Administrator or his authorized agent attesting to the truth of the matters set forth.

## **1108 COMPLAINTS**

Whenever an alleged or possible municipal infraction comes to the attention of the Zoning Administrator, the procedure to follow is:

1. That the Zoning Administrator will investigate whether an infraction has occurred.

2. After investigation, if the Zoning Administrator shall find that any of the provisions of this Ordinance are being violated he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it, including, but not limited to, discontinuance of illegal use of land, buildings, or structures; additions, alterations, or structural changes; discontinuance of any illegal work being done; or any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.
3. That, if he reasonably finds that an infraction continues to occur, he will issue a warning to the person or persons responsible in the form and manner as outlined in this section, with a reasonable time stated to abate or to prevent future infractions.
4. That, if the infraction continues or is allowed to occur after the reasonable time stated, the Zoning Administrator will issue a citation to the person or persons responsible in the form and manner as outlined herein. Notwithstanding the provisions of steps 2 and 3 above, the Zoning Administrator may issue a citation at step 2 or 3 without the prior issue of a warning.

## **1109 MUNICIPAL INFRACTIONS**

1. A person who receives a citation may elect to stand trial for the offense by filing with the Zoning Administrator a notice of intention to stand trial. The notice shall be given at least 5 days before the date of payment as set forth in the citation. On receipt of the notice of intention to stand trial, the Zoning Administrator shall forward to the District Court for Washington County, a copy of the citation and the notice of intention to stand trial. On receipt of the citation, the District Court shall schedule the case for trial and notify the defendant of the trial date. All fines, penalties, or forfeitures collected by the District Court for zoning infractions shall be remitted to the Mayor and Council.
2. If a person who receives a citation for an infraction fails to pay the fine by the date of payment set forth on the citation and fails to file a notice of intention to stand trial, the Zoning Administrator may request adjudication of the case through the District Court. The District Court shall schedule the case for trial and summon the defendant to appear.
3. Adjudication of an infraction under this subsection is not a criminal conviction, nor does it impose any of the civil disabilities ordinarily imposed by a criminal conviction. In a proceeding before the District Court, the violation shall be prosecuted in the same manner and to the same extent as set forth for municipal infractions in Article 23A Section 3(B)(8) through (15) of the Annotated Code of Maryland. However, the Town attorney is hereby authorized to prosecute all civil zoning infractions under this section. If a person is found by the District Court to have committed a civil zoning infraction he shall be liable for the costs of the proceedings in the District Court.
4. Depending on the circumstances of each case and after consultation with the Town attorney, the Zoning Administrator has the discretionary authority to reduce or suspend

all or a portion of the fine payable through his office. Nothing contained in this section shall prohibit or prevent the Zoning Administrator, or anyone else, from seeking other legal remedies for civil zoning infractions such as injunctions or criminal prosecutions.

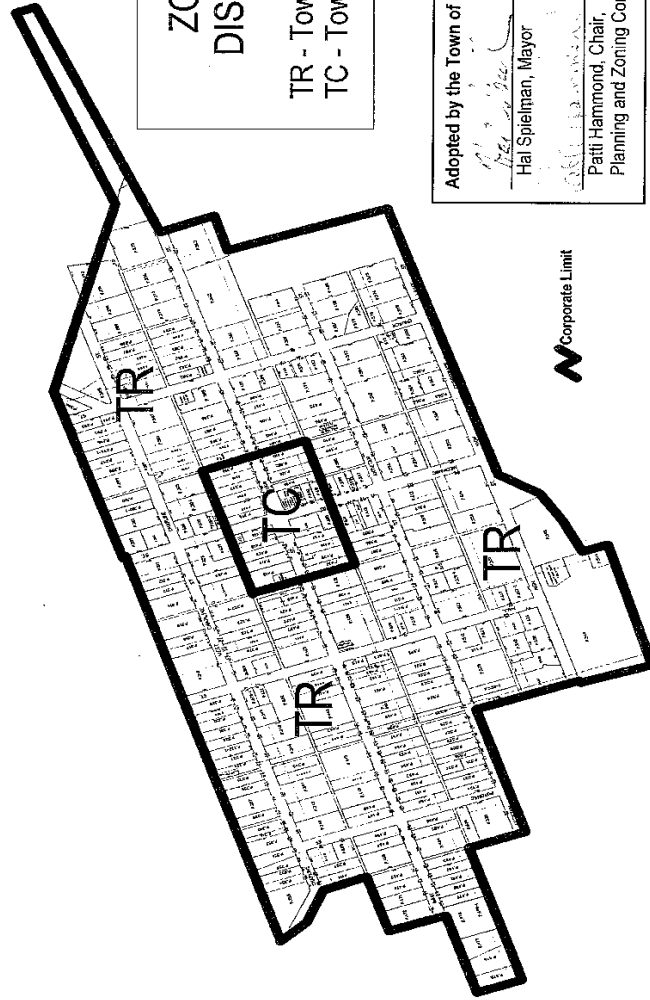
## **1110 CIVIL ACTIONS**

The Town of Sharpsburg may recover damages in a civil action, which damages may be used at the Town's discretion to correct violations of this Ordinance.

**Section 3. Severability.** Severability is intended throughout and within the provisions of the Ordinance. If any section, subsection, sentence, clause, phrase or other portion of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this Ordinance.

**Section 4. Short Title.** This Ordinance shall be known as “The Town of Sharpsburg Zoning Ordinance” and may be cited as such.

# Sharpsburg Zoning Districts



## ZONING DISTRICTS

TR - Town Residential  
TC - Town Center

Adopted by the Town of Sharpsburg

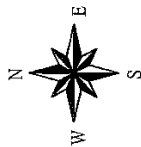
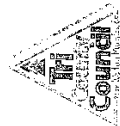
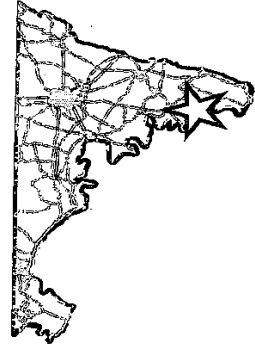
Hal Spielman, Mayor

Date

Patti Hammond, Chair,  
Planning and Zoning Commission

Date

Corporate Limit



This map was prepared by the Maryland Department of Planning in conjunction with the Tri-County Council for Western Maryland.