

**THE CODE OF
ORDINANCES OF
THE TOWN OF
SHARPSBURG,
MARYLAND**



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

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RESOLUTION AND ORDINANCE ADOPTING THE CODE FOR THE
MAYOR AND COUNCIL OF SHARPSBURG, A MUNICIPAL
CORPORATION EXISTING UNDER AND BY
VIRTUE OF THE LAWS OF THE STATE OF MARYLAND

PREAMBLE

The Mayor and Council of Sharpsburg, Maryland, as its duly constituted legislative body have passed and enacted certain ordinances governing the Town of Sharpsburg, Maryland. These ordinances are in full force and effect as of this date. It is intended that the ordinances contained in this Code shall and will remain in full force and effect.

Pursuant to the provisions and requirements of the Annotated Code of Maryland, the Mayor and Council of Sharpsburg have caused these ordinances to be updated, codified, compiled and re-enacted.

NOW, THEREFORE, BE IT RESOLVED, ENACTED AND ORDAINED, by the Mayor and Council of Sharpsburg, as its duly constituted legislative body, that the document entitled "THE CODE OF THE TOWN OF SHARPSBURG, MARYLAND" is hereby adopted and declared to be a compilation of all of the ordinances of the Town of Sharpsburg, Maryland;

BE IT FURTHER RESOLVED, ENACTED AND ORDAINED, that the Charter and each and every ordinance contained herein shall be continue in effect from the date of adoption of this Code, independent of the date of its initial passage;

BE IT FURTHER RESOLVED, ENACTED AND ORDAINED, that all ordinances not specifically set forth in this Code, except for Bond issues, financial obligations evidenced by ordinance and/or resolution water and sewer rates, other utility rates, special assessments, fees for permits, other fees, and tax rates which are at this time in force, are hereby repealed and declared of no force and effect.

BE IT FURTHER RESOLVED, ENACTED AND ORDAINED, that this ordinance and the enactment of this Code is hereby declared as an emergency ordinance and shall be effective as of its date of introduction and date of passage.

WITNESS AND ATTEST
AS TO CORPORATE SEAL

By: Patricia N. Holland
Patricia Holland, Clerk

TOWN OF SHARPSBURG, MARYLAND

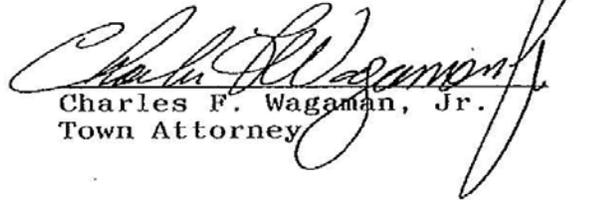
By: George E. Kesler
George E. Kesler, Mayor

DATE OF INTRODUCTION: 3/3/97
DATE OF PASSAGE: 3/3/97
EFFECTIVE DATE: 3/3/97

CERTIFICATION OF REGISTRATION
AND DEPOSIT OF MUNICIPAL DOCUMENTS
PURSUANT TO THE PROVISIONS OF
ARTICLE 23A OF THE ANNOTATED CODE OF MARYLAND

I do hereby certify that the code of the Mayor and Council of Sharpsburg, a municipal corporation, (entitled Code of the Town of Sharpsburg) existing under and by virtue of the Laws of the State of Maryland, has been properly deposited and filed with the Department of Legislative Reference by sending one (1) copy of such document to the aforementioned agency by certified mail, return receipt requested.

I further certify that copies of the aforementioned document have been filed and are a matter of public record in accordance with the provisions of the Town Charter and the Annotated Code of Maryland with the Town Clerk, Town Hall, Sharpsburg, Maryland, and is recorded among the acts, ordinances, and resolutions of incorporated towns in the records of the Clerk for the Circuit Court for Washington County, Maryland.


Charles F. Wagaman, Jr.
Town Attorney

Chapter 1 - GENERAL PROVISIONS

CHAPTER I - GENERAL PROVISIONS

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ARTICLE I – ADOPTION

Section 1. Citation.

The ordinances contained in the following Chapters, Articles and Sections are hereby ordained as General Ordinances of the Mayor and Council of Sharpsburg, and are adopted as “THE CODE OF THE TOWN OF SHARPSBURG, MARYLAND” and may be so cited.

Section 2. Effective Date.

This Code shall take effect from the date of its passage. All provisions of this Code shall be in full force and effect on and after said Effective Date, and all Ordinances of a general and permanent nature, not contained in this Code, are hereby repealed from and after said Effective Date, except as hereinafter provided.

Section 3. Exceptions to General Repealing Clause.

The repeal provided for in the preceding Section of this Ordinance shall not affect any offense or act committed or done, or any penalty of forfeiture incurred or any contract or right established or occurring before the effective date of this Code; nor shall such repeal affect any Ordinance or Resolution promising or guaranteeing the payment of

money by the Town or authorizing the issuance of bonds of said Town or any evidence of said Town's indebtedness or any contracts or obligations assumed by said Town; nor shall said repeal affect the administrative resolutions or policies of the Mayor and Council which are not ordinances and are not in conflict or inconsistent with the provisions of this Code; nor shall it affect any right or franchise conferred by any Ordinance or Resolution of the Mayor and Council on any person or corporation prior to the effective date of this Code.

ARTICLE II – GENERAL LEGISLATION

Section 1. Titles.

Table of Contents, as well as Titles or titling of a Chapter, Article or Section of this Code are intended only as references and description to summarize the contents or indicate the contents of the Chapter, Article or Section, and shall not be deemed or interpreted to be a part of any Chapter, Article or Section, nor unless expressly so provided, shall they be so deemed when any Chapter, Article or Section, including its titling, is amended or re-enacted.

Section 2. Repeal – Continuation of Ordinances.

The repeal of any Ordinance shall not revive any Ordinances in force before or at the time the Ordinance repealed took effect. The repeal of an Ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution, or proceeding pending at the time of the repeal, for an offense committed under the Ordinance repealed.

The provisions appearing in this Code, are the same as those of Town Ordinances in existence at the effective date of this Code, and shall be considered as a continuation thereof and not as new enactments.

Section 3. Definitions; Rules of Construction.

In the construction of this Code and of all ordinances, the following rules shall be observed unless such construction would be inconsistent with the manifest intent of the Mayor and Council or not consistent with the laws of the State of Maryland in legislative interpretation.

BOND – When a bond is required, an undertaking in writing shall be sufficient.

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

COUNTY – Shall mean Washington County, Maryland and/or the Board of County Commissioners of Washington County, Maryland. All three terms are to be considered as synonymous.

FIRE DEPARTMENT – Shall mean the volunteer fire company commonly known as the Sharpsburg Volunteer Fire Company, plus any other fire organization assisting or covering for the Sharpsburg Volunteer Fire Company, in a mutual aid situation or otherwise; the volunteer rescue or ambulance company commonly known as the Sharpsburg Area Rescue Service, plus any other ambulance or rescue organization

assisting or covering for the Sharpsburg Area Rescue Service, in a mutual aid situation or otherwise; and the fire police (organized under the office of the Sheriff of Washington County, Maryland).

GENDER – Words imparting the masculine gender shall include the feminine and neuter, and vice-versa.

JOINT AUTHORITY – All words giving a joint authority to three (3) or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

KEEPER AND PROPRIETOR – Shall mean and include persons, firms, associations, corporations, clubs and co-partnerships, whether acting by themselves or as a servant, agent or employee of same.

MAYOR AND COUNCIL – Shall mean the Mayor and Council of Sharpsburg as the duly constituted legislative body of the town. If used as the corporate name of the town, same shall have the applicable meaning.

MONTH – Shall mean a calendar month.

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

OATH – Shall be construed to include an affirmation or declaration in all cases in which, by law, an affirmation may be substituted for an “oath,” and in such cases the words SWEAR and SWORN shall be equivalent to the words AFFIRM and AFFIRMED.

OR, AND – Or may be read AND, and AND may be read OR, if the sense requires it.

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

PERSON – Shall include a corporation, company, partnership association or society as well as a natural person, or any legal entity of whatsoever nature or kind.

PERSONAL PROPERTY – Includes money, goods, chattels, things in action and evidences of debt.

POLICE DEPARTMENT – Shall include any law enforcement officer or official authorized to enforce laws in the Town.

PRECEDING, FOLLOWING – Shall mean next before and next after, respectively.

PROPERTY – Shall include real and personal property.

REAL PROPERTY – Real property shall include lands, tenements and hereditaments.

SIDEWALK – Shall mean that portion of a street between the curblin and the adjacent lot intended for the use of pedestrians.

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

STATE – Shall be construed to mean the State of Maryland.

STREET – Shall include any public ways, roads, highways, avenues, alleys and lanes within the Town.

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

TIME – Words used in the past or present thence include the future as well as the past and present.

TOWN – Shall mean the Mayor and Council of Sharpsburg, a municipal corporation and the Town of Sharpsburg, in the County of Washington and State of Maryland, except as otherwise provided.

WRITING – Shall include printing.

YEAR – Shall mean a calendar year.

ARTICLE III – GENERAL PENALTY

Section 1. General Penalty

(A) Any violation of the provisions of the Code of The Mayor and Council of Sharpsburg, ad adopted, and any other subsequent amendments or ordinances, shall be considered and hereby declared unlawful. Unless penalties are otherwise specifically provided for in the Code said violation(s) shall be and are hereby considered misdemeanors unless declared by the Mayor and Council of Sharpsburg to be a municipal infraction pursuant to the provisions of Article 23A of the Annotated Code of Maryland.

(B) Whenever in such Code or ordinance the doing of any act is required or the failure to do an act is declared to be unlawful as set forth in each and every ordinance referred to and as set forth in these provisions, and where no specific penalties are provided therefore, the violator of any such provision of this Code or any ordinance shall be punished by a fine not exceeding one thousand (\$1,000.00) dollars, or imprisonment for thirty (30) days or both in the discretion of the court.

(C) Each day any violation of any provision of this Code or of any ordinance shall continue shall constitute a separate offense.

ARTICLE IV – SEVERABILITY

Section 1.

It is hereby declared to be the intention of the Mayor and Council of Sharpsburg that the sections, paragraphs, sentences, clauses and words of this Code are severable, and if any word,, clause, sentence, paragraph, or section of this Code shall be declared to be unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity will not affect any of the remaining words, clauses, sentences, paragraphs and sections of this Code.

ARTICLE V – MISCELLANEOUS

Section 1.

(A) The provisions of this Code are in addition to and not in derogation of any federal, State or County acts, ordinances, statutes or regulations that may be applicable within the corporate limits of the Town of Sharpsburg.

(B) In the event that there is any inconsistency in the application of any of the ordinances contained in this Code, then the ordinance providing for the strictest procedures or practices to be following shall be applicable and take precedence over the more lenient.

Chapter 2 - COUNTY ORDINANCES - EXEMPTION

APPLICABILITY

WHEREAS, The Mayor and Council of Sharpsburg are the duly constituted legislative body for the Town of Sharpsburg, Maryland, a municipal corporation, existing under and by virtue of the Laws of the State of Maryland, and

WHEREAS, The Mayor and Council of Sharpsburg has been authorized and empowered pursuant to Article 23A of the Annotated Code of the Public General Laws of Maryland, 1957, as subsequently amended, to specifically exempt itself from applicability of county ordinances and/or legislation; and

WHEREAS, The Mayor and Council of Sharpsburg through its duly authorized body does hereby desire and intend to exempt itself from the applicability of County Legislation of the County of Washington in accordance with the provisions of said Article 23A, Section 2, of the Annotated Code of Maryland.

NOW, THEREFORE, BE IT RESOLVED, ENACTED AND ORDAINED, that The Mayor and Council of Sharpsburg does hereby declare itself, pursuant to Article 23A, Section 2B, of the Annotated Code to be specifically exempt from any and all Washington County Legislation within the corporate boundaries of said Town, EXCEPT FOR:

1. Those Ordinances already adopted by the Town which are Washington County Ordinances, or
2. Those Ordinances which the Town by Ordinance has requested and authorized Washington County to administer or enforce within its corporate boundaries as of this date; and
3. Except any other Washington County Legislation which is specifically provided for as being applicable within the corporate boundaries of The Mayor and Council of Sharpsburg under Article 23A, Section 2B.

Chapter 3 - ELECTIONS IN THE TOWN OF SHARPSBURG

ARTICLE I - ABSENTEE BALLOTING

- Section 1-1. Absentee Voter Qualification.
- Section 1-2. Application for Ballot: Form and Distribution.
- Section 1-3. Voting by Disabled and Ill Persons.
- Section 1-4. Determination Upon Application: Delivery of Ballots and Records.
- Section 1-5. Form of Ballot and Envelope.
- Section 1-6. Instructions to Voters.
- Section 1-7. Registration of Ballots.
- Section 1-8. Canvassing and Disposition of Ballots.
- Section 1-9. Contests and Appeals.
- Section 1-10. Violations and Penalties.
- Section 1-11. Forms.

ARTICLE II - MUNICIPAL ELECTIONS - IN GENERAL

- Section 2-1. Registration.
- Section 2-2. Registration deadline.
- Section 2-3. Notice of Election.
- Section 2-4. Candidates for Election.
- Section 2-5. Poll List.
- Section 2-6. Additional personnel.

ARTICLE I - ABSENTEE BALLOTING

Section 1-1. Absentee Voter Qualification.

A qualified voter who, on the occurrence of any municipal election, whether regular or special, may be unavoidably absent from the Town of Sharpsburg or unable to vote in person for whatever reason on the day of election, may vote as an absentee voter as provided in this ordinance.

Section 1-2. Application for Ballot: Form and Distribution.

A. A qualified voter desiring to vote at any such election as an absentee voter shall make application, in writing, to the Town Clerk of the Town of Sharpsburg for an

absentee ballot not later than fourteen (14) days before such election. Such application shall be made under penalty of perjury and shall set forth:

(1) His or her name and residence address, including the street and number, if any.

(2) That he or she is a qualified voter at the residence given.

(3) In case he or she voted at the preceding election, the residence from which he or she so voted.

(4) That he or she expects in good faith to be unable to vote in person on the day of the next regular or special election for whatever reason, specifying it.

B. Form and distribution. Printed forms of applications for absentee ballots in accordance with the requirements of this ordinance shall be provided by the Town Clerk. They shall be distributed only in the following manner.

(1) The Town Clerk shall retain an appropriate number for the purpose of furnishing an application form to each qualified voter who desires to apply in person.

(2) The Town Clerk shall mail an application form to each qualified voter who make application by mail, pursuant to the provisions of this ordinance.

(3) Such application forms shall not be furnished by any person except as authorized in this ordinance, or in an emergency, as directed by The Mayor and Council of Sharpsburg.

Section 1-3. Voting by Disabled and Ill persons.

Any qualified voter whose physical disability which confines him or her to a hospital or causes him or her to be confined to bed and prevents or will prevent him or her from being present and personally voting at the polls on any election day in the Town of Sharpsburg for town elections shall be considered an absentee voter. Such persons shall make application in accordance with Section 2. The Town Clerk shall mail to the voter entitled thereto an absentee ballot. In all other respects, absentee voting, as provided for in this section, shall be similar to and controlled by the applicable procedure provided in this ordinance in the case of absentee voting.

Section 1-4. Determination Upon Application: Delivery of Ballots and Records.

A. Determination upon application. Upon receipt of such application, the Town Clerk shall determine upon such inquiry as he deems reasonable whether the

applicant is a voter legally qualified to vote at such election; and if he finds that he or she is not so qualified, he shall reject the application.

B. Delivery of ballots. If the Town Clerk finds that the applicant is a qualified voter as stated in his or her application he shall, as soon as is practicable after it shall have determined his or her right thereto, deliver to him or her, at the office of The Mayor and Council of Sharpsburg, or Town Clerk or by mail to him or her an address designated by him or her, an absentee voter's ballot and an envelope therefore. Postage for transmitting ballot material to the voters shall be paid by the town and postage for the return of ballot shall be paid by the voter. If the ballots are to be sent by mail, such determination shall be made at a time which will afford an opportunity for the transmission and return of the ballots in the usual course of mail, depending upon the location of the mailing address, and which will allow at least one (1) secular day for mailing the ballots and remailing; but the investigation shall be concluded and determinations made as to all applicants not later than the Tuesday next before Election Day.

C. Record of applications received and ballots delivered. The Town Clerk shall keep a record of applications for absentee voters' ballots as they are received showing the names and residences of the applicants; and a complete list of all applicants to whom absentee voters' ballots have been delivered or mailed shall be made available for inspection by any candidate on the ballot or his duly designated agent.

Section 1-5. Form of Ballot and Envelope.

A. The following form be and it is hereby adopted for the form of ballot for absentee voters: The Town Clerk for the town shall cause to be printed an adequate number of absentee ballots, the (3) three kinds of envelopes hereinafter described and instructions. The words "absentee ballots" shall be printed in large letters in a clear space at the top of each of said ballots. The designation of the polling place shall be left blank on the back and outside of said ballots and shall be filled in by the Town Clerk before being sent to any registered absentee resident. One (1) envelope shall be known as the "return envelope" and shall be sufficiently larger than the other envelope, which shall be known as the "ballot envelope" and which is hereinafter described, to conveniently enclose and contain the ballot envelope. There shall be printed or written across the left-hand face of the return envelope the words "Return Envelope for the Election of _____ (date), the blank space being filled in with the date of the election, after which there shall be added the words "Town of Sharpsburg" and the address of the Town Clerk and below this last phrase shall be printed in bold type the phrase "Official Absentee Ballot, Town of Sharpsburg, State of Maryland."

B. Size and contents of ballot envelope.

The ballot envelope shall be of sufficient size to contain the town absentee ballot. Printed on the face of the ballot envelope shall be the following oath:

Oath of Absentee Resident

I, _____, do hereby affirm under penalty of perjury that I am a voter legally qualified to vote in the (regular or special) election to be held on _____ (date); that I am legally registered in the Town of Sharpsburg, Washington County, Maryland, as stated in my application for said ballot; that I will be unable to vote in person on the day of election for the reason shown on my application or that I am disabled pursuant to Section 27-2 of Article 33 of the Annotated Code of Maryland. That I have not qualified nor do I intend to vote elsewhere than as set forth herein; that the within ballot was by me marked secretly, folded and enclosed and sealed in this ballot envelope; and that I am not now disfranchised from voting under the laws of Maryland.

(Absentee voter must sign his or her name)

Section 1-6. Instructions to Voters.

The following printed instructions to be forwarded with the town absentee ballot, the ballot envelope and a return envelope for use in returning the ballot shall be as follows:

Enclosed herewith are a Town of Sharpsburg absentee ballot, a ballot envelope and a return envelope for use in returning the ballot. You are entitled to vote if you will be unable to vote personally at the Poll.

- (a) Examine the ballot before marking. When once marked, do not erase, as an erasure will invalidate the ballot. Mark the ballot with either pencil or ink by placing an (X) in the block after each candidate for whom you wish to vote and in the appropriate block for any other questions (if any appear on the ballot) for or against which you wish to vote. Be sure not to vote for any number of candidates for an office greater than the number specified over the names of candidates for that office. The ballot must be marked secretly. Do not sign your name or put on the ballot any mark of identification or any other mark except the (X) mark or the name of a written-in candidate.
- (b) Then enclose the ballot in the ballot envelope and seal the same.

- (c) After sealing the ballot envelope, you must fill in the blanks in the "Oath of Absentee Resident" on the ballot envelope and sign (do not print) your name on the line indicated.
- (d) It is absolutely necessary that the ballot envelope contain nothing, but one (1) ballot marked by you.
- (e) Enclose the ballot envelope in the return envelope, seal the return envelope and mail at once.
- (f) The ballot may be marked and mailed at any time after you receive it but it must be received by the Town Clerk for the Town of Sharpsburg not later than the closing of the polls on election day. If it is not received prior to such closing, it will not be counted.
- (g) If in any election you desire not to vote for any of the candidates named for any office on the ballot, you may write in, in the appropriate blank on the ballot, the name of the person of your choice for such office.
- (h) If any qualified voter desiring to vote by absentee ballot pursuant to the Absentee Voting Ordinance is unable by reason of blindness or physical disability, without assistance, to mark a ballot and sign the oath on the ballot envelope, any person may, at the request and in accordance with the direction of the voter sign on the line provided for the voter's signature and complete the oath on the face of the ballot envelope. The person assisting the voter shall execute the Oath of Person Assisting Absentee Voter. (See bottom of this page.) Then tear off and return such oath in the return envelope, not in the ballot envelope. Such person, in assisting the voter shall not make any effort whatsoever to influence the vote of the voter he is assisting.

Oath of Person Assisting Absentee Voter

I hereby declare under the penalty of perjury, that this ____ day of _____, 19__, _____, (name of applicant), a qualified voter entitled to vote pursuant to Article 33 of the Annotated Code of Maryland, who is unable by reason of blindness or physical disability, without assistance, to mark a ballot and sign the oath on the ballot envelope, authorized me to mark the ballot, sign his name on the line provided for the voter's signature and complete the oath on the face of the ballot envelope. I have marked the enclosed ballot in accordance with his instructions and have not attempted to influence him to vote for or against any political party, any candidate or any question appearing on the ballot.

(Signature)

Name of person assisting voter: _____

Address: _____

Enclose in return envelope, not ballot envelope, and send along with ballot to
Town Clerk, Sharpsburg, Maryland 21734.

(If the above form is used, detach it, fill in the blanks and enclose it in the return
envelope.)

Section 1-7. Registration of Ballots.

Upon receipt of application for an absentee ballot and the mailing to the qualified
voter of an absentee ballot, the Town Clerk for the Town of Sharpsburg shall cause to be
noted opposite the voter's name the fact that the person is voting by absentee ballot.

Section 1-8. Canvassing and Disposition of Ballots.

At any time after the closing of the polls and not later than the canvass of the
voters cast at the regular voting places in the Town of Sharpsburg at any election, the
Town Clerk or Judge shall proceed to count, certify and canvass the ballots contained in
the ballot envelopes received by him prior to the closing of the polls on election day. All
voters' applications, medical certificates, notarial affidavits, ballot envelopes and ballots
shall be kept separate and apart from ballots cast at the regular voting places and retained
for six (6) months after the date of election at which they were cast, unless prior to that
time the Town of Sharpsburg or Town Clerk shall be ordered by a court of competent
jurisdiction to keep the same for any longer period.

Section 1-9. Contests and Appeals.

Contests concerning registration, voting or the validity of any ballot under this
chapter shall be decided by The Mayor and Council of Sharpsburg as prescribed in
Section 27-10 of Article 33 of the Annotated Code of Maryland.

Section 1-10. Violations and Penalties.

Any person who shall violate any of the provisions of this ordinance shall, upon conviction, be sentenced to pay a fine of not more than \$1,000.00 or be sentenced to imprisonment for not more than six (6) months or both, in the discretion of the court.

Section 1-11. Forms.

(A) APPLICATION FOR ABSENTEE BALLOT
TOWN OF SHARPSBURG

Please print.

I, _____, am a registered voter in the
(Full name as registered)
Town of Sharpsburg, Washington County, Maryland, residing at _____
_____ and do hereby apply for an absentee
ballot for the _____ election to be held on _____
_____, 19___. I will not be able to vote in person because:

Date: _____
Signature

THIS APPLICATION MUST BE SIGNED AND BACK TO THIS OFFICE 14 DAYS PRIOR TO THE ELECTION.

SEND THIS BALLOT TO ME AT THE FOLLOWING ADDRESS. (Note: Use the mailing address at which mail reaches you most promptly. Include rank and serial number if in the Armed Forces.)

WARNING! The Absentee Voting Law provides that anyone who willfully signs any false application or oath, or who willfully does any act contrary to the terms and provisions of the Absentee Voting Law with intent to cast an illegal vote or to aid another in doing so, or who willfully violates any of the provisions of that law or who applies for

a ballot under any other name than his own, shall upon conviction be subject to a fine of \$1,000.00 or to imprisonment for not more than two years, or both, in the discretion of the court.

(B) INSTRUCTIONS TO VOTERS.

Enclosed herewith are a Town of Sharpsburg absentee ballot, a ballot envelope and a return envelope for use in returning the ballot. You are entitled to vote if you will be unable to vote personally at the Poll.

- (a) Examine the ballot before marking. When once marked, do not erase, as an erasure will invalidate the ballot. Mark the ballot with either pencil or ink by placing an (X) in the block after each candidate for whom you wish to vote and in the appropriate block for any other question (if any appear on the ballot) for or against which you wish to vote. Be sure not to vote for any number of candidates for an office greater than the number specified over the names of candidate for that office. The ballot must be marked secretly. Do not sign your name or put on the ballot any mark of identification or any other mark except the (X) mark or the name of a written-in candidate.
- (b) Then enclose the ballot in the ballot envelope and seal the same.
- (c) After sealing the ballot envelope, you must fill in the blanks in the "Oath of Absentee Resident" on the ballot envelope and sign (do not print) your name on the line indicated.
- (d) It is absolutely necessary that the ballot envelope contain nothing, but one (1) ballot marked by you.
- (e) Enclose the ballot envelope in the return envelope, seal the return envelope and mail at once.
- (f) The ballot may be marked and mailed at any time after you receive it but it must be received by the Town Clerk for the Town of Sharpsburg not later than the closing of the polls on election day. If it is not received prior to such closing, it will not be counted.
- (g) If in any election you desire not to vote for any of the candidates named for any office on the ballot, you may write in, in the appropriate blank on the ballot, the name of the person of your choice for such office.

- (h) If any qualified voter desiring to vote by absentee ballot pursuant to the Absentee Voting Ordinance is unable by reason of blindness or physical disability, without assistance, to mark a ballot and sign the oath on the ballot envelope, any person may, at the request and in accordance with the direction of the voter sign on the line provided for the voter's signature and complete the oath on the face of the ballot envelope. The person assisting the voter shall execute the Oath of Person Assisting Absentee Voter. (See bottom of this page.) Then tear off and return such oath in the return envelope, not in the ballot envelope. Such person, in assisting the voter shall not make any effort whatsoever to influence the vote of the voter he is assisting.

Oath of Person Assisting Absentee Voter

I hereby declare under the penalty of perjury, that this ____ day of _____, 19__, _____, (name of applicant), a qualified voter entitled to vote pursuant to Article 33 of the Annotated Code of Maryland, who is unable by reason of blindness or physical disability, without assistance, to mark a ballot and sign the oath on the ballot envelope, authorized me to mark the ballot, sign his name on the line provided for the voter's signature and complete the oath on the fact of the ballot envelope. I have marked the enclosed ballot in accordance with his instructions and have not attempted to influence him to vote for or against any political party, any candidate or any question appearing on the ballot.

(Signature)

Name of person assisting voter: _____
(Printed)

Address: _____

Enclose in return envelope, not ballot envelope, and along with ballot to Town Clerk, Sharpsburg, Maryland 21734.

(If the above form is used, detach it, fill in the blanks and enclose it in the return envelope.)

ARTICLE II - MUNICIPAL ELECTIONS - IN GENERAL

Section 2-1. Registration.

A. In addition to registration to vote with the Washington County Board of Election Supervisors, a person may register to vote in a Town election by registering with the Sharpsburg Board of Supervisors of Elections.

B. Registration of voters shall be a continuous process, available to eligible individuals except for the period of 35 days or fewer prior to a Town election and continuing until 21 days after that Town election. Registration shall be permanent so long as the person is a qualified voter as set forth in the Town charter or otherwise provided by law. Persons known to have died or who are no longer qualified voters may be stricken from the registration list.

Section 2-2. Registration deadline.

The list of qualified voters shall be those persons who are otherwise qualified to vote in a Town election who have registered to vote either with the Washington County Board of Election Supervisors, or with the Sharpsburg Board of Supervisors of Elections, until the thirty-fifth day prior to the town election. The registration rolls reopen for registration twenty-one days after a town election.

Section 2.3. Notice of Election.

Notice of the Town election shall be given by the Sharpsburg Board of Supervisors of Elections at least ten days before the date of the election by publication of a notice of such election in at least one newspaper of general circulation and by printed notices posted in public places or by any other means reasonably calculated to give the public actual notice of the upcoming election. Said notice shall include the date of the election, the location of each polling or voting place, the times at which the polls open and close and the general purpose of the election.

Section 2.4. Candidates for Election.

A. Persons qualified to be candidates for town office shall designate their candidacy by filing their application at least fifteen days before the date of the election with the Sharpsburg Board of Supervisors of Elections.

B. Each candidate shall have the right to one challenger present during the casting of the ballots and the counting of the ballots. Each challenger shall present to the Judge of Election a signed statement from said candidate stating that the challenger is representing the candidate. Only persons with the required statement will be recognized as challengers.

Section 2-5. Poll List.

A. The Sharpsburg Board of Supervisors of Elections shall obtain from the Washington County Board of Election Supervisors a list of the residents of the Town registered with that agency as voters and compare that list with its own list of residents of the Town who have registered to vote for Town election purposes with the Sharpsburg Board of Supervisors of Elections. Both lists shall be current to the registration deadline for the election. A Poll book or list shall be compiled from both lists, to ensure that a person may only vote once (by eliminating duplicate registrations from one list or the other).

Section 2-6. Additional personnel.

With the approval of the Mayor and Council, the Sharpsburg Board of Supervisors of Elections may appoint election clerks or other employees to assist it in any of its duties.

Chapter 4 - AN ORDINANCE REGULATING AND CONTROLLING ANIMALS WITHIN THE CORPORATE LIMITS OF SHARPSBURG

- Section 1. Definitions.
 - Section 2. Farm Animals - In Corporate Limits.
 - Section 3. Animal Control Officers/inspectors, power of enforcement.
 - Section 4. State's Attorney's Office, duties.
 - Section 5. Licenses generally - Required; term; application; fees.
 - Section 6. Licenses generally - Refusal to issue license.
 - Section 7. Licenses generally - Dog license required; exception.
 - Section 8. Standards for Kennels.
 - Section 9. Kennels, Catteries, Number of Animals Permitted.
 - Section 10. Animals running at large - Prohibited.
 - Section 11. Animals running at large - Exceptions.
 - Section 12. Animal waste.
 - Section 13. Dead animals.
 - Section 14. Confinement of female dogs in heat.
 - Section 15. Owner release.
 - Section 16. Nuisance animals.
 - Section 17. Prohibited acts.
 - Section 18. Reports of an animal biting a person.
 - Section 19. Impoundment.
 - Section 20. Notification of owner.
 - Section 21. Sick or injured animals.
 - Section 22. Redemption of impounded animals.
 - Section 23. Disposition of animals.
 - Section 24. Civil monetary penalty.
 - Section 25. Revocation of kennel licenses.
 - Section 26. Rabies immunizations - dogs/cats.
 - Section 27. Confinement of biting animals.
 - Section 28. Violations.
 - Section 29. Described; requests; hearings.
 - Section 30. Owner's liability.
 - Section 31. Exemption of farm animals.
 - Section 32. Repealer.
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Section 1. Definitions.

The following words and phrases as used in this Article, and in the rules and regulations adopted pursuant thereto, unless a different meaning is plainly required by the content, shall have the following meanings:

Animal. Any living, nonhuman, vertebrate creature.

Animal at large. Any animal, other than a dog, off the premises of the owner, and not under the control, charge or possession of the owner, or other responsible person.

Animal Control Authority for Washington County. The duly appointed advisory board consisting of five (5) citizen members.

Animal control officer. That person or his authorized representatives, designated as such by the Animal Control Agency to perform such duties described by this article.

Animal exposed to rabies. Any animal that has been bitten by or has associated with any animal determined by the county health officer, the State public health veterinarian, or the director of the division of animal industries, state department of agriculture, to be infected with rabies.

Animal control shelter. Any facility owned or operated by or under contract with the county, for the care, confinement, adoption, euthanasia or detention of animals pursuant to the authority of this title or the state law.

Animal under restraint. Any animal secured by a leash or confined within a vehicle or within the real property limits of its owner or, when used for hunting, under control of a responsible person and obedient to that person's command.

Cattery. Includes any animal boarding place or other establishment for the breeding, raising, sale or care of cats provided, that animal hospitals maintained by a licensed veterinarian as part of the practice of veterinary medicine for the treatment of animals, shall not be considered a cattery.

Dog at large. Any dog off the premises of its owner or his agent and not restrained by a leash, cord or chain.

Domestic animals. Any such animals that are accustomed to live in or about the habitation of humans, including but not limited to cats, dogs, cows, fowl, horses or swine, but not to include any wild animal.

Farm animal. Any animal being maintained for the production of food, food products and fiber.

Health officer. The health officer of the county and any of his duly authorized representatives.

Human animal shelter. Any facility owned or operated by a humane organization, for the care, confinement, euthanasia and/or the adoption of animals.

Kennel. Includes any animal boarding place or other establishment for the breeding of dogs or the boarding, grooming, sale or training of dogs provided, that animal hospitals maintained by a licensed veterinarian as part of the practice of veterinary medicine for the treatment of animals, shall not be considered kennels.

Owner. Any person, firm, association or corporation owning, keeping, harboring or acting as custodian of a domesticated animal. Any animal owned by a minor shall be deemed and taken to be owned, for the purpose of this title, by the parents, guardian or adult with whom such minor resides.

Person. Any individual, business, partnership, firm, joint stock company, corporation, association, trust, estate or other legal entity.

Public nuisance animal. Any animal which:

- (1) Damages the property of anyone other than its owner;
- (2) Is a vicious animal;
- (3) Causes unsanitary conditions in or on public property;
- (4) Excessively makes disturbing noises;
- (5) Molests passersby or chases passing vehicles; and/or
- (6) Attacks other domesticated animals.

Veterinary hospital. Any establishment maintained and/or operated by a veterinarian for immunization, hospitalization, surgery, and/or diagnosis, prevention and treatment of disease and injuries of animals.

Vicious animal. Any animal that constitutes a physical threat to human beings, animals or livestock, or any animal which due to its disposition and demonstrated hostile behavior in a manner which could reasonably cause injury to human beings, animals, or livestock, or any animal which has bitten or attacked a human being or animals, without provocation.

Weekday. For the purpose of this title, Monday through Saturday inclusive, excluding New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

Wild animal. Any animal of a species that in their natural life are wild, dangerous or ferocious and, though they may be trained and domesticated by the owner, will remain dangerous to the public at large.

Section 2. Farm Animals - In Corporate Limits

It shall be and is unlawful for any person or resident to keep, raise, maintain, exhibit, or utilize any farm animal, wild animal, fowl, or reptile primarily for commercial or profit purposes within the limits of the Town of Sharpsburg. This section does not pertain to any establishment maintained and/or operated by a veterinarian for purposes of treatment.

Section 3. Animal Control Officers/Inspectors, Power of Enforcement

(a) Any animal control officers shall have the right to enter upon any property where the officer has probable cause to believe that such is necessary for the purpose of discharging the duties imposed upon him by this Ordinance, including but not limited to impoundment under Section 19 of this Ordinance; provided, however, that nothing in this section shall be construed as permitting the entry into a private building or other structure except in accordance with Maryland law.

(b) Absent exigent circumstances, an animal control officer is authorized to apply to a district/circuit court judge for a search and/or seizure warrant to permit entry into any private building, or other structure. A warrant shall be issued upon written described probable cause, supported by oath or affirmation, and particularly describing in writing the place to be searched, and the person or things to be seized.

(c) It shall be unlawful for any person to attempt to interfere with the animal control officers or any authorized person in the performance of their duties nor shall any person attempt to or release without authority any animal impounded pursuant to the animal control laws of the county.

Section 4. State's attorney's office, duties.

The State's Attorney shall have the power, discretion and responsibility to prosecute under the criminal provisions of this Ordinance.

Section 5. Licenses generally -- Required; term; application; fees.

It shall be unlawful for any person to own or harbor any animal for which a license or permit is required or to operate any kennel unless licensed or permitted as provided by Article 56, Section 191-200, Annotated Code of Maryland.

Section 6. Licenses generally -- Refusal to Issue License.

Any license provided for in this article shall be refused where the applicant is or would be in violation of any provision of this Ordinance or the zoning regulations of the Town.

Section 7. Licenses generally -- Dog license required; exception.

The licensing requirements of this section shall not apply to any dog belonging to a nonresident of Washington County, Maryland and kept within the boundaries of the Town for no longer than thirty (30) days; provided that all such dogs shall at the time of entry into the Town have been properly vaccinated against rabies and, while kept within the Town, shall meet all of the requirements of this title.

Section 8. Standards for Kennels.

(a) All kennels shall, in addition to the other requirements of this Ordinance, comply with the following minimum standards of this section. Failure to meet these standards may be cause for denial or revocation of license:

(1) All animals must be supplied with sufficient nutritious food and potable water. All food and water containers shall be clean and so placed that the animals cannot readily tip them over.

(2) All animals and animal quarters shall be kept in a clean and sanitary condition. Floors of buildings, runs and walls shall be such material as to permit proper cleaning and disinfecting. Adequate ventilation and temperatures shall be maintained.

(3) Animals housed in kennels must be maintained in quarters so constructed as to prevent their escape. All reasonable precautions shall be taken to protect the public from the animals and the animals from the public.

(4) Each cage shall be of sufficient size that an animal will have room to stand, turn and stretch to his full length.

(5) All animals housed in kennels must be properly exercised in accordance with the age and species of the animal.

(6) Any animal housed in a kennel which demonstrates signs of illness or disease shall be isolated in such manner as to prevent the spread of such illness or disease to other animals. The owner or lessee of such kennel shall provide or cause to be provided appropriate veterinary care for such sick, diseased or injured animals.

(b) The application of the standards set forth above in subsection (a) shall be in conformity with individual species requirements and common veterinary practice.

Section 9. Kennels, Catteries, Number of Animals Permitted.

(a) No kennel shall be permitted in the Town in which more than four adult dogs are present at any one time. An adult dog is one which is required to be licensed under Article 56, Sections 191-200, Annotated Code of Maryland.

(b) No cattery shall be permitted in the Town in which more than four adult cats are present at any one time. An adult cat is one which is required to be vaccinated against rabies pursuant to Health-General Article, Section 18-318.

Section 10. Animals running at large -- Prohibited.

No owner or keeper of any animal shall allow his animal, except for a cat or cats, to be at-large in the Town.

Section 11. Animals running at large -- Exceptions.

No owner of any dog shall allow such dog to be at-large, except certain dogs, i.e.:

(a) Dogs on the premises of another person with the permission of the property owner or lessee;

(b) Dogs being used for training, or trained for hunting; or obedience training;
or

(c) Dogs being accompanied by the owner or agent of the owner on horseback.

Section 12. Animal waste.

The owner of every animal shall be responsible for the removal of excreta deposited by his animal on public byways, recreational areas or private property.

Section 13. Dead animals.

It shall be the duty of every owner of any dead animal to dispose of such animal at the owner's expense. No person shall, nor cause to, place or leave the carcass of any dead animal in any street, alley or on public property or allow the same to remain on his property.

Section 14. Confinement of female dogs in heat.

The owner, agent or custodian of any female dog in estrus ("heat") must so guard and protect such dog that she will not be out of doors except on the owner's property for the purpose of regular exercise under control of the owner or for the purpose of natural relief or during the process of conveying the dog to a place suitable for the purpose of medical treatment, boarding or breeding, and under the direct control of such person.

Section 15. Owner release.

No animal turned in by an owner to the animal control agency shall be euthanized unless the owner provides a written statement to the effect that the animal has not bitten a human within the last ten (10) days, unless a report of the circumstances of a bite has been reported to the Washington County Sheriff's Department and the Washington County Health Department. Those persons responsible for euthanization of the animal shall not be held liable.

Section 16. Nuisance animals.

It shall be unlawful to keep any animal deemed a public nuisance as provided by this Ordinance.

Section 17. Prohibited acts.

- (a) No person shall abandon any animal on public or private property.

(b) Customary and normal veterinary and animal husbandry practices including, but not limited to dehorning, castration, docking, and limited feeding, shall not be construed as included in the provisions of this section.

(c) No person shall entice an animal off the property of its owner with the intent to allow said animal to become an animal running at large or a public nuisance animal.

(d) It shall be unlawful for any person to conceal any animal or to falsely deny ownership of any animal owned or harbored by him from any official authorized to enforce the provisions of this Ordinance.

Section 18. Reports of an animal biting a person.

Any owner, keeper or harbored of any animal known to have bitten any person, as well as the person bitten, shall immediately report such bite to any law enforcement agency in Washington County, Maryland. The law enforcement agency, shall within 24 hours notify the Animal Control Agency or the County health department of the details of the incident, as well as a description of the animal.

Section 19. Impoundment.

(a) Any animal found at large shall be impounded by the Animal Control Agency and/or any animal control officer and taken to the County animal control shelter and there confined in a humane manner for a period of not less than five (5) weekdays, unless sooner claimed and redeemed by its owner.

(b) Exception to the five (5) day impoundment period will be made for litters of puppies and kittens which will be made immediately available for adoption.

(c) Exception to the five (5) day impoundment period will be made for any captured animal of unknown ownership determined to be vicious after 48 hours which constitute a personal threat to the staff of the Animal Control Agency and the public.

(d) Where the animal control agency is unable within reasonable effort to seize and impound vicious, wild, or rabies suspect animals, the local police agencies may use weapons in the most humane manner as possible for public safety.

Section 20. Notification of owner.

Upon impounding any animal, the Animal Control Authority shall cause all reasonable efforts to be made to locate and notify said animal's owner.

Section 21. Sick or Injured Animals.

(a) Any impounded stray animal, the owner of which is not known, and which is sick and/or injured, may be disposed of prior to the end of the statutory period at the discretion and direction of a veterinarian.

(b) Any animal found in a critical, mortally wounded condition from wounds, injuries, or diseases may, at the discretion of a licensed veterinarian or an animal control officer, be humanely destroyed. The owner shall be notified as soon as possible thereafter, and shall immediately provide for expenses and burial or cremation of the animal if he knows of the death of the animal and the locations of the carcass.

(c) The Animal Control Agency is authorized to enter into agreements with Maryland licensed veterinarians for the care of sick or injured animals which are either licensed or which give the appearance of having good care. If the owner cannot be located, within a reasonable time, the Animal Control Agency shall pay for the expense herein incurred. If the owner is located, he shall promptly pay for the veterinarian's services and other expenses incurred for the care of the animal.

Section 22. Redemption of impounded animals.

The owner of an impounded animal shall be entitled to redeem such animal upon proof of ownership, compliance with the license provisions of this Ordinance and the payment of redemption fee, medical fees, and boarding fees.

Section 23. Disposition of animals.

At the end of the minimum time period indicated in this article, unclaimed animals shall be deemed abandoned and become the property of the Animal Control Agency and shall be disposed of only by euthanasia or by adoption or, in the case of a wild animal, released in a suitable habitat when permitted. Any owner of any animal deemed abandoned which has not been disposed of by euthanasia or adoption, may reclaim said animal by paying the requisite fees to the Animal Control Authority.

Section 24. Civil monetary penalty.

The Animal Control Authority and/or an animal control officer may serve a violation notice to any person found in violation of this Ordinance. The notice shall impose upon such violator a civil monetary penalty of ten dollars (\$10.00) which shall be paid to the Town through its designated agent within ten (10) days in full satisfaction of

the assessed penalty. If the ten dollar (\$10.00) penalty is not paid within thirty (30) days, the penalty shall increase to fifty dollars (\$50.00), and if the penalty is not paid within sixty (60) days, the penalty shall be seventy-five dollars (\$75.00). Should collection proceedings be required in District Court for collection of the penalty, an attorney's fee of one hundred seventy-five dollars (\$175.00) shall be imposed for the cost of collection.

Section 25. Revocation of kennel licenses.

If a kennel is being maintained in an unsanitary and/or inhumane manner and/or in violation of any specific provision of this Ordinance, the Animal Control Authority and/or any animal control officer may cause the refusal to issue or the revocation of a license for said kennel by the Washington County Treasurer's Office.

Section 26. Rabies Immunizations -- Dogs/Cats.

All dogs and cats at the age of four (4) months in the Town, except those in the custody of a humane organization, shall be currently immunized against rabies by a licensed veterinarian or by an anti-rabies clinic authorized by the Washington County Health Department and the Maryland Public Health Veterinarian. Immunity against rabies shall be maintained at a level approved by the Maryland Public Health Department.

Section 27. Confinement of biting animals.

(a) The Animal Control Agency shall confine or provide for the confinement of any domestic animal that has bitten any person for clinical observation for a period of not less than ten (10) consecutive calendar days. The confinement may occur on the premises of the animal owner; provided, that the owner signs a written agreement to provide for the properly supervised confinement. In the alternative, the animal may be confined in any county-operated shelter or veterinary hospital at the owner's option and expense. No person shall knowingly allow such confined animals to escape or sell or give away or otherwise dispose of such animal before the expiration of the ten (10) day confinement and observation period.

(b) The health officer shall be empowered at his discretion to order an examination at the owner's expense of any such animal to determine whether it may have rabies if not inoculated.

(c) If the owner of any biting animal determines to euthanize the animal before the end of the ten (10) day confinement/observation period, the owner shall notify the Animal Control Agency and the animal shall be humanely destroyed, its head

removed and sent immediately to the State Department of Health and Mental Hygiene laboratory for examination for rabies at the owner's expense.

(d) If an animal biting a person is injured or sick and its condition warrants euthanasia, that animal shall be humanely destroyed, its head shall be removed and sent immediately to the State Department of Health and Mental Hygiene laboratory for examination for rabies.

(e) The animal control shelter shall be notified when any person is bitten by any wild animal, and such animal shall be euthanized and its head sent immediately to the State Department of Health and Mental Hygiene laboratory for examination for rabies.

Section 28. Violations.

Any person violating any provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine not to exceed one thousand dollars (\$1,000.00) or imprisonment for not more than ninety (90) days or both, in the discretion of the court. This section is in addition to and concurrent with all other sections pertaining to enforcement of this Ordinance.

Section 29. Described; requests; hearings.

(a) Any person may contest a civil violation notice or the refusal to issue or revocation of a kennel license.

(b) Such contested case must be made by written request to the Animal Control Authority for Washington County postmarked within five (5) weekdays after receipt of notification of the decision which is the subject of contest.

Such request shall specify the decision contested, the date thereof and give a clear statement of the reason for contest. Failure to file the request within the permitted time shall constitute a waiver of the right to contest.

(c) Upon the filing of a contested civil case, the Animal Control Authority for Washington County shall conduct a hearing and make appropriate findings of fact and conclusions of law thereon. The board shall be guided herein by the rules and regulations which it is empowered to adopt.

Section 30. Owner's liability.

If any animal shall do any damage to the body, clothing or other property of any person, the owner or keeper or, if the owner or keeper be a minor, the parents or guardian

of such minor shall be liable for such damages, unless such damages shall have occasioned to the body or clothing of a person who, at that time such was sustained, was committing a trespass or other tort, or was teasing, tormenting or abusing such animal. A person is lawfully upon the private property of such owner within the meaning of this Ordinance when he is on such property in the performance of any duty imposed upon him by the laws of the State, county, or by the postal regulations of the United States, or when he is on such property upon the invitation, expressed or implied, of the owner thereof.

Section 31. Exemption of farm animals.

Farm animals shall be exempt from all provisions of this Ordinance, except for sections 2 and 7 of this Chapter.

Section 32. Existing ordinances repealed.

And be it further enacted, that all existing Town laws and ordinances inconsistent with the provisions of this ordinance, be and the same are hereby repealed.

Chapter 5

ARTICLE I - AN ORDINANCE REGULATING AND CONTROLLING THE USE OF BICYCLES, SKATEBOARDS, ROLLER SKATES AND OTHER HUMAN POWERED VEHICLES WITHIN THE CORPORATE LIMITS OF SHARPSBURG

- Section 1. Definitions
 - Section 2. Riding control.
 - Section 3. Riding on Sidewalks prohibited.
 - Section 4. Riding in parks and playgrounds restricted.
 - Section 5. Coasting on sleds, etc.
 - Section 6. Repealer.
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Section 1. Definitions

For the purposes of this Article, the terms used herein are defined as follows:

BICYCLE - A vehicle that is designed to be operated by human power, has two or three wheels, of which one is more than fourteen inches in diameter, and has a wheel configuration as follows: If the bicycle has two wheels, with both wheels in tandem; or, if the bicycle has three wheels, with one front wheel and with two rear wheels that are spaced equal distant from the center of the bicycle, or any other vehicle that is otherwise considered a bicycle under the Transportation Article of the Annotated Code of Maryland.

MOTOR VEHICLE - Minibikes, motorbikes, motor scooters, go-carts, and other mechanically propelled vehicles of a similar nature.

PLAY VEHICLES - Roller skates, soap box vehicles and other similar vehicles, but not skateboards or in-line skates. "Play vehicles" shall not include tricycles and/or other three or more wheeled toys used by small children under the supervision of an adult, parent, or other responsible person unless specified herein. For the purposes of this section, no skateboard nor any in-line skate is a toy.

ROADWAY - Any part of a highway, street, road or alley that is improved, designed or ordinarily used for motor vehicle travel, other than the shoulder or a designated "bike path."

Section 2. Riding control.

(a) The rider or operator of a bicycle, skateboard, in-line skate, or play vehicle under proper control and shall not operate or propel the vehicle on any of the roadways recklessly or at a rate of speed greater than is reasonable and proper and shall not use the vehicle on the roadway so as to endanger or damage any person or the property of any person.

(b) The rider or operator of a bicycle, skateboard, in-line skate, or play vehicle shall at all times comply with all other traffic regulations in force in the Town and to the traffic regulations of the State of Maryland.

(c) The rider or operator of a bicycle, skateboard, in-line skate, or play vehicle shall yield the right of way to all pedestrians.

(d) The rider or operator of a bicycle, skateboard, in-line skate, or play vehicle on any non-roadway, public or private property located within the Town shall have said vehicle under proper control and shall not operate or propel the vehicle recklessly or at a rate of speed greater than is reasonable and proper and shall not use the vehicle so as to endanger or damage any person or the property of any person.

Section 3. Riding on Sidewalks prohibited.

It shall be unlawful for any person to ride or operate any bicycle, skateboard, in-line skate, motor vehicle, or play vehicle as defined in this chapter on, over upon any sidewalks in the Town which are within 200 feet of the intersections of East and West Main Streets with North and South Mechanic Streets or within 100 feet of the Post Office located in the Town.

Section 4. Riding in parks and playgrounds restricted.

It shall be unlawful for any person to ride or operate any bicycle, skateboard, in-line skate, motor vehicle, or play vehicle as defined in this chapter in any park or playground owned, operated, and/or maintained by the Town, except in those areas designated as "riding areas" or except in such areas as are public ways or roadways contained in said park or playground.

Section 5. Coasting on sleds, etc.

No person shall ride or operate a snowsled, toboggan, disc or similar device upon any of the roadways of the Town.

Section 6. Repealer.

And be it further enacted, that all existing Town laws and ordinances inconsistent with the provisions of this ordinance, be and the same are hereby repealed.

ARTICLE II - AN ORDINANCE REVISING AND AMENDING CERTAIN PORTIONS OF THE CODE OF THE TOWN OF SHARPSBURG; BY REVISING AND AMENDING SECTION 3 OF CHAPTER 5 OF THE CODE AND ADDING NEW SECTIONS 5, 7 AND 8 TO CHAPTER 5 OF THE CODE; AND BY RE-NUMBERING EXISTING SECTIONS 5 AND 6 OF THE CODE, WITHOUT SUBSTANTIVE AMENDMENT.

WHEREAS, it has come to the attention of the Sharpsburg Mayor and Council that the operation of bicycles, skateboards, in-line skates, motor vehicles, or play vehicles on the public sidewalks within the Town constitutes a hazard to pedestrians lawfully using the sidewalks; and

WHEREAS, the Sharpsburg Mayor and Council believe that prohibiting the operation of bicycles, skateboards, in-line skates, motor vehicles, or play vehicles on the public sidewalks within the Town will ameliorate any such existing hazardous situation within the Town.

SECTION ONE:

BE IT ORDAINED AND ENACTED by the Mayor and Council of Sharpsburg, THAT CHAPTER 5 OF THE CODE IS AMENDED BY AMENDING AND REVISING SECTIONS 3, 5 AND 6 OF CHAPTER 5 OF THE CODE, AND ADDING NEW SECTIONS 5, 7 AND 8 TO CHAPTER 5 OF THE CODE, ALL AS FOLLOWS:

Section 3. Riding on Sidewalks prohibited.

It shall be unlawful for any person to ride or operate any bicycle, skateboard, in-line skate, motor vehicle, or play vehicle as defined in this chapter on, over upon any PUBLIC sidewalk in the Town [which are within 200 feet of the intersection of East and West Main Streets with North and South Mechanic Streets or within 100 feet of the Post Office located in the Town], EXCEPT THAT SNOW-BLOWERS WHILE ACTUALLY UTILIZED IN THE REMOVAL OF SNOW MAY BE OPERATED ON THE SIDEWALKS.

SECTION 5. RIDING IN OR ON PARKING LOTS PROHIBITED.

IT SHALL BE UNLAWFUL FOR ANY PERSON TO RIDE OR OPERATE ANY BICYCLE, SKATEBOARD, IN-LINE SKATE, OR PLAY VEHICLE AS DEFINED IN THIS CHAPTER IN OR ON ANY PARKING LOT OWNED, LEASED, OPERATED AND/OR MAINTAINED BY THE TOWN.

Section 6 [5]. Coasting on sleds, etc.

No person shall ride or operate a snowsled, toboggan, disc or similar device upon any of the roadways of the Town.

SECTION 7. IMPOUNDING OR CONFISCATION, REDEMPTION AND DISPOSITION OF BICYCLES, SKATEBOARDS, IN-LINE SKATES, MOTOR VEHICLES, OR PLAY VEHICLES IN VIOLATION OF THE PROVISIONS OF THIS CHAPTER

A. ANY BICYCLE, SKATEBOARD, IN-LINE SKATE, MOTOR VEHICLE, OR PLAY VEHICLE AS DEFINED IN THIS CHAPTER, RIDDEN OR OPERATED IN VIOLATION OF THE PROVISIONS OF THIS CHAPTER MAY BE IMPOUNDED OR CONFISCATED AT THE DISCRETION OF THE LAW ENFORCEMENT OFFICER OBSERVING THAT VIOLATION OR ISSUING A CITATION FOR THAT VIOLATION AND REMOVED FROM THE PUBLIC THOROUGHFARES AND AREAS OF THE TOWN.

B. THE LAW ENFORCEMENT OFFICER SHALL BE AUTHORIZED TO IMPOUND OR CONFISCATE WHETHER OR NOT A CITATION FOR VIOLATION OF THIS CHAPTER IS ISSUED.

C. THE BICYCLE, SKATEBOARD, IN-LINE SKATE, MOTOR VEHICLE, OR PLAY VEHICLE AS DEFINED IN THIS CHAPTER, THAT HAS BEEN IMPOUNDED OR CONFISCATED:

1. FROM THE POSSESSION OR CONTROL OF A MINOR MAY BE REDEEMED BY A PARENT AND/OR GUARDIAN OF THAT MINOR AFTER THE PAYMENT OF A FEE OF FIFTEEN (\$15.00) DOLLARS PROVIDED THE PARENT AND/OR GUARDIAN EXECUTES A DOCUMENT AFFIRMING THAT THE MINOR OR THE MINOR'S PARENT(S) AND/OR GUARDIAN(S) ARE THE OWNER(S) OF THAT VEHICLE; AND

2. FROM THE POSSESSION OR CONTROL OF A PERSON, OTHER THAN A MINOR, MAY BE REDEEMED BY THAT PERSON AFTER THE PAYMENT OF A FEE OF FIFTEEN (\$15.00) DOLLARS, PROVIDED THAT PERSON EXECUTES A DOCUMENT AFFIRMING THAT HE/SHE IS THE OWNER OF THAT VEHICLE; OR

3. IN THE EVENT A PERSON OR PERSONS OTHER THAN THOSE HERETOFORE MENTIONED IN THIS SUBSECTION IS/ARE IDENTIFIED AS THE OWNER(S) OF THE IMPOUNDED OR CONFISCATED PROPERTY, THAT PROPERTY MAY BE REDEEMED BY THE OWNER(S) AFTER THE PAYMENT OF A FEE OF FIFTEEN (\$15.00) DOLLARS, PROVIDED THE OWNER(S) EXECUTE A DOCUMENT AFFIRMS THAT HE/SHE/THEY IS/ARE THE OWNER OF THAT PROPERTY.

D. IF ANY OF THE PROPERTY IMPOUNDED OR CONFISCATED UNDER THIS SECTION ARE NOT REDEEMED WITHIN THIRTY (30) DAYS FROM THE IMPOUNDING OR CONFISCATION OF THE PROPERTY IF THE OWNER IS NOT KNOWN OR WITHIN THIRTY (30) DAYS FROM THE IMPOUNDING OR CONFISCATION WHERE THE OWNER IS KNOWN AND HAS BEEN NOTIFIED IN WRITING OF THE IMPOUNDING OR CONFISCATION BY THE TOWN, THE TOWN SH ALL SELL SAID IMPOUNDED OR CONFISCATED PROPERTY AT A PUBLIC SALE TO THE HIGHEST BIDDER, AFTER HAVING DULY ADVERTISED SAID PUBLIC SALE BY PUBLISHING NOTICE OF THE TIME AND PLACE OF SUCH SALE AT LEAST TWICE IN A NEWSPAPER OF GENERAL PUBLIC CIRCULATION IN WASHINGTON COUNTY, MARYLAND, THE FIRST SUCH PUBLICATION TO BE NO MORE THAN TWENTY (20) DAYS PRIOR TO SUCH SALE, AND THE SECOND PUBLICATION NO MORE THAN SIX (6) DAYS PRIOR TO SUCH SALE. A SEPARATE PUBLIC SALE NEED NOT BE HELD FOR EACH ITEM IMPOUNDED OR CONFISCATED, BUT ONE SUCH SALE SHALL BE HELD AT LEAST ONCE IN EACH FISCAL YEAR OF THE TOWN, ASSUMING PROPRTY SO SUBJECT TO PUBLIC SALE HAS NOT BEEN REDEEMED.

SECTION 8. PENALTY

IF ANY PERSON VIOLATES ANY OF THE PROVISIONS OF SECTIONS ONE THROUGH SIX OF THIS CHAPTER, SUCH PERSON, UPON CONVICTION THEREOF, SHALL BE SUBJECT TO A MAXIMUM FINE OF TWENTY-FIVE (\$25.00) DOLLARS FOR A FIRST OFFENSE. IF A PERSON IS CONVICTED OF A SECOND VIOLATION OF ANY OF THE PROVISIONS OF SECTIONS ONE THROUGH SIX OF THIS CHAPTER, WHICH VIOLATION WAS COMMITTED WITHIN ONE (1) YEAR OF A PRIOR CONVICTION FOR A VIOLATION OF ANY OF THE PROVISIONS OF SECTIONS ONE THROUGH SIX OF THIS CHAPTER, SUCH PERSON, UPON CONVICTION THEREOF, SHALL BE SUBJECT TO A MAXIMUM FINE OF FIFTY (\$50.00) DOLLARS FOR A SECOND OFFENSE. IF A PERSON IS CONVICTED OF A THIRD OR SUBSEQUENT VIOLATION OF ANY OF THE PROVISIONS OF SECTIONS ONE THROUGH SIX OF THIS CHAPTER, WHICH VIOLATION WAS COMMITTED WITHIN ONE (1) YEAR OF A PRIOR CONVICTION FOR A VIOLATION OF ANY OF THE PROVISIONS OF SECTIONS ONE THROUGH SIX OF THIS CHAPTER, SUCH PERSON, UPON CONVICTION THEREOF, SHALL BE SUBJECT TO THE GENERAL PENALTY PROVIDED FOR IN THE TOWN CODE.

Section 9 [6]. And be it further enacted, that all existing Town laws and ordinances inconsistent with the provisions of this ordinance, be and the same are hereby repealed.

Approved and passed this _____ day of _____, 1999.

Mayor

Introduced:
Passed:
Effective date:
(20 days after
passage)

Town Clerk

- KEY: 1) WORDS BRACKETED THUSLY [] ARE EXISTING LANGUAGE WHICH IS BEING REPEALED.
- 2) WORDS UNDERLINED ARE NEW LANGUAGE.
- 3) CAPTIONS OF SECTIONS WILL BE UNDERLINED WHEN INCLUDED IN THE PUBLISHED CODE

ARTICLE III - TOWN CODE REVISION - ORDINANCE 2003-01 - AN ORDINANCE REPEALING AND AMENDING CERTAIN PORTIONS OF THE CODE OF THE TOWN OF SHARPSBURG; BY REPEALING AND REENACTING WITH AMENDMENTS SECTION 1008 OF CHAPTER FOURTEEN OF THE TOWN CODE (THE TOWN'S ZONING ORDINANCE)

WHEREAS, the Mayor and Council of Sharpsburg are interest in eliminating unnecessary expenditures in a manner consistent with responsible administration of its governmental functions, and also in keeping the costs and fees charged to the public in connection with appeals to the Town's Board of Appeal at a level so that such appeals are not inhibited by the fees charged to the appellant for so appealing; and

WHEREAS, the Zoning Administrator has suggested that some expense could be eliminated by ending the current local requirement that notices of hearings be provided to adjacent and adjoining owners by registered mail; and

WHEREAS, current State law does not require that notices of hearings be provided to adjacent and adjoining owners by registered mail; and

WHEREAS, most notices to adjacent and adjoining owners are to residents of the Town, a substantial portion of whom receive their mail at the Sharpsburg Post Office.

SECTION ONE:

BE IT ORDAINED AND ENACTED by the Mayor and Council of Sharpsburg, that the Town Code is amended and revised by repealing and reenacting with amendments Section 1008 of Chapter Fourteen of the Code to read as follows:

"Section 1008. Notice of Hearings

Upon transmittal to the Board of an application filed with the Zoning Administrator for a special exception, variance, or appeal from the alleged error of the Zoning Administrator, the Board shall fix a reasonable time (not less than twenty (20) days nor more than forty-five (45) days) from the transmittal date for a public hearing thereon and give notice as follows:

A. At least fifteen (15) days prior to the date fixed for public hearing, publish a notice containing the name of the applicant or appellant; the date, time, and place fixed for the hearing; and a brief statement of the special exception sought by the applicant, or of the error alleged by the appellant, or of the variance or other question which is subject to appeal, in at least one newspaper of general circulation within the Town.

B. In a conspicuous place on the property involved, post a notice of pending action containing the same information as in paragraph A above, such posting to take place at least fifteen (15) days prior to the date fixed for the public hearing.

C. At least ten (10) days prior to the date fixed for the public hearing, (S) send written notice of the time and place of such hearing by (registered) first class mail to the applicant or appellant and to the owners of record of property contiguous to and opposite the property affected.

Approved and passed this ___ day of _____, 2003.

Hal Spielman, Mayor

Introduced: August 4, 2003

Passed: _____, 2003

Effective date: _____, 2003

s/_____
Anna L. Jamison
Town Clerk

Notes:

Brackets () indicate existing language which is being repealed.

Underlining indicates new language which is proposed.

Chapter 6 - AN ORDINANCE PERTAINING TO MINIMUM STANDARDS GOVERNING CONSTRUCTION AND MAINTENANCE OF BUILDINGS/STRUCTURES

- Section 1. Purpose
 - Section 2. Authority
 - Section 3. Codes
 - A. Livability Code
 - Section 4. Applicability
 - Section 5. Enforcement
 - Section 6. Conflicts
 - Section 7. Severability
-

Section 1. Purpose.

The Mayor and Council have determined it to be in the best interest of the residents and citizens of the community and in the interest of protecting the public health and safety to establish minimum standards governing the construction, alteration, addition, repair, removal, occupancy, livability, maintenance, and all other matters pertaining to buildings and structures.

Section 2. Authority.

The Charter of the Mayor and Council of Sharpsburg, Article 23 of the Annotated Code of the General Laws of Maryland authorizes the Mayor and Council of Sharpsburg as a municipal corporation to establish certain minimum codes as set forth and to authorize, request and designate Washington County to enforce and administer such codes if it so desires.

Section 3. Codes.

The following are hereby adopted and considered to be in force in the appropriate limits of the Mayor and Council of Sharpsburg, a municipal corporation:

A. SHARPSBURG LIVABILITY CODE

ARTICLE .01 - GENERAL

- A. Title
- B. Scope
- C. Intent

ARTICLE .02 - DEFINITIONS

- A. Rules of Interpretation
- B. Terms Defined

ARTICLE .03 - APPLICATION

ARTICLE .04 - CODE ENFORCEMENT

- A. Enforcement

ARTICLE .05 - DUTIES AND POWERS OF CODE OFFICIAL

- A. General
- B. Notices and Orders
- C. Inspection
- D. Alterations and Repairs
- E. Right of Entry
- F. Access of Property Owner or Operator
- G. Credentials
- H. Coordination of Enforcement
- I. Rule Making Authority

ARTICLE .06 - CONDEMNATION

- A. General
- B. Unsafe Structures
- C. Unsafe Equipment
- D. Structure Unfit for Human Occupancy
- E. Closing of Vacant Structures

ARTICLE .07 - NOTICES AND ORDERS

- A. General
- B. Service of Notice
- C. Notice to Vacate
- D. Transfer of Ownership
- E. Removal of Placard

ARTICLE .08 - VIOLATIONS

- A. Penalty
- B. Other Penalties

ARTICLE .09 - RIGHT TO APPEAL

- A. Petition

ARTICLE .10 - ENVIRONMENTAL REQUIREMENTS

- A. Scope
- B. Premises Conditions
- C. Exterior Structure
- D. Interior Structure

ARTICLE .11 - LIGHT AND VENTILATION REQUIREMENTS

- A. General
 - B. Light
 - C. Ventilation
- ARTICLE .12 - PLUMBING FACILITIES AND FIXTURE REQUIREMENTS
- A. Scope
 - B. Required Plumbing Facilities
 - C. Alternative Plumbing
 - D. Plumbing Fixtures
 - E. Water System
 - F. Sewage System
- ARTICLE .13 - MECHANICAL AND ELECTRICAL REQUIREMENTS
- A. General
 - B. Heating Facilities
 - C. Electrical Facilities
- ARTICLE .14 - FIRE SAFETY REQUIREMENTS
- A. Scope
 - B. Means of Egress
 - C. Accumulations and Storage
 - D. Fire Resistance Ratings
 - E. Fire Protection Systems
 - F. Fire Doors
- ARTICLE .15 - RESPONSIBILITIES OF PERSONS
- A. Scope
 - B. General
 - C. Sanitary Conditions
 - D. Extermination
 - E. Fire Safety
- ARTICLE .16 - SEVERABILITY

ARTICLE .01 - GENERAL

A. Title.

These regulations shall be known as the Sharpsburg Livability Code or "this Code."

B. Scope.

This Code is created to protect the public health, safety and welfare in residential structures and premises by:

(1) Establishing minimum property maintenance standards for basic equipment and facilities used for light, ventilation, heating and sanitation for residential structures and premises, and for safe and sanitary maintenance of residential structures and premises;

(2) Establishing minimum requirements for residential structures and premises for means of egress, fire protection systems and other equipment and devices necessary for safety from fire;

(3) Fixing the responsibilities of property owners, operators and tenants of residential structures and premises; and

(4) Providing for administration, enforcement and penalties.

C. Intent.

This Code shall be construed liberally and justly to protect public health, safety and welfare insofar as they are affected by the continued use and maintenance of residential structures and premises.

ARTICLE .02 - DEFINITIONS

A. Rules of Interpretation.

(1) Unless otherwise expressly stated, the terms defined in Section B shall have the meanings indicated for purposes of the Code.

(2) Words used in the present tense include the future; words in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural the singular.

(3) Where terms are not defined, through the methods authorized by this section, they shall have their ordinarily accepted meanings such as the context may imply.

B. Terms Defined

(1) "Act" means Section 11-403 of Article 41 of the Annotated Code of Maryland.

(2) "Basement" means that portion of a structure which is partly or completely below grade and having at least 50% of its floor to ceiling height below finished grade.

(3) "Building Code" means the BOCA Basic/National Code.

(4) "Central Heating" means the heating system permanently installed and adjusted so as to provide the distribution of heat to all habitable areas from a source outside of these areas.

(5) "Code" means the Livability Code.

(6) "Code Official" means the Director of the Department of Permits and Inspections or his authorized agent or designee.

(7) "Condemn" means to declare a structure or part thereof, premises, or equipment, unsafe or unfit for use or occupancy.

(8) "Electrical Code" means the National Electrical Code.

(9) "Extermination" means the control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poison, spraying, fumigating, trapping, or by any other pest elimination methods which have received all necessary and legally required approvals.

(10) "Garbage" means the animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

(11) "Habitable Area" means the space in a structure used for living, sleeping, eating, or cooking including bathrooms and toilet compartments.

(12) "Housing Board of Review" - "Board" means the Washington County Board of County Commissioners to hear waiver requests and appeals and render decisions.

(13) "Housing Unit" means a single unit of a structure providing or intended to provide complete living and sleeping facilities for one or more persons.

(14) "Infestation" means the presence, within or contiguous to, a structure or premises of insects, rodents, vermin or other pests.

(15) "Maintenance" means the repair and other acts intended to prevent a decline in the condition of a structure, premises or equipment below the standards established by this Code and other applicable statutes, codes and ordinances.

(16) "Occupant" means any individual having possession of a space within a housing unit.

(17) "Operator" means any person who has charge, care, or control of a structure or premises which is offered for occupancy.

(18) "Person" includes an individual, partnership, limited partnership, trust, estate, association or corporation.

(19) "Plumbing" means the practice, materials, facilities and features used in the installation, maintenance, extension or alteration of all piping, fixtures, appliances and appurtenances within the scope of the Washington County Plumbing Code.

(20) "Plumbing Fixture" means a receptacle or device which is either permanently or temporarily connected to the water distribution system of the premises, and demands a supply of water therefrom; or discharges used water, liquid-borne waste materials, or sewage either directly or indirectly to the drainage system of the premises; or which requires both a water supply connection and a discharge system of the premises.

(21) "Premises" means a lot, plot or parcel of land including the Structure thereon.

(22) "Property Owner" means any person having a legal or equitable interest in the premises, including the guardian of the estate of any such person, or the executor or administrator of the estate of such person if ordered to take possession of the premises by a court.

(23) "Rubbish" means refuse composed of paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, dust and/or other similar materials as well as the residue from the burning of wood, coal, coke and other combustible materials.

(24) "Structure" means a residential structure used for human habitation.

(25) "Tenant" means an occupant other than a property owner.

(26) "Ventilation" means the process of supplying and removing air by natural or mechanical means to or from any space.

(a) Mechanical: Ventilation by power-driven devices.

(b) Natural: Ventilation by opening to outer air, and through windows, skylights, doors, louvers, or stacks without power-driven devices.

ARTICLE .03 - APPLICATION

A. The Livability Code shall apply to residential structures located in Washington County used for human habitation except:

(1) Owner-occupied singly-family housing units;

(2) Any municipality located in Washington County that has adopted a local housing code containing provisions that substantially conform to the provisions of this Code; or

(3) Any housing exempted by the Washington County Commissioners.

B. Any repairs or alterations to a structure, or changes of use therein, which may be caused directly or indirectly by the enforcement of this Code shall be done in accordance with the procedures and provisions of applicable local building code, plumbing code, mechanical code and electrical code, or any other code or standard applicable to housing.

C. The provisions in the Code shall not abolish or impair any remedies available to the Code Official relating to the removal or demolition of any structure which are deemed to be dangerous, unsafe and unsanitary.

D. All repairs, maintenance, alterations or installations which are required for compliance with this Code shall be executed and installed in accordance with industry standards so as to secure the results intended by this Code.

ARTICLE .04 - CODE ENFORCEMENT

A. Enforcement: It shall be the duty and responsibility of the Washington County Commissioners to enforce the provisions of this Code as herein provided.

B. A person may not be displaced by enforcement of this Code unless the structure is deemed unsafe, unsanitary, deficient in adequate exit facilities or which constitute a fire hazard, or is otherwise dangerous to human life by the Code Official. The Code Official shall notify the Department of Housing and shall make every effort to find alternate housing of comparable affordability for any displaced persons.

ARTICLE .05 - DUTIES AND POWERS OF CODE OFFICIAL

A. General.

The Board of County Commissioners shall designate the Code Official to enforce the provisions of this Code except as may otherwise be specifically provided by these regulations.

B. Notices and Orders.

The Code Official shall issue all notices and orders necessary to insure compliance with this Code. Such notices and orders shall include the procedure by which the person served may appeal.

C. Inspection.

The Code Official is authorized to enter any structure or premises upon invitation by the owner or at any reasonable time upon providing reasonable notice to the occupant and owner, for the purpose of making inspections and performing duties under this Code.

D. Alterations and Repairs.

The Code Official has the authority to require and approve any alterations or repairs necessary to bring a structure or premises into compliance with this Code. The determination of what may be necessary to bring such premises into compliance shall take into consideration the use of alternatives and equivalent approaches as provided for this Code. The Code Official shall have the authority to approve changes in any alterations or repairs in the field when conditions are encountered which make the originally approved work impractical, provided such changes in approved work can be readily determined to be in compliance with this Code and other applicable codes as outlined in Section .03(B) and are requested by the property owner or by his agent, describing the change in work and the reasons and justification for the change, and shall be filed with the permit for the project.

E. Right of Entry.

If any property owner, tenant or operator of a structure refuses, impedes, inhibits, interferes with, restricts, or obstructs entry and free access to any part of the structure or premises where inspection authorized by this Code is sought, the Code Official may seek,

in a court of competent jurisdiction, and order that such property owner, tenant, or operator cease and desist from such interference.

F. Access by Property Owner or Operator.

A tenant of a structure or premises shall give the property owner or operator thereof, or agent or employee, access to any part of such structure or its premises at reasonable time upon being given reasonable notice for the purpose of making such inspection, maintenance, repairs or alterations as are necessary to comply with the provisions of this Code.

G. Credentials.

The Code Official shall disclose his credentials for the purpose of inspecting any structure or premises.

H. Coordination of Enforcement.

The inspection of structure and premises, the issuance of notices and orders and enforcement thereof shall be the responsibility of the Code Official. Whenever, in the opinion of the Code Official initiating an inspection under this Code, it is deemed necessary or desirable to have inspections by any other governmental official or agency, the Code Official shall arrange for the coordination of such inspections so as to minimize the number of visits by inspectors. The Code Official shall confer with the other governmental Official or agency for the purpose of eliminating conflicting orders before any are issued. The Code Official shall not, however, cause the delay of the issuance of any orders by any governmental official or agency which the governmental official or agency determines must be issued.

I. Rule Making Authority.

The Code Official shall have power as may be necessary in the interest of public safety, health and general welfare, to promulgate and adopt rules and regulations to interpret and implement the provisions of this Code to further the intent thereof.

ARTICLE .06 - CONDEMNATION

A. General.

When a structure or part thereof is found by the Code Official to be unsafe or unfit for human occupancy or use as defined in the Code, the Code Official may condemn the structure or part thereof and may order the structure or part thereof to be placarded and vacated pursuant to the provisions of this Code. The structure or part thereof shall not be reoccupied without approval of the Code Official. Unsafe equipment may be condemned, placarded and placed out of service pursuant to the provisions of this Code.

B. Unsafe Structure.

An unsafe structure is one which all or part thereof is found by the Code Official to be dangerous to life, health, property, or the safety of its tenants by not providing minimum protection from fire or because it is so damaged, decayed, dilapidated, structurally unsafe, or of such faulty construction or unstable foundation that, it is likely to partially or completely collapse.

C. Unsafe Equipment.

Unsafe equipment includes any boiler, heating equipment, cooking equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that it is found by the Code Official to be a hazard to life, health, property or safety of the tenants of the premises or structure. Unsafe equipment may contribute to the finding that the structure is unsafe or unfit for human occupancy or use.

D. Structure Unfit for Human Occupancy.

A structure is unfit for human occupancy or use whenever the Code Official finds that it is unsanitary, vermin or rodent infested, contains filth or contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this Code.

E. Closing of Vacant Structures.

Upon failure of a property owner to close or vacate a premises within the time specified in an order, the Code Official may cause the premises to be closed through any available public agency or by contract or arrangement with private persons and the cost

thereof shall be charged against the real estate upon which the structure located and shall be lien upon such real estate.

If the owner fails to repay the County for expenses incurred, pursuant to this procedure within thirty (30) days after written demand has been mailed to the last known address, the Code Official shall notify the County Treasurer and a tax lien in favor of the County for the amount of the expenses incurred shall be attached to the property. The property may be sold at tax sale to satisfy a lien authorized by this Section.

ARTICLE .07 - NOTICES AND ORDERS

A. General.

Whenever the Code Official determines that there has been a violation of this Code or has reasonable grounds to believe that a violation has occurred, or whenever the Code Official has determined to condemn any structure or part thereof or equipment under the provisions of Article .06, notice shall be given to the property owner, operator or to the tenant in the manner prescribed in this Code. Such notices and orders shall include the procedure by which the person served may appeal. If the Code Official has condemned the structure or part thereof or equipment, the Code Official shall serve prior notice to the property owner or operator and to the tenants of the intent to:

- (1) Order the structure or part thereof placarded or vacated; or
- (2) Order the equipment placed out of service.

B. Service of Notice.

Notice shall be deemed to be properly served upon a property owner, operator or tenant by one of the following methods:

- (1) By delivering to the person to be served or his agent a copy of the notice and all other necessary papers; or
- (2) (a) By mailing to the person to be served at his last known address or to his agent by certified or registered mail with return receipt requested, a copy of the notice and all other necessary papers; or
- (b) If the certified or registered letter is returned with receipt showing that it has not been delivered, by posting a copy thereof in a conspicuous place in or about the structure affected by such notice.

C. Notice to Vacate.

When a condemnation order is served on a tenant, the tenant shall be given a reasonable time to vacate the structure in accordance with applicable laws.

D. Transfer or Ownership.

A property owner who has received a compliance order or upon whom a notice of violation has been served shall not sell, transfer, mortgage, lease or otherwise dispose of the premises until the provisions of the compliance order or notice of violation have been complied with, or until the property owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of the compliance order or notice of violation issued by the Code Official and shall furnish to the Code Official a signed and notarized statement from the grantee, transferee, mortgagee, or lessee, in which he acknowledges the receipt of the compliance order or notice of violation and states that he fully accepts and assumes the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

E. Removal of Placard.

A property owner, operator or tenant shall not deface or remove a condemnation placard without the approval of the Code Official.

ARTICLE .08 - VIOLATIONS

A. Penalty.

Any property owner, operator or tenant who willfully violates any provision of this Code is guilty of a misdemeanor and on conviction for each violation is subject to a fine not exceeding \$100 for each day that the violation exists or imprisonment not exceeding three months, or both.

B. Other Penalties.

Any penalty ordered under this Code is in addition to and is not a substitute for any other penalty authorized under a federal, State, or local law.

ARTICLE .09 – RIGHT TO APPEAL

A. Petition.

Any person affected by any decision of the Code Official which has been made in connection with the enforcement of any provision of this Code, or of any rule or regulation adopted pursuant to this Code, may request and may be granted a hearing in a manner prescribed by the Board of Washington County Commissioners. Any person affected desiring a hearing shall make a written request for a hearing within 15 days upon receipt of a Certified letter of violation from the Code Official.

ARTICLE .10 – ENVIRONMENTAL REQUIREMENTS

A. Scope.

The provisions of this regulation shall establish the minimum standards for maintenance of premises and structures.

B. Premises Conditions:

(1) Sanitation:

All premises shall be maintained in a clean, safe and sanitary condition free from any accumulation of rubbish or garbage.

(2) Insect and Rodent Control:

The premises shall be free from infestation of insects, rodents, vermin or other pests.

C. Exterior Structure.

(1) General.

The exterior of a structure shall be maintained in good repair, and shall be structurally sound and maintained in a sanitary condition so as not to pose a threat to the health, safety or welfare of the occupants.

(2) Structural Members.

All supporting structural members of a structure shall be kept structurally sound, free of deterioration and maintained capable of safety bearing the dead and live loads imposed upon them in accordance with the Building Code.

(3) Exterior Surfaces.

Every foundation, exterior wall, roof, and all other exterior surfaces shall be maintained in good repair and shall be kept in such conditions to exclude rodents and other pests.

(4) Foundation Walls.

All foundation walls shall be structurally sound and shall be maintained free from open cracks and breaks.

(5) Exterior Walls.

Every exterior wall shall be free of holes, breaks, loose or rotting boards or timbers, and any other conditions which might admit rain or dampness to the interior portions of the walls or to the occupied areas of the structure. All exterior surface materials, including wood, composition or metal siding, shall be maintained weatherproof and shall be properly surface-coated when required to prevent deterioration.

(6) Roofs and Drainage.

The roof shall be structurally sound, and shall not have defects which might admit rain. Roof drainage shall be adequate to prevent rain water from causing dampness or deterioration in the walls or interior portion of the structure.

(7) Decorative Features.

All cornices, entablatures, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

(8) Signs, Marquees and Awnings.

All canopies, marquees, signs, metal awnings, stairways, fire escapes, standpipes, exhaust ducts and similar overhang extensions shall be maintained in good repair, be properly anchored and kept in a safe and sound condition. They shall be protected from the elements and against decay and rust by the periodic application of a weather-coating material such as paint or other protective treatment.

(9) Chimneys.

All chimneys, cooling towers, smoke stacks and similar appurtenance shall be maintained structurally sound, safe, properly flashed and caulked and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials such as paint or similar surface treatment.

(10) Stairs and Porches.

Every exterior stair, porch, fire escape, balcony and all appurtenances attached thereto shall be safe to use and capable of supporting the anticipated loads and shall be maintained in a safe and sound conditions and good repair. Guards and handrails shall be maintained in accordance with the Building Code.

(11) Windows, Doors and Frames.

Every window, door and frame shall be maintained so as to exclude rain and rodents as completely as possible, and to substantially exclude wind from entering the structure.

(12) Weathertight.

Every window and exterior door shall be fitted reasonably in its frame and be weathertight. Every window shall be free of cracks and holes.

(13) Openable Windows.

Every window, other than a fixed window, shall be capable of being easily opened from the inside and shall be capable of being held in position.

(14) Insect Screens.

During the period from April 1 to December 1, every door and window or other outside opening used for ventilation purposes shall be supplied with tight fitting insect screens.

Exception: Upon the prior approval of the Code Official, screens may not be required for exterior doors or other types of openings which make screening impractical, such as openings equipped with air conditioning units or openings above the fourth floor. The Code Official may require alternatives to screens.

(15) Door Hardware.

Every exterior door and its hardware shall be maintained in good condition. Door locks on all interior and exterior doors entering housing units shall be in good repair and capable of tightly securing the door.

D. Interior Structure.

(1) General.

The interior of a structure and its equipment and facilities shall be maintained in good repair, structurally sound and in a sanitary condition so as not to pose a threat to the health, safety or welfare of the occupants.

(2) Structural Members.

The supporting structural members of a structure shall be maintained structurally sound, free of deterioration and maintained capable of a safely carrying the imposed loads in accordance with the Building Code.

(3) Interior Surfaces.

Floors, walls (including windows and doors), ceilings and other interior surfaces shall be maintained in good repair and in a clean, safe and sanitary condition.

(4) Bathroom and kitchen floors.

Every toilet, bathroom and kitchen floor surface shall be maintained so as to be substantially impervious to water to permit such floor to be easily kept in a clean and sanitary condition.

(5) Sanitation.

The interior of a structure shall be maintained in a clean and sanitary condition free from any accumulation of rubbish or garbage. Rubbish or garbage shall be properly kept inside temporary storage facilities. Garbage or rubbish shall not be allowed to accumulate or be stored in public halls or stairways.

(6) Insect and Rodent Harbor-age.

A structure shall be kept free from infestation, and where infestation is found, the area shall be promptly exterminated by processes which will not be harmful to human health. Continuing or repeated incidents of infestation, as determined by the Code

Official, shall require the installation of rodent and vermin proof walls. The rodent and vermin proof walls shall be installed in accordance with the Building Code.

(7) Exit Doors:

Every door available as an exit shall be capable of being opened easily from the inside.

(8) Exit Facilities.

All interior stairs and railings and other exit facilities of a structure shall be maintained in sound condition and good repair. Every interior stair used for an exit shall be maintained so as to be safe to use and capable of supporting the anticipated loads.

(9) All surfaces such as walls, ceilings, doors, trim moulding, window frames, radiators, stair banisters in a deteriorated condition which present a potential health hazard due to lead paint shall have the painted surfaces abated by in accordance with the Maryland Department of the Environment Regulations Title 26, Subtitle 02, "Procedures for Abating Lead Containing Substances From Buildings," effective August 8, 1988.

ARTICLE .11 - LIGHT AND VENTILATION REQUIREMENTS

A. General.

(1) Scope.

The provisions of this regulation shall govern the minimum standards for basic equipment and facilities used for light and ventilation of a structure.

(2) Alternative Methods and Devices.

In place of the means for natural light and ventilation herein prescribed, alternative arrangement of windows, louvers or other devices or methods that will provide the equivalent minimum performance requirements shall be permitted in order to comply with the Building Code.

B. Light.

(1) General.

All areas in a structure shall be provided sufficient light so as not to endanger health and safety. All areas in a structure shall be provided with natural light or equipment to accommodate artificial light of sufficient intensity and distributed so as to

permit the maintenance of sanitary conditions and the safe use of the area and the appliances, equipment and fixtures.

(2) Common Halls and Stairways.

Every common hall and stairway in a structure, other than one and two-family structures, shall be adequately lighted at all times with an illumination equivalent to the foot candles provided by at least a 60 watt standard incandescent light bulb for each 200 square feet of floor area, provided that the spacing between lights shall not be greater than 30 feet. Every exterior stairway shall be illuminated.

C. Ventilation.

(1) General.

All areas in a structure shall be provided sufficient ventilation so as not to endanger health and safety.

(2) Mechanical Ventilation.

Where mechanical ventilation is provided in lieu of natural ventilation, such mechanical ventilating system shall be maintained in operation during the occupancy of the structure or portion thereof. When part of the air provided by a mechanical ventilation system is recirculated, the portion or volume of air recirculated shall not be recirculated to a different habitable area.

ARTICLE .12 - PLUMBING FACILITIES AND FIXTURE REQUIREMENTS

A. Scope.

The provisions of this regulation shall govern the minimum standards for plumbing facilities and fixtures.

B. Required Plumbing Facilities.

Every housing unit shall include its own plumbing facilities which shall be maintained in proper operating condition, can be used in privacy, and are adequate for personal cleanliness and the disposal of human waste. The following minimum plumbing facilities shall be supplied and maintained in a sanitary and safe working condition:

(1) Water Closet and Lavatory.

Every housing unit shall contain within its walls, a room separate from other habitable areas, which provides a water closet supplied with cold running water and which affords privacy. A lavatory shall be placed in the same room as the water closet or located in another room, in close proximity to the door leading directly into the room in which said water closet is located. The lavatory shall be supplied with hot and cold running water;

(2) Bathtub or Shower.

Every housing unit shall contain a room which is equipped with a bathtub or shower supplied with hot and cold running water and which affords privacy; and

(3) Kitchen Sink.

Every housing unit shall contain a kitchen sink, apart from the lavatory required under sub-section (1), and such sink shall be supplied with hot and cold running water.

C. Alternative Plumbing.

Alternative plumbing facilities and fixtures for use in housing units may be allowed as approved on a case-by-case basis by the Code Official.

D. Plumbing Fixtures.

(1) General.

All plumbing fixtures shall be maintained in a safe and usable condition. All plumbing fixtures shall be of nonabsorbent material and shall have received all necessary and legally required approvals.

(2) Connections.

Water supply lines, plumbing fixtures, vents and drains shall be properly installed, connected and maintained in working order and shall be kept free from obstructions, leaks and defects and shall be capable of performing the function for which they are designed. All repairs and installations shall be made in accordance with the provisions of the Building Code or Plumbing Code.

(3) Maintenance.

All plumbing fixtures shall be maintained in a clear and sanitary condition so as not to breed insects and rodents, or produce dangerous or offensive gases or odors.

(4) Access for Cleanings.

Plumbing fixtures shall be installed to permit easy access for cleaning both the fixture and the area around it.

E. Water System.

(1) General.

Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing facility shall be properly connected to either a public water system or to a private water system which has received all necessary and legally required approvals.

(2) Contamination.

The water supply shall be maintained free from contamination. All water inlets for plumbing fixtures shall be located above the overflow rim of the fixture.

(3) Water Supply.

The water supply system shall be installed and maintained to provide at all times a supply of water to plumbing facilities, fixtures, devices and appurtenances in sufficient volume and at pressures adequate to enable them to function satisfactorily.

(4) Water Heating Facilities:

Water heating facilities shall be installed in a manner which has received all necessary and legally required approvals, properly maintained with emergency relief valves in accordance with the Plumbing Code, and properly connected with hot water lines to the fixtures required to be supplied with the hot water. Water heating facilities shall be capable of heating water to such a temperature so as to permit an adequate amount of water to be drawn at every kitchen sink, lavatory basin, bathtub, shower and lavatory facility or other similar facilities, at a temperature of not less than 100 degrees F.

(5) Alternative Water System.

Alternative water systems may be allowed as approved on a case-by-case basis by the Code Official and appropriate Health Department Agency.

F. Sewage System.

(1) General.

Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing facility shall be properly connected to either a public sewer system or private sewage disposal system which has received all necessary and legally required approvals.

(2) Maintenance.

Every plumbing stack, waste and sewer line shall be installed and maintained so as to function properly and shall be kept free from obstructions, leaks and defects to prevent structural deterioration or health hazards. All repairs and installations shall be made in accordance with the provisions of the Building Code or Plumbing Code.

ARTICLE .13 - MECHANICAL AND ELECTRICAL REQUIREMENTS

A. General.

(1) Scope.

The provisions of this regulation shall govern the minimum standards for mechanical and electrical facilities and equipment.

B. Heating Facilities.

(1) Residential Structures.

Every housing unit shall be supplied with sufficient heat or heating equipment capable of supplying sufficient heat during the period from October 1 to May 15, to maintain a room temperature of not less than 65 degrees F. in all habitable areas during the hours between 6:30 a.m. and 10:30 p.m. of each day and maintain a temperature of not less than 60 degrees F. during other hours. The temperature shall be measured at a point 3 feet above the floor and 3 feet from exterior walls.

Exception: When the exterior temperature falls below 0 degrees F. and the heating system is operating at its fully capacity, a minimum room temperature of 60 degrees F. shall be maintained at all times.

(2) Cooking and Heating Equipment.

All cooking and heating equipment, components and accessories in every heating, cooking and water heating device shall be maintained free from leaks and water-flow

obstructions, and kept functioning properly so as to be free from fire, health and safety hazards. All installations and repairs shall be made in accordance with the provisions of the Building Code, Electrical Code, or other applicable laws or ordinances thereto. Portable cooking equipment employing flame is prohibited, except for residential type food trays or servers which are heated by a candle or alcohol lamp and which have received all necessary and legally required approvals.

(3) Installation.

All mechanical equipment used for heating and cooling shall be properly installed and safety maintained in good working condition, and shall be capable of performing the function for which it was designed and intended.

(4) Fuel-Burning Equipment.

All fuel-burning equipment shall be connected to a chimney, flue or vent in accordance with applicable local or State codes or per manufacturer's instructions in cases where no local or State codes apply.

(5) Clearances.

All necessary and legally required clearances to combustible materials shall be maintained in accordance with the Building Code.

(6) Safety Controls.

All safety controls for fuel-burning equipment shall be maintained in effective operation in accordance with applicable local or State codes or per manufacturer's instructions in cases where no local or State codes apply.

(7) Combustion Air:

A supply of air for complete combustion of the fuel and for ventilation of the space shall be provided fuel-burning equipment.

(8) Unauthorized Devices.

Devices purporting to reduce gas consumption by attachment to a gas appliance, the gas supply line thereto, or the vent outlet or vent piping therefrom shall not be used unless labeled for such use and the installation has specifically received all necessary and legally required approvals.

(9) Fireplaces.

Fireplaces, and other construction and devices intended for use similar to a fireplace, shall be stable and structurally safe and connected to chimneys which have received all necessary and legally required approvals.

(10) Climate Control.

When facilities for interior climate control (heating, cooling and humidity) are integral functions of housing units, such facilities shall be maintained and operated in accordance with the designed capacity.

C. Electrical Facilities.

(1) Facilities Required.

Provided that there is usable electric service available from a power line not more than 300 feet away, a structure shall be adequately and safely provided with an electrical system in compliance with the requirements of this section.

(2) Receptacles.

Each habitable area in a housing unit shall contain at least one receptacle outlet. Every laundry area and bathroom shall contain at least one GFCI protected receptacle. Any receptacle within 6'0" of a plumbing fixture shall be GFCI protected.

(3) Lighting Fixtures.

Every public hall, interior stairway, water closet compartment, bathroom, laundry room and furnace room shall contain at least one electric lighting fixture.

(4) Service.

When the electrical system requires modification to correct a violation of this section, the service shall be corrected to a minimum of 60 ampere, three wire service.

(5) Installation.

All electrical equipment, wiring and appliances shall be installed and maintained in a safe manner in accordance with the Electrical Code. All electrical equipment shall be a type which has received all necessary and legally required approvals.

ARTICLE .14 - FIRE SAFETY REQUIREMENTS

A. Scope.

The provisions of this regulation shall govern the minimum standards for fire safety facilities and equipment. All structures shall be constructed and maintained to prevent and avoid fire hazards, and in a manner conducive to fire safety.

B. Means of Egress.

(1) General.

A safe, continuous and unobstructed means of egress shall be provided from the interior of a structure to the exterior at a street, yard, court, or passageway leading to a public open area at grade.

(2) Direct Exit.

Every housing unit shall have access directly to the outside or to a common area that leads directly to the outside.

(3) Doors.

All doors in the required means of egress shall be easily opened from the inner side.

(4) Fire Escapes.

All fire escapes shall be maintained in working condition and structurally sound.

(5) Exit Signs.

All exit signs shall be illuminated and visible in accordance with the Building Code.

(6) Emergency Escape.

Every sleeping room located in a basement shall have at least one openable window and exterior door for emergency egress or rescue in accordance with the Building Code which has received all necessary and legally required approvals or shall have access to two separate exists which have received all necessary and legally required approvals in accordance with the Building Code.

C. Accumulations and Storage.

(1) General.

Garbage or rubbish shall not be allowed to accumulate or be stored overnight in stairways, passageways, doors, windows, fire escapes or other means of egress.

(2) Flammable Matter.

Highly flammable or explosive matter, such as paints, volatile oils and cleaning fluids, or combustible rubbish such as waste paper, boxes and rags, shall not be accumulated or stored on premises except in reasonable quantities consistent with normal usage.

(3) Residential Unit.

A housing unit shall not be located within a structure containing an establishment handling, dispensing or storing flammable liquids with a flash point of 100 degrees F. or lower, except as provided for in the Building Code.

D. Fire Resistance Ratings.

Floors, walls, ceilings, and other elements and components which are required by the Fire Code to comply with a fire resistance rating shall be maintained so that the respective fire resistance rating of the enclosure, separation, or construction is preserved.

E. Fire Protection Systems.

(1) General.

All fire protection systems and equipment shall be maintained in proper operating condition at all times.

(2) All housing units shall be provided with a minimum of one single station smoke detector in the vicinity of each sleeping area. The smoke detectors shall be installed and maintained in accordance with the Building and Electrical Codes. When activated, the smoke detector shall provide an alarm suitable to warn the occupants within the unit.

(3) Fire Suppression System.

Fire suppression systems in housing units so equipped shall be maintained in good condition, free from mechanical defect. Sprinkler heads shall be kept clean and free of corrosion and paint, and shall not be bent or damaged.

(4) Fire Extinguishers.

All portable fire extinguishers in housing units so equipped shall be visible and accessible, and maintained in an efficient and safe operating condition.

F. Fire Doors.

All necessary and legally required fire resistance rated doors or smoke barriers shall be maintained in good working order, including all hardware necessary for the proper operation thereof. The use of door stops, wedges and other hold-open devices which have not received all necessary and legally required approvals or which have been denied approval is prohibited.

ARTICLE .15 - RESPONSIBILTIES OF PERSONS

A. Scope.

The property owner, operator or tenant shall be responsible for compliance with the provisions of this Code, and may be cited for violations thereof, except as provided in this regulation.

B. General.

A property owner or operator may not be cited for a violation of this Code that is caused by the negligent, wrongful or malicious acts or omissions of a tenant, provided the property owner's acts or omissions have not contributed in any way to cause the violation.

C. Sanitary Conditions.

(1) Cleanliness: The tenant shall be responsible for keeping that part of the structure or premises which the tenant occupies, controls, or uses in a clean and sanitary condition. Every property owner of a structure containing two or more housing units shall maintain, in a clean and sanitary condition, the common areas of the structure and premises.

(2) Disposal and Storage of Rubbish and Garbage.

The tenant shall be responsible for the storage and disposal of rubbish and garbage in a clean and sanitary manner as may be required by applicable laws or ordinances.

(3) Supplied Fixtures and Equipment.

The tenant shall be responsible for keeping owner-supplied equipment and fixture clean and sanitary, and for the exercise of reasonable care in their proper use and operation. The property owner shall be responsible for maintaining such equipment and fixtures in good and operating condition.

(4) Furnished by Tenant.

The tenant shall be responsible for the maintenance of equipment and fixtures furnished by the tenant. Such equipment and fixtures shall be properly installed, and shall be maintained in good working condition, kept clean and sanitary, and free of defect, leaks or obstructions.

D. Extermination.

(1) All Structures.

If necessary, the property owner, operator or tenant shall be responsible for extermination within the structure and on the premises prior to renting or leasing the structure.

(2) Single Occupancy.

The tenant of a structure containing a single housing unit shall be responsible for the extermination of any insects, rodents or other pests in the structure or on the premises.

(3) Multiple Occupancy.

Every property owner or operator of a structure containing two or more housing units shall be responsible for the extermination of any insects, rodents or other pests in the structure or on the premises except where infestation within a housing unit is caused by a failure of the tenant to take reasonable action to prevent such infestation within the housing unit.

E. Fire Safety.

Responsibility for installing and maintaining in good working order any smoke detector installed pursuant to this Code shall be in accordance with the State Fire laws. Article 38A and 12A, Annotated Code of Maryland. Smoke Detection Systems.

ARTICLE .16 - SEVERABILITY.

The provisions of these regulations are severable. A judgment by any court of competent jurisdiction finding or declaring that any provisions of these regulations or the application of any provision to any person or circumstance is invalid does not affect the validity of the remaining provisions of the regulations or any other application of these regulations, and the remaining regulations shall have full force and effect as if no judgment has been entered.

Section 4. Applicability.

All portions of the ordinance referred to in Section Three shall be construed and be applicable within the geographical confines of the Town of Sharpsburg, Maryland.

Where appropriate and in the sense of understanding where proper the Mayor and Council of Sharpsburg, and/or Town of Sharpsburg is hereby inserted and made applicable.

Section 5. Enforcement.

This ordinance shall be enforced by the Board of County Commissioners of Washington County pursuant to the provisions of Article 23A, Section 2B of the Annotated Code of Maryland unless otherwise indicated and determined by resolution of the Mayor and Council of the Town of Sharpsburg as its duly constituted legislative body.

Any person or agency designated throughout this ordinance as the building official(s), inspector, building inspector, code official, and/or code enforcement official, or other equivalent position shall be any person or persons designated by the Board of County Commissioners of Washington County, Maryland, from time to time, unless otherwise designated by the Mayor and Council of the Town of Sharpsburg.

Section 6. Conflict.

If this ordinance as adopted, conflicts in any way with any federal, State, county or municipal act, ordinance or regulation applicable to any of the matters contained herein,

then and in said event then the regulation, ordinance or statute or act which contains the more stringent regulation shall take precedence and control.

Section 7. Severability.

If any portion of this ordinance shall be deemed invalid by a court of competent jurisdiction, all remaining portions of this ordinance shall remain in full force and effect.

Chapter 7 - **BUILDING MATERIALS IN STREETS AND DANGEROUS STRUCTURES OR BUILDINGS**

- Section 1. Builders may occupy part of street - conditions - Lanterns at Night.
 - Section 2. Removal of Dangerous Structure, Notice.
 - Section 3. Failure of Owner to Remove or Cause Removal of Dangerous Structures.
 - Section 4. Hearings.
 - Section 5. Penalty.
-

Section 1. Builders may occupy part of street - conditions - Lanterns at Night.

A. Any person or persons engaged in building or repairing any house or other building, may apply to the Mayor and Council of Sharpsburg for a permit to place some or all of the building materials therefore or any other thing to be used in connection therefor on the street, lane, or alley immediately in front of the lot or lots where such building is being erected or repaired. The applicant shall be required to demonstrate that granting of such permit is reasonably necessary in that placement of such materials or other items on the lot or lots is impractical because of practical difficulties, and that undue hardship to the applicant will result from denial of the application. The practical difficulties must relate to the lot or lots, not economic considerations.

B. Lanterns at Night. No person or persons shall permit any bricks, stones, lumber or other building material shall be left in any of the streets, lanes, or alleys of the Town between dusk and dawn unless the location thereof shall be designated by displaying a lighted lamp or lantern thereon at such part of the same so that the same may be easily seen by persons passing along the street.

C. The Mayor and Council may issue a permit, after public hearing, and reasonable advance notice of such hearing to all of the immediately surrounding and adjacent property owners, upon such terms, time limitations, and other conditions as they deem to be reasonable. The applicant is responsible to provide the Mayor and Council with a complete listing of the names and mailing addresses of the immediately surrounding and adjacent property owners. The permit may be revoked for any violation of its terms, time limitations, and other conditions.

Section 2. Removal of Dangerous Structures, Notice.

Upon information being made known to the Mayor and Council of any house or other structure in such condition that it may be dangerous to persons passing along and over the highways, streets, sidewalks or alleys of the Town, or to the occupants of any

adjacent lot or property, the Mayor shall issue a Notice to the owner of the real property whereon the house or other structure is located, directing the owner to remove or cause to be removed said house or structure within sixty days of the date of mailing (hereinafter the "Notice Period") of the Notice, or to submit to the Mayor and Council, within the Notice Period, a written statement of the owner's intention to restore said house or other structure, including the timetable for the proposed restoration. Said notice shall be mailed by restricted delivery, registered mail, directed to the owner, or in the event of more than one owner, to any of them. In the event, the identity or the address of the owner is unknown, the identity and address shown on the real estate tax records of the County Treasurer for Washington County for the owner of said real property, may be used for Notice purposes.

Section 3. Failure of Owner to Remove or Cause Removal of Dangerous Structures

In the event the owner of said real property fails to remove the dangerous house or structure within the time period established in the Notice, or the owner fails to submit a written statement of intention to restore said premises, or to request a hearing as hereinafter provided, the Mayor and Council may cause the dangerous house or structure to be removed, at the cost and expense of the owner thereof. The Town may advance the cost and expense of removal to the person or persons effecting the removal, which cost and expense shall be recoverable in a civil action against the owners of the real property, together with interest on the sum advanced at the rate of 1% per month, court costs, and an attorney's collection fee of 20% of the sum advanced.

Section 4. Hearings.

In the event the owner of said real property disagrees with any portion of the contents of the Notice, that owner shall have the right to a hearing before the Mayor and Council, upon written request submitted during the Notice Period. A hearing shall also be held whenever any owner submits a plan to restore a house or structure which is subject to a Notice under this Subtitle.

Hearings shall occur within a reasonable time after submission of the request or the plan of restoration, but in no event less than 15 nor more than 75 days thereafter. The hearing may be recessed from time to time at the discretion of the Mayor and Council.

At the conclusion of the hearing, the Mayor and Council shall render its decision on the subject matter of the hearing, including any time periods for compliance therewith.

Section 5. Penalty.

If any person violates any of the terms of this Ordinance, such person, upon conviction thereof, shall be fined not less than \$25.00 nor more than \$1,000.00 for each offense. A separate offense shall be deemed to be committed for each day during or on which said violation is permitted to exist.

**Chapter 8 - AN ORDINANCE PROVIDING FOR THE
APPROVAL AND ADOPTION OF MAPS DEPICTING THE
LOCATION AND BOUNDARIES OF DRUG-FREE SCHOOL
ZONES AND MAKING AN OFFICIAL FINDING AND
RECORD OF THE LOCATION AND BOUNDARIES OF
SUCH ZONES**

Section 1. In accordance with and pursuant to the authority contained in Article 27, Crimes and Punishments, Section 286C and 286D and in the Education Article, Section 4-122, Annotated Code of Maryland (1987 Replacement Volume and 1988 Supplement), the Drug-Free School Zone Map produced on or about September, 1989, by the engineering department of the Board of Education of Washington County, Maryland, a copy of which is attached as Exhibit A, is hereby approved and adopted as an official finding and record of the location and areas within the Town of Sharpsburg, Maryland, of property which is used for school purposes and which is owned by or leased to any elementary school or school board, and of the areas on or within one thousand feet of such school property.

Section 2. The Drug-Free School Zone Map approved and adopted, pursuant to Section 1 of this ordinance, shall continue to constitute an official finding and record as to the location and boundaries of areas on or within one thousand feet of property owned by or leased to any elementary school or school board which is used for school purposes until such time, if any, that this Ordinance shall be amended to reflect any additions or deletions with respect to the location and boundaries of school property and Drug-Free School Zones.

Section 3. The Board of Education of Washington County is hereby directed and shall have the continuing obligation to promptly notify the Town attorney of any changes or contemplated changes in the location and boundaries of any property owned by or leased to any elementary or secondary school or school board and which is used for school purposes.

Section 4. The Clerk of the Town of Sharpsburg is hereby directed to receive and to keep on file the originals of the maps approved and adopted, pursuant to Section 1 of this ordinance, and to provide at a reasonable cost a true copy thereof to any person, agency or court which may be from time to time request such a copy, along with a certification that such copy is a true copy of the map approved and adopted herein and kept on file. It is hereby further directed that a true copy of such map and of this Ordinance shall be provided to the Clerk of the Circuit Court for Washington County, Maryland, and to the State's Attorney for Washington County, Maryland.

Section 5. The following additional matters are hereby determined, declared, recited and stated:

(a) It is understood that the map approved and adopted, pursuant to Section 1 of this ordinance, was prepared and is intended to be used as evidence in prosecutions arising under the criminal laws of this State, and that pursuant to State law, such map shall constitute prima facie evidence of the following:

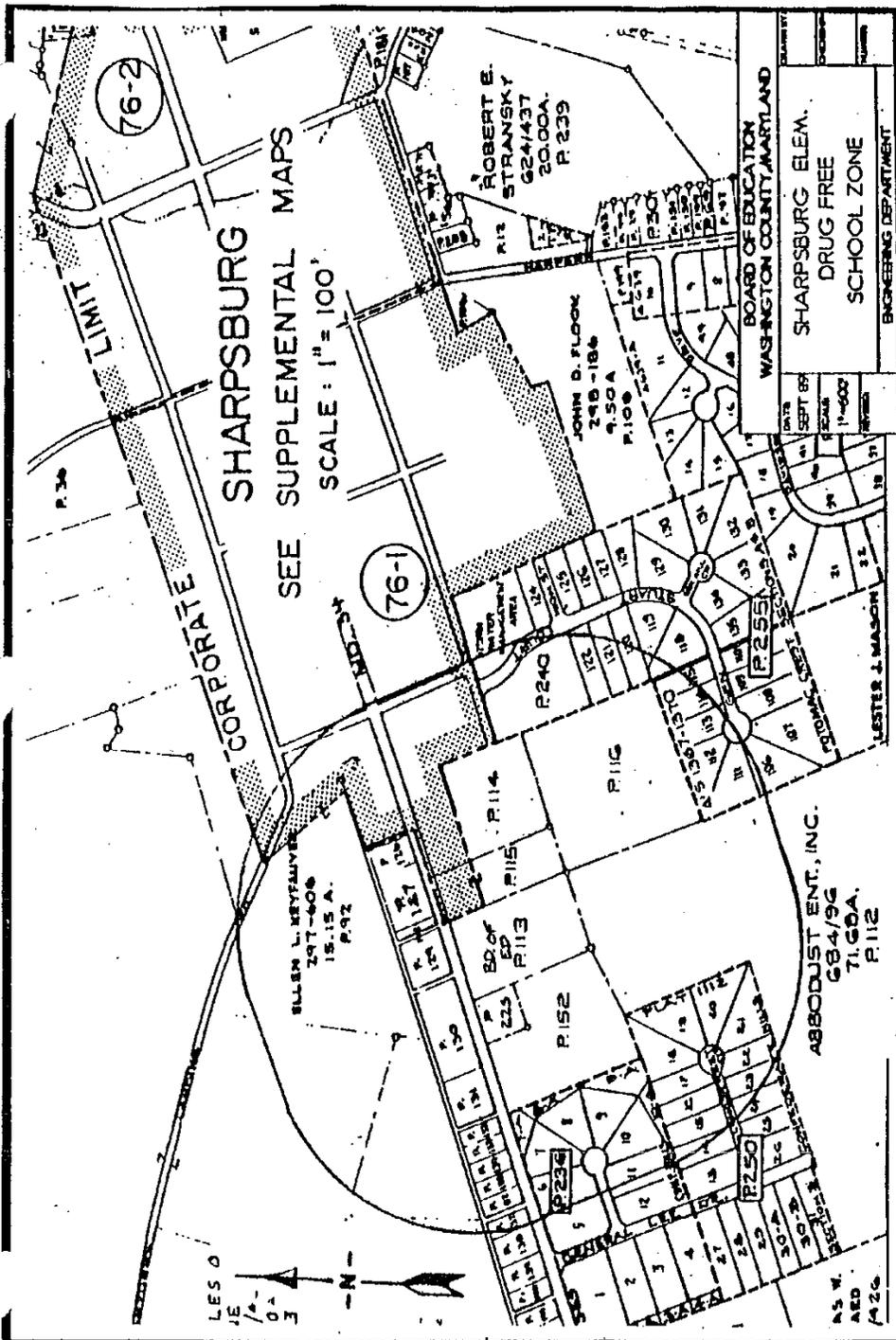
- (1) the location of elementary schools near the Town of Sharpsburg;
- (2) the boundaries of the real property which is owned by or leased to such schools or a school board;
- (3) that such school property is and continues to be used for school purpose; and
- (4) the location and boundaries of areas which are on or within one thousand feet of such school property.

(b) All of the property depicted on the map approved and adopted herein as school property was owned or leased by the Board of Education of Washington County, Maryland, and was being used for school purposes as of July 1, 1989.

(c) Pursuant to the provisions of Article 27, Crimes and Punishments, Section 286D, Annotated Code of Maryland (1987 Replacement Volume and 1988 Supplement), a State's Attorney is not precluded from introducing or relying upon any other evidence or testimony to establish a violation of the offense defined in that statute, including use of a map or diagram other than those approved and adopted, pursuant to Section 1 of this Ordinance. The failure of the map approved herein to depict the location and boundaries of any property which is, in fact, used for school purposes and which is owned by or leased to any elementary or secondary school or school board, whether the absence of such depiction is the result of inadvertent omission or the result of any changes in the location and boundaries of such property which have not yet been incorporated into a revised approved map, shall not be deemed to be an official finding and record that such property is not owned by or leased to a school or school board, or that such property is not used for school purposes.

(d) All of the requirements set forth in Article 27, Crimes and Punishments, Section 286D, Annotated Code of Maryland (1987 Replacement Volume and 1988 Supplement), and the Education Article, Section 4-122, Annotated Code of Maryland (1987 Replacement Volume and 1988 Supplement), concerning the preparation, approval and adoption of the Drug-Free School Zone Map have been complied with.

Section 6. This Ordinance shall take effect immediately upon its passage.



Chapter 9 - **CODE OF ETHICS/FINANCIAL DISCLOSURE**

- Section 1. Purpose.
 - Section 2. Applicability.
 - Section 3. Prohibited Acts.
 - Section 4. Financial Disclosure.
 - Section 5. Lobbying Disclosure.
 - Section 6. Grant of Exemptions or Modifications.
 - Section 7. Enforcement; Disciplinary Actions; Violations and Penalties
 - Section 8. Ethics Commission, Establishment.
-

Section 1. Purpose.

The purpose of this chapter is to comply with Article 40A of the Annotated Code of the State of Maryland and to provide for certain guidelines and criteria for standards of conduct for those persons to which this chapter is applicable.

Section 2. Applicability.

The provisions of this chapter, unless otherwise stated, shall be applicable to all officials, employees and members of boards and commissions of the Town of Sharpsburg, including but not limited to the following, where such offices are applicable and exist:

- a. The Mayor.
- b. The Vice-Mayor.
- c. Members of the Council.
- d. The City Administrator.
- e. The City Clerk.
- f. The City Treasurer.
- g. The City Finance Director.
- h. The Town Attorney.

- i. All heads of departments of the city, by whatever title they are known.
- j. Members of all boards, commissions, and committees appointed by the Mayor and/or the Mayor with the advice and consent of the Council.
- k. Members of all boards, commissions and committees appointed by the Governor of the State of Maryland where such boards, commissions and committees are declared by the State Ethics Commissions not to be executive agencies in the state government.

Section 3. Prohibited Acts.

City officials, agents, employees and any other persons, firms, boards, commissions or legal entities who are subject to this chapter shall not:

- A. Participate on behalf of the city in any matter which would, to their knowledge, have a direct financial impact, as distinguished from the public generally, on them or their immediate family, including spouse, children (dependent or otherwise), parents, brothers, sisters, in-laws, or a business entity with which they are affiliated.
- B. Hold or acquire an interest of either ten thousand dollars (\$10,000.00) or greater in a business entity that has or is negotiating a contract of one thousand dollars (\$1,000.00) or more with the city or is regulated by its agency, except as exempted by the Ethics Commission where the interest is disclosed pursuant to Section 6 of this chapter.
- C. Be employed by a business entity that has or is negotiating a contract of more than one thousand dollars (\$1,000.00) with the city or is regulated by their agency, except as exempted by the Ethics Commission where the interest is disclosed pursuant to Section 6 of this chapter.
- D. Hold any outside employment relationship that would impair their impartiality or independence of judgment.
- E. Represent any party, for a contingent fee, before any city body.
- F. Within one year following termination of city service, act as a compensated representative of another in connection with any specific matter in which he/she participated substantially as a city official or employee.
- G. Solicit any gift or accept gifts of greater than twenty-five dollars (\$25.00) in value from any persons which has or is negotiating a contract with the city or is regulated by their agency, except when those gifts would not represent a conflict of interest as determined by the Ethics Commission. For the purposes of this section, "gift"

includes the transfer of anything of economic value, regardless of form, without adequate and lawful consideration.

H. Use the prestige of their office for their own benefit or that of another.

I. Use confidential information acquired in their official city position for their own benefit or that of another.

Section 4. Financial Disclosure.

A. The city officials and employees listed in subsection C of this Section shall file annually, not later than January 31 of each calendar year during which they hold office, a statement with the Ethics Commission disclosing any gifts, as hereinafter limited, received during the preceding calendar year from any person that has or is negotiating a contract with the city or any person regulated by its agency. The statement shall identify the donor of the gift and its approximate retail value at the time of receipt. Disclosure of gifts of the following items, where the reasonable value thereof does not exceed twenty-five dollars (\$25.00) shall not be required.

(1) Meals and beverages.

(2) Ceremonial gifts or awards which have insignificant monetary value.

(3) Unsolicited gifts of nominal value or trivial items of information value.

(4) Reasonable expenses for food, travel, lodging and scheduled entertainment of the official or the employee for a meeting which is given in turn for participation in a panel or speaking engagement at the meeting.

(5) Gifts or tickets or free admission extended to a elected official or employee to attend a professional or intercollegiate sporting event or a charitable, cultural or political event, if the purpose of the gift or admission is a courtesy or ceremony extended to that office.

(6) Gifts for a person related by blood or marriage of a spouse, child, ward, financially dependent parent or other relative who shares the official's or employee's legal residence or from a child, ward, parent or other persons over whose financial affairs the person has legal or actual control.

(7) A specific gift or class of gifts which the Mayor and Council or the Ethics Commission exempts from the operation of this Section upon a finding, in writing, that acceptance of the gift or class of gifts would not be detrimental to the impartial

conduct of the business of the city and that the gift is purely personal and private in nature.

(8) Honoraria.

B. Candidates for elective offices listed in Subsection C of this Section shall file statements consistent with the requirements of Subsection A of this section at the time they file their certificates of candidacy.

C. Officials and employees required to file are as follows, where such offices are applicable and exist:

- a. The Mayor.
- b. The Vice-Mayor.
- c. Members of the Council.
- d. The City Administrator.
- e. The City Clerk.
- f. The City Treasurer.
- g. The City Finance Director.
- h. The Town Attorney.

i. Members of all boards, commissions, and committees listed in Section 2 of this chapter, the members of which receive any compensation for their services as such members.

D. All city officials and employees or candidates for elective office to positions subject to this section shall file a statement with the Ethics Commission disclosing any interest or employment, the holding of which would require disqualification from participation pursuant to Section 3 A of this chapter, sufficiently in advance of any anticipated action to allow adequate disclosure to the public.

E. Disclosure statements filed pursuant to this section shall be maintained by the Ethics Commission as public records available for public inspection and copying.

Section 5. Lobbying Disclosure.

A. Any person who personally appears before any city official or employee with the intent to influence that person in performance of that person's official duties and

who, in connection with such intent, expends or reasonably expects to expend in a given calendar year in excess of one hundred dollars (\$100.00) on food, entertainment or other gifts for such official shall file a registration statement with the Ethics Commission not later than January 15 of the calendar year for within five days after first making these appearances.

B. The registration statement shall include complete identification of the registrant and of any other person on whose behalf the registrant acts. It shall also identify the subject matter on which the registrant proposes to make these appearances and shall cover a defined registration period not to exceed one calendar year.

C. Registrants under this section shall file a report within thirty (30) days after the end of any calendar year during which they were registered, disclosing the value, date and nature of any food, entertainment or other gift provided to a city official or employee. When a gift or series of gifts to a single official or employee exceeds twenty-five dollars (\$25.00) in value, the official or employee shall also be identified.

D. The registrations and reports filed pursuant to this section shall be maintained by the Ethics Commission as public records available for public inspection and copying.

Section 6. Grant of Exemptions or Modifications.

The Ethics Commission may grant exemptions and modifications to the provisions of Sections 3 and 4 of this chapter if it determines that applications of those provisions would:

- A. Constitute an unreasonable invasion of privacy.
- B. Significantly reduce the availability of qualified persons for public service.
- C. Not be required to preserve the purposes of this chapter.

Section 7. Enforcement; Disciplinary Actions; Violations and Penalties.

A. The Ethics Commission may issue a cease-and-desist order against any person found to be in violation of this chapter and may seek enforcement of that order in the Circuit Court for Washington County, Maryland. The Court may issue a cease-and-desist order and may also impose a fine of up to five hundred dollars (\$500.00) for any violation of the provisions of this chapter.

B. Any city official or employee found to have violated this chapter may be subject to disciplinary or other appropriate personnel action, including suspension of city salary or other compensation.

C. Violation of Section 5 of this chapter shall be a misdemeanor subject to a fine of up to five hundred dollars (\$500.00) and/or imprisonment of up to one year.

Section 8. Ethics Commission, Establishment.

A. There is hereby established an Ethics Commission for the Town of Sharpsburg, Maryland.

B. Membership.

(1) The Ethics Commission shall be composed of the five (5) members of the Ethics Commission appointed by the Board of County Commissioners of Washington County, Maryland, pursuant to and under the provisions of an ordinance enacting an Ethics Law for Washington County, Maryland, originally passed on or about February 23, 1982, as amended from time to time, to the date hereof.

(2) In the event that the County Commissioners shall fail to appoint an Ethics Commission as set forth in said ordinance, then the Mayor, with the advice and consent of the Council of the Town of Sharpsburg, shall appoint an Ethics Commission consisting of five (5) members, who shall be and are charged with the responsibilities set for in this chapter.

C. Responsibilities.

The Ethics Commission referred to herein shall be advised by the County Attorney for Washington County, Maryland (or the town attorney if appointed by the Mayor and Council) and shall have the following responsibilities:

1. To devise, receive and maintain all forms generated by this chapter.
2. To provide published advisory opinions to persons subject to this chapter as to the applicability of the provisions of this chapter to them.
3. To process and make determinations as to complaints filed by any person alleging violations of this chapter.
4. To conduct a public informations program regarding the purposes and application of this chapter.

Chapter 10 - **FIREARMS**

Section 1. No person shall have in his or her possession upon the streets, alleys or other public ways or property of the Town of Sharpsburg, any weapon, including guns or firearms of any and all descriptions, except as permitted by the laws of the State of Maryland.

Section 2. No person shall discharge or permit to be discharged within the corporate limits of the Town of Sharpsburg, a gun or firearm of any and all descriptions, except when reasonably necessary for the preservation of person or property, or as otherwise authorized by the laws of the State of Maryland.

Chapter 11 - TOWN OF SHARPSBURG FLOODPLAIN MANAGEMENT ORDINANCE OF 1993

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Section 1.2	Abrogation and Greater Restrictions
Section 1.3	Applicability
Section 1.4	Partial Invalidity and Severability
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Section 3.4	Issuance of Permit
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ARTICLE I - PURPOSE AND GENERAL PROVISIONS

Section 1.1 Purpose and Authority

The purposes of this Ordinance are to minimize property damage, encourage appropriate construction practices to minimize future damage, protect water supply, sanitary sewage disposal, and natural drainage. The prevention of unwise development in areas subject to flooding will reduce financial burdens to the community and the State, and will prevent future displacement and suffering of its residents. This protection is achieved through the review of all activities proposed within identified floodplains and by the issuance of permits for those activities that comply with the objectives of this Ordinance.

Floodplains are an important asset to the community. They perform vital natural functions such as temporary storage of floodwaters, moderation of peak flood flows, maintenance of water quality, groundwater recharge, prevention of erosion, habitat for diverse natural wildlife populations, recreational opportunities, and aesthetic quality and should be kept in their natural state.

This Ordinance provides a unified, comprehensive approach to floodplain management which addresses these natural floodplain functions and the Federal and State programs concerned with floodplain management. These programs are: the National Flood Insurance (44 CRF 59-79) and the State's Waterway Construction Permit Program for nontidal floodplains. Decisions to alter floodplains, especially floodways and stream channels, should be the result of careful planning processes which evaluate resource conditions and human needs.

Section 1.2 Abrogation and Greater Restrictions

The Sharpsburg Floodplain Management Ordinance heretofore adopted by Mayor and Council is hereby repealed.

Section 1.3 Applicability

Any person or entity proposing to do any development within the floodplain zone regulated by this Ordinance must first obtain a building permit for that development from the local permitting agency, and must comply with all provisions of this Ordinance.

Section 1.4 Partial Invalidity and Severability

If any part of this Ordinance is declared invalid, the remainder of the Ordinance shall not be affected and shall remain in force.

Section 1.5 Disclaimer of Liability

The degree of flood mitigation provided by this Ordinance is considered reasonable for regulatory purposes and is based on engineering experience and scientific methods of study. Floods of greater magnitude may occur or flood heights may be increased by man-made or natural causes. This Ordinance does not imply that flooding will not occur outside of the delineated floodplain zone, nor that permitted development and land uses within the floodplain will be free of flooding and associated flood damage. This Ordinance does not create liability on the part of the Community, any officer, or employer thereof for any damage which may result from reliance on this Ordinance.

ARTICLE II - DEFINITIONS

2.1 Accessory structure - a detached structure on the same parcel of property as the principal structure, the use of which is incidental to the principal structure, e.g. a shed or detached garage.

2.2 Base Flood - the 100-year frequency flood event as indicated in the Flood Insurance Study, as amended, the elevation of which is used for regulatory purposes in this Ordinance.

2.3 Basement - an enclosed area which is below grade on all four sides.

2.4 Certificate of Occupancy or Use - a permit to legally occupy or use a building for the intended purpose.

2.5 Development - any man-made change to improved or unimproved real estate, including, but not limited to buildings and other structures, dredging, fill, grading, paving, clearing, excavation, dumping, extraction, or storage of equipment or materials. Development includes subdivision of land.

2.6 Elevation Certificate - form supplied by the Federal Emergency Management Agency (FEMA) to certify as-built elevations of structures above mean sea level (HGVD).

2.7 Essential Utilities - for purposes of this Ordinance, shall comprises underground or overhead electrical, gas, communications, water or sewerage systems, including mains, drains, severe, pumping stations, conduits, hydrants, regulating and measuring devices, and the structures in which they are housed, and other similar equipment and accessories in connection therewith. It does not include buildings, yards, stations used for storage, repair or processing of equipment or material, and does not include buildings, yards, stations, or substations for transforming, boosting, or switching purposes, where such facilities are constructed on the ground.

2.8 Engineering Analysis - includes, but is not limited to, hydraulic, hydrologic, or any other type of analytical evaluation presented in report form; complete with assumptions, calculations, and the necessary plans required by the Permitting Official to support any conclusions, and bearing the original signature and seal of a Maryland registered professional engineer.

2.9 Flood - general and temporary condition of partial or complete inundation of normally dry land areas from overflow of inland or tidal waters, or rapid unusual accumulation of runoff from any source.

2.10 Flood Insurance Rate Map (FIRM) - map which depicts the minimum special flood hazard area to be regulated by this Ordinance (unless a Floodway Map is available).

2.11 Floodplain - that land typically adjacent to a body of water with ground surface elevations that are inundated by the base flood.

2.12 Floodproofing - any combination of structural or nonstructural changes which reduce or eliminate flood damage to improved property.

2.13 Floodproofing Certificate - form supplied by FEMA to certify that a building has been designed and constructed to be structurally dry floodproofed to the Flood Protection Elevation.

2.14 Flood Protection Elevation (FPE) - the elevation of the base flood plus one foot freeboard.

2.15 Floodway - the channel and adjacent land area required to discharge the waters of the 100-year flood of a watercourse without increasing the water surface elevations more than a specified height.

2.16 Floodway Map - map which depicts floodways and special flood hazard areas to be regulated by this Ordinance.

2.17 Floodway Fringe - that portion of the flood plain outside of the floodway.

2.18 Freeboard - an increment of elevation added to the base flood elevation to provide a factor of safety for uncertainties in calculations, wave actions, subsidence, or other unpredictable effects.

2.19 Historic Structure - a structure listed individually on the National Register of Historic Places, the Maryland Inventory of Historic Properties, a local inventory of historic places certified by the Maryland Historic Trust or the Secretary of the Interior, or preliminarily determined as meeting the requirements for such listing by the Maryland Historic Trust or the Secretary of the Interior, or determined as contributing to the historic significance of a historic district registered with Secretary of the Interior.

2.20 Lot of Record - for purposes of this Ordinance, a lot of record shall mean a lot existing at the time this Ordinance was enacted.

2.21 Lowest Floor - the lowest floor of the lowest enclosed area, including basement. An unfinished enclosure constructed of flood resistant materials used solely for parking of vehicles, storage, or building access in an area other than a basement is not the lowest floor, as long as it is supplied with water equalizing vents.

2.22 Manufactured Home - a transportable structure which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities.

2.23 NGVD - National Geodetic Vertical Datum of 1929 elevation reference points set by the National Geodetic Survey based on mean sea level.

2.24 New construction - a structure for which the start of construction commenced on or after the effective date the adoption of a Floodplain Management Ordinance, and includes any subsequent improvements.

2.25 One Hundred (100) Year Frequency Flood - the Base Flood, having a one change in a hundred (one percent chance) of being equaled or exceeded in any year.

2.26 Permanent Construction - any structure occupying a site for more than 180 days per year.

2.27 Recreational Vehicle - a vehicle built on a single chassis which is 400 square feet or less at the longest horizontal projection, self propelled or towable, and designed primarily for temporary living while traveling or camping.

2.28 Site Plan - for purposes of this Ordinance, a site plan shall mean a scaled drawing containing the information set forth in Section 3.2 of this document.

2.29 Start of Construction - the date of issue of the building permit for any development, including new construction and substantial improvement was within 180 days of permit issuance.

2.30 Structure - for purposes of this ordinance shall be a walled and roofed building, including, but not limited to, manufactured homes, gas and liquid storage tanks, garages, barns, and sheds.

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

2.32 Substantial Improvement - any repair, reconstruction or improvement of a structure, the cost of which equals or exceed 50% of the market value of the structure (less land value) either: (a) before the improvement or repair is started; or (b) if the structure has incurred substantial damage and been restored, before the damage occurred. Substantial improvement occurs when the first alteration of any wall, ceiling, floor, or other structural part of the building commences. The minimum repairs needed to correct previously identified violations of local health, safety, or sanitary codes, and alterations to historic structures which do not preclude their continued designation as historic structures are not considered substantial improvements.

2.33 Temporary Structure - any structure completely removed within 180 days from issuance of the permit.

2.34 Variance - the grant of relief from a term or terms of this Ordinance.

ARTICLE III - PERMIT PROCEDURES

Section 3.1 General

A permit is required for all development in a 100 year Floodplain. A permit issued by the local permitting official under this Ordinance does not authorize any construction until all other required permits are obtained from the appropriate federal or State agencies.

Section 3.2 Information for a Permit

Applications for a building Permit shall contain, at a minimum, the following information:

- a. name, address, and phone number of applicant (owner or agent of owner);
- b. name, address, and phone number of owner, if different;
- c. name, address, and phone number of contractor;
- d. proposed uses for the site;
- e. type, dimensions, and estimated cost of development proposed;
- f. site topography and improvements; and
- g. other information deemed appropriate by the local permitting official.

All permit applications must have a site plan drawn to scale which shows:

- a. dimensions of site;
- b. size and location of existing and proposed structures or alterations;
- c. setbacks;
- d. elevation contours in mean sea level (HGVD);
- e. delineation of the 100-year flood elevation and boundary; and
- f. proposed elevation of the lowest floor and method of elevation, if applicable.

All applicants shall agree in writing to provide an Elevation Certificate completed by a registered professional engineer or surveyor to certify the as-built lowest floor of a structure which must be elevated to or above the Flood Protection Elevation. An Elevation Certificate must be submitted before a Certificate of Use and Occupancy may be issued. Work undertaken prior to submission of the certification is at the applicants risk. For enclosed areas below the Flood Protection Elevation, a requirement to install water equalizing vents as specified in Section 6.2 of this Ordinance. If an improvement to an existing structure is proposed, adequate information on the cost of the improvement and the market value of structure before the improvement, must be supplied to the local permitting official to allow a determination of the value of the substantial improvement. The local permitting official may use tax assessment records to determine the value of the substantial improvement. Within the 100 year floodplain, permits shall be tracked by property location to determine if the cumulative value of improvements constitutes substantial improvement of a structure.

Section 3.3 Subdivision Proposals

In addition to the information required in Section 3.2, an applicant for subdivision in the nontidal floodplain shall submit a plan to demonstrate that a building site for each lot is outside of the 100-year floodplain. The plan for utility ingress, stormwater drainage structures, road access, and other rights of way shall be evaluated in light of the site characteristics.

Section 3.4 Issuance of Permit

Considerations - Prior to issuance of a permit, the local permitting official shall confirm the location of the project relative to floodways and floodplains based on information required under Section 3.2 of this Ordinance and information required under Section 3.2 of this Ordinance and FEMA maps, and shall note on the permit the proper elevation to which the lowest floor of proposed structures must be elevated. In approximate floodplain where a 100-year flood elevation is not available, the applicant shall be required to obtain such elevation. The applicant must agree to secure all other required permits, an Elevation Certificate, Floodproofing Certificate, engineering analysis, or other required verifications deemed appropriate by the local permitting official.

Permits shall be granted by the local permitting official only after determining that the proposed development will be in complete conformance with the requirements of this Ordinance.

Dam Safety - The applicant is urged to exercise caution when proposed improvements are to be located downstream of existing or proposed dam, stormwater

management or other water retention systems. Downstream development within the dam break flood waive of dam known to the local permitting official shall be denied unless the dam meets the design standards for a high hazard dam as determined by the appropriate state and federal agencies.

After Issuance and During Construction - After issuance of a permit, no changes shall be made to the application, permit, or any of the plans, specifications, or other documents submitted with the application without the written approval of the local permitting official. A copy of the permit or other verification must be displayed at the construction site during construction activity.

Work on the permitted activity shall begin within 180 days of the issuance of the permit, or the permit shall expire, unless a written extension is granted by the local permitting official. Work shall be completed within one year of the date of the permit unless a greater time is specified in the permit or a written extension is granted.

During construction, the local permitting official or an authorized representative shall inspect the site to determine that the work is in compliance with the permit. Any work found to be noncompliant must be corrected before any additional work is undertaken.

Record of Permits - A record of all floodplain permits shall be maintained and be available upon request by the Federal Emergency Management Agency or its authorized agent (Water Resources Administration) during periodic assessments of this community's participation in the National Flood Insurance Program. All documents needed to support any permit action, such as Elevation Certificates, map amendments or revisions, variance actions, shall be available for review during these assessments.

Section 3.5 Fees.

An application fee of twenty-five dollars (\$25.00) shall accompany each application.

Section 3.6 Violations, Penalties, Continuing Offenses

A violation of this Ordinance is declared to be illegal and shall be enforced civilly. Any person, firm or corporation who fails to obtain a permit and/or fails to comply with the provisions of the Ordinance is subject to a civil penalty in the form of a civil fine of Five Hundred (\$500.00) Dollars for each day of violation of this Ordinance. Each and every day during which the violation continues shall be deemed a separate offense. The total civil penalty may not exceed the sum of Ten Thousand (\$10,000.00) Dollars.

If the local permitting official shall find any of the provisions of this Ordinance being violated, he shall:

- a. notify the Federal Insurance Administrator and the Water Resources Administration within 30 days after the issuance of any violation which requires a fine or court appearance;
- b. notify in writing by certified mail, the owner or person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it;
- c. order discontinuance of illegal use of buildings or structures, removal of illegal buildings or structures or of alterations or structural changes thereto; discontinuance of any illegal work being done; and
- d. unless compliance is met within a reasonable time, take any other action authorized by this Ordinance to insure compliance with or prevent violations of its provisions.

Section 3.7 Conditioned Permits for Accessory Structures and Garages

A conditioned permit may be issued at the discretion of the local permitting official when the 300 square foot exemption is exceeded for accessory structures up to a total size of 600 square feet. In order to qualify, the structure's use must be incidental to the primary structure, and it can be used only for limited storage and parking of vehicles. The provisions of Section 6.6 of this Ordinance must be met.

A conditioned permit is subject to the applicant's completion of a Non-conversion Agreement stating that the use of the accessory structure may not change from that permitted. A statement of the greater flood risk and possibly higher flood insurance premiums must be included. In addition, a recordation on the deed or Memorandum of Land Restriction must be made as described in Section 7.2, stating that the permitted structure may not be used for human habitation without first complying with the construction requirement of this Ordinance and must be equipped with the proper water equalizing vents.

ARTICLE IV - ESTABLISHMENT OF FLOODPLAIN ZONES

Section 4.1 Identification of Flood Zones

The regulatory floodplain shall be those areas of the Town of Sharpsburg which are subject to the 100-year flood, delineated on the most recent revision of the community's Floodway Maps and Flood Insurance Rate Maps (FIRM) and described in the Flood Insurance Study (FIS) prepared by the Federal Emergency Management Agency (FEMA). Floodway Maps and FIS, if available for the community, must be used.

Section 4.2 Floodplain Zones

A community may have the nontidal floodplain zones:

- a. Floodway Fringe - that part of the floodplain outside of the floodway.
- b. Floodway - reserved to carry the waters of the 100-year flood.

Nontidal floodplains may have detailed engineering study data, profiles, and water surface elevations, or may have approximate delineations only.

Section 4.3 Floodplain Boundaries

Floodplain Zone Determination - The local permitting official will determine the floodplain zone in which the development activity is proposed using the Floodway Maps and FIS if available, or, if not, by using the FIRM. Without prior approval from FEMA, the community shall use no other data to enforce floodplain management regulations. Where map boundaries and elevations disagree, elevations prevail, with no approval from FEMA required.

Approximate Floodplain Determination - For development proposed in the approximate floodplain (no water surface elevations or floodway data provided), the applicant must use the best available information to determine the elevation of the 100-year flood and the extent of the floodway, and must delineate these on the site plan submitted for approval.

For existing lot of record or new subdivisions with up to five (5) lots, if no data are available, the point-on-the-boundary method may be used. In this method, the distance is scaled from a reference point at the site to the edge of the 100-year floodplain boundary indicated on the FIRM. An elevation of the 100-year flood is determined at that point by survey.

For new subdivisions, the applicant must have the 100-year flood elevations certified by a registered professional engineer based on hydrologic and hydraulic analyses which include a floodplain analysis.

Unmapped Streams - In cases in which development is proposed in the vicinity of unmapped streams, State permits may be required and applicants are advised to seek a determination from the State.

ARTICLE V - DEVELOPMENT REGULATIONS IN FLOODPLAIN ZONES

In order to minimize excessive flood damage and to allow for the protection of the natural and beneficial floodplain functions, the following provisions shall apply to all development, new construction, and substantial improvements to existing structures in all floodplain zones. If a structure is in more than one zone, the more stringent provisions shall apply to the entire structure. The specific requirements contained in Article VI also apply to development in this Article. Any approved development shall comply with all other zoning, environmental, water quality and sanitary regulations, as well as applicable State and federal requirements.

Watercourses - In all floodplain zones, any development which proposes to alter a watercourse must obtain a variance prior to the issuance of any permits. All permit conditions for encroachment in the floodway must be met and adverse impacts to aquatic resources must be minimized. Adjacent communities and property owners, FEMA, and the Maryland Water Resources Administration must be notified by the applicant before any modification may occur to watercourses. Any activity falling within the 100-year nontidal floodplain may require a waterway construction permit from the Water Resources Administration.

Wetlands - Encroachment by development into wetlands is not allowed without State and federal permits. Sediment, Erosion Control, Stormwater Management and any land disturbance permitted in the flood plain may require a stormwater management and sediment and erosion control plan in accordance with State and local regulations. The plan must include design of land contours that will not increase surface water runoff onto neighboring properties.

PART A - FLOODWAY FRINGE

Section 5.1 General

Before a permit is issued, the applicant shall demonstrate that new structures cannot be located out of the floodway fringe and that encroachments onto the floodway fringe are minimized where alternatives exist for the parcel of land in question.

Section 5.2 Elevation Requirements - New and Substantially Improved Structures

All new or substantially improved residential and nonresidential structures, including manufactured homes, shall have the lowest floor elevated to or above the Flood Protection Elevation. Basements are not permitted. Horizontal expansions which increase the footprint and that are less than substantial shall also have the lowest floor

elevated to or above the Flood Protection Elevation. The elevation of the lowest floor shall be certified by a registered surveyor or professional engineer on the Elevation Certificate, after the lowest floor is in place. Enclosures below the Flood Protection Elevation must be constructed with water equalizing vents to meet the specifications of Section 6.2.

Section 5.3 Fill

The placement of more than 600 cubic yards of fill per parcel/lot in the floodplain is prohibited except by variance. Elevating buildings by other methods must be considered unless 600 cubic yards or less of fill are required. An applicant shall demonstrate that fill is the only alternative to raising the building to at least the Flood Protection Elevation, and that the amount of fill used will not affect the flood storage capacity or increase flooding onto neighboring properties.

In the event buildings on adjacent properties are known or determined to be subject to flooding under current conditions, the local permitting official may require submission of hydrologic and hydraulic analysis to adequately demonstrate the effects of the proposed fill. The conditions described in Section 6.8 must be met whenever fill is used.

PART B - FLOODWAYS

Section 5.4 General

Floodways shall be reserved to carry the discharge of the 100-year flood. With the exception of necessary public facilities such as roads, bridges and essential utilities as defined in this ordinance, new development shall not be permitted in the floodway.

Any development in the floodway which may result in any increase in water surface elevations or change to the floodway must be submitted to FEMA for a Conditional Letter of Map Revision. Hydrologic and hydraulic analyses based on existing floodway models and performed in accordance with standard engineering practices and certified by a registered professional engineer, licensed by the State of Maryland, must be submitted. Failure to receive this letter shall be grounds for denial of the permit.

An alternative analysis must be prepared for any development in the floodway before a permit may be issued. The provisions of Part A above, as well as Part B, apply to floodways.

Section 5.5 Alternative Analysis Requirement

Before a permit may be issued, an applicant shall submit an alternative analysis which demonstrates that:

- a. no reasonable alternatives exist outside the floodway;
- b. encroachment in the floodway is the minimum necessary;
- c. the development will withstand the 100-year flood without significant damage; and
- d. the development will not increase downstream or upstream flooding or erosion.

Section 5.6 Existing Structures

Existing structures in the floodway shall be substantially improved only by variance and if they can be brought into conformance with this Ordinance without increasing the footprint. Minor additions (less than substantial) must be elevated to the Flood Protection Elevation on pilings or columns. In the event of substantial damage, the applicant shall submit an alternative analysis to determine if the structure can be relocated out of the floodplain where alternatives exist for the parcel of land in question. Where replacement structures cannot be relocated, they shall be limited to the footprint of the previous structure and must comply with the elevation requirements of Section 5.2 of this Ordinance.

Section 5.7 Obstructions

Structures or fill which may impede, retard, or change the direction of the flow of flood waters, or any materials that may be carried downstream to cause damage shall not be placed in the floodway. Fences, except four (4) wire fences, shall not be placed in the floodway.

ARTICLE VI - SPECIFIC REQUIREMENTS

Section 6.1 Placement of Buildings and Materials

All structures permitted in the floodplain shall be oriented so as to offer the least resistance to the flow of flood waters.

Materials which are buoyant, flammable, explosive, hazardous to health, or which at times of flooding may be injurious to human, animal, or plant life, shall not be stored below the Flood Protection Elevation.

Section 6.2 Enclosures Below Lowest Floor

Buildings which have been elevated and have fully enclosed areas below the Flood Protection Elevation (other than basements), as well as garages and accessory structures which are not elevated (Section 6.6), shall be constructed with water equalizing vents which meet or exceed the following standards:

- a. a minimum of two openings on different walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
- b. the bottom of all openings shall be no higher than one foot above grade;
and
- c. openings may be equipped with screens, louvers, valves, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters to equalize hydrostatic forces on the walls.

Fully enclosed areas below the Flood Protection Elevation shall be used solely for parking of vehicles, access to the building, or storage. If such areas are enclosed, a Non-conversion Agreement, as described in Section 3.7, must be signed by the applicants, bearing a legal description of the site location and stating that the use of the accessory structure may not change from that permitted. A statement of the greater flood risk and possibly higher flood insurance premiums must be included. In addition, a recordation on the deed or Memorandum of Land Restriction must be made as described in Section 7.2, stating that the permitted structure may not be used for human habitation without first complying with the construction requirements of this Ordinance and must be equipped with the proper water equalizing vents.

Section 6.3 Manufactured Houses and Manufactured Home Parks

New manufactured homes and manufactured home parks are prohibited in the floodplain. In the floodway fringe, replacement, or substantially improved manufactured homes, whether in a manufactured home park or not, shall comply with Section 5.2 of this Ordinance.

Methods of anchoring shall include use of over-the-top and frame ties to ground anchors. Pilings or columns designed and properly reinforced in accordance with local building codes shall be used to maintain storage capacity of the floodplain.

Manufactured homes repaired or replaced because of substantial damage due to flooding or other causes must fully comply with Section 5.2.

Owners of manufactured home parks or subdivisions that are partially or fully within the floodplain must file an evacuation plan with the local emergency management agency.

Section 6.4 Anchoring

All structures shall be firmly anchored in accordance with acceptable engineering practices to prevent flotation collapse, and lateral movement during flooding. All air ducts, large pipes, and storage tanks located below the Flood Protection Elevation shall be firmly anchored to resist flotation.

Section 6.5 Utilities

Electric - All electric utilities to the building side of the meter, both interior and exterior to the building, are regulated by this Ordinance. Distribution panel boxes must be at least 2 feet above the Flood Protection Elevation. All outlets and electrical installations, such as heat pumps, air conditioners, water heaters, furnaces, generators, distribution systems, must be installed at or above the Flood Protection Elevation.

Plumbing - Toilets, sinks, showers, water heaters, pressure tanks furnaces, and other permanent plumbing installations must be installed at or above the Flood Protection Elevation.

Gas - Gas meters and gas appliances must be installed at or above the Flood Protection Elevation.

Water Supply and Sanitary Facilities - Water supply distribution and sanitary disposal collection systems must be designed to minimize or eliminate the infiltration of flood waters into the systems or discharges from the systems into flood waters and shall

be located and constructed so as to minimize or eliminate flood damage. On-site sewage disposal systems shall comply with State Health Department requirements.

Essential utilities - Essential utilities as defined herein are exempt from the terms of this ordinance.

Section 6.6 Accessory Structures and Garages

Accessory structures and garages should be located out of the floodplain or elevated to or above the Flood Protection Elevation. When these measures are not feasible the following apply:

- a. the floor of the structure must be at or above grade;
- b. the structure must be firmly anchored to prevent flotation.

Attached Garages - A garage attached to the main structure shall be elevated to the greatest extent possible, but may be permitted as an exemption to the strict elevation requirement if it is used solely for parking of vehicles, storage, or building access and is no more than 600 square feet in area. Attached garages must meet the venting requirements of Section 6.2, have all interior walls, ceilings, and floors below the Flood Protection Elevation unfinished, and have no machinery or electric devices or appliances located below the Flood Protection Elevation. A Non-conversion Agreement as described in Section 3.7 must be signed by the property owner stating that the garage may never be used for human habitation without first becoming fully compliant with this Ordinance.

Detached Garages and Accessory Structures - An accessory structure or detached garage may be permitted as an exemption to the elevation requirement if it is less than 300 square feet, used solely for parking of vehicles and limited storage, meets the venting requirements of Section 6.2, has all interior wall, ceiling, and floor elements below the Flood Protection Elevation unfinished, and has no machinery, electric devices, or appliances located below the Flood Protection Elevation. A Non-conversion Agreement must be signed by the property owner.

An accessory structure or a detached garage between 300 square feet and 600 square feet may be permitted below the Flood Protection Elevation only by a conditioned permit described in Section 3.7.

A Non-conversion Agreement must be signed by the applicant bearing a legal description of the site location and stating that the use of the accessory structure may not change from that permitted. A statement of the greater flood risk and possibly higher flood insurance premiums must be included. The agreement shall include restriction that the permitted structure may not be used for human habitation without first complying

with the construction requirements of this Ordinance and must be equipped with the proper water equalizing vents.

An accessory structure or garage larger than 600 square feet in area must be elevated properly or be able to meet all applicable requirements under the variance procedure in Section 7.1 of this Ordinance.

Section 6.7 Recreational Vehicles

Recreational vehicles located within the floodplain may be exempted from the elevation and anchoring requirements provided that are:

- a. located on the site less than 30 consecutive days per year;
- b. fully licensed and ready for highway use; and
- c. properly permitted.

A recreational vehicle is ready for highway use if it is on its wheels and jacking system, is attached to the site only by quick disconnect type utilities and securing devices, and has no permanently attached additions.

Section 6.8 Fill

Fill is discouraged because storage capacity is removed from floodplains. Other methods of elevating structures should be considered first, and fill used only if other methods are not feasible. Fill may not be placed in the floodway. Fill may not be placed in nontidal wetlands without the required State and federal permits.

Fill must consist of soil and rock materials only. Dredged material may be used as fill only upon certification of suitability by a Maryland registered professional engineer. Fill slopes shall be no greater than two horizontal to one vertical. Flatter slopes may be required where velocities may result in erosion.

The use of fill shall not increase flooding or cause drainage problems on neighboring properties.

ARTICLE VII - VARIANCES

Section 7.1 Reasons for Granting

The Appeal Board shall hear and decide appeals and requests for variances from the requirements of this Ordinance. Conditions may be attached to the Appeals Board decision, and their decisions must be consistent with sound floodplain management. Variances may not be issued for any encroachment in floodways if any increase in the 100-year flood levels will result.

Variances shall only be issued upon:

- a. a showing of good and sufficient cause;
- b. a determination that failure to grant a variance would result in exceptional hardship (other than economic) to the applicant; and
- c. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing local and State laws or ordinances.

The Appeals Board decision shall be the minimum necessary, considering the flood hazard, to afford relief. In considering a variance action, comments from the State Coordinating Office of the Water Resources Administration must be taken into account and maintained with the permit file.

Section 7.2 Conditions

Variances may not be granted for the following:

- a. placement of fill or any development in the floodway if any increase in flood levels would result; or
- b. new structures in the floodway.

For any variance issued, a letter shall be sent to the applicant indicating the terms and conditions of the variance, the increased risk to life and property in granting the variance, and the increased premium rates for National Flood Insurance coverage. The applicant shall be notified in writing of the requirement for recordation of these conditions on the deed or Memorandum of Land Restriction prior to obtaining a permit, and of the need to secure all necessary permits as conditions for granting a variance. The

Memorandum is described in Article 3-102 and 3-103 of the Real Property Article of the Annotated Code of Maryland.

The local permitting official shall maintain a record of all variance actions and the justification for their issuance, as well as all correspondence. This record must be submitted as a part of the Biennial Report to FEMA, and be available for periodic review.

Section 7.3 Functionally Dependent Uses

Variances may be issued for new construction and substantial improvements for the conduct of a functionally dependent use. A functionally dependent use cannot perform its intended purpose unless it is located or carried out in close proximity to water, it includes only docking facilities and boat repair facilities, but does not include long-term storage or related manufacturing facilities. The variance may be issued only upon sufficient proof of the functional dependence. The provisions of Section 7.1 and 7.2 must be met and the structure must be protected by methods that minimize flood damage up to the Flood Protection Elevation and must create no additional threats to public safety. This may require methods of "wet floodproofing" which allow the structure to flood without significant damage. Methods of floodproofing must not be dependent upon human intervention such as manual sealing of doors and windows.

ARTICLE VIII - -EFFECTIVE DATE AND SUBSEQUENT AMENDMENTS

This Ordinance is effective as of November 1, 1993. This Ordinance shall be amended as required by the Federal Emergency Management Agency, 44 Code of Federal Regulations. All subsequent amendments to this Ordinance are subject to approval of the Federal Emergency Agency and the Maryland Department of Natural Resources.

**Chapter 12 - RESOLUTION AND DESIGNATION OF
FORFEITING AUTHORITY PURSUANT TO ARTICLE 27-
SECTION 297 (SENATE BILL 419)**

RECITAL

The General Assembly of the State of Maryland enacted Senate Bill 419 (Article 27, Section 297 of the Annotated Code). Said act became effective July 1, 1989.

The referred to provision of the Annotated Code requires that a "Forfeiting Authority" be designated by the Mayor and Council of various municipalities.

The State's Attorney for Washington County, Maryland presently handles all forfeitures of motor vehicles, tangible personal property, and real estate.

The City/Town attorney for the municipality presently handles forfeitures of currency within the corporate limits and within the geographical confines of the County.

The purpose of this Resolution and Agreement is to designate a forfeiting authority, to-wit: the State's Attorney for Washington County, Maryland an/or his or her designee as indicated herein.

NOW, THEREFORE, BE IT RESOLVED, pursuant to the provisions of Article 27, Section 297 of the Annotated Code of Maryland, that the State's Attorney for Washington County, his or her agents, servants, employees or designees, be and are hereby designated and constituted as "Forfeiting Authority" pursuant to the provisions of the aforementioned section of the Annotated Code.

BE IT FURTHER RESOLVED that the said forfeiting authority shall only be applicable to the forfeitures of motor vehicles, tangible personal property of whatsoever nature or kind, and forfeitures of real estate.

BE IT FURTHER RESOLVED that the Town/City attorney shall continue to act as the "Forfeiting Authority" of the Town/City for the purposes of forfeiting monies, currency, or any evidences of same.

BE IT FURTHER RESOLVED that all acts of said individuals, up to and including this date, pertaining to forfeitures are hereby ratified and confirmed.

Chapter 13 - **FOREST CONSERVATION ACT**

RECITAL

The Mayor and Council of Sharpsburg, a municipal Corporation existing under and by virtue of the laws of the State of Maryland is required pursuant to the provisions of the Annotated Code of Maryland, Natural Resources, Subtitle 16, Forest Conservation, Section 5-1603, Local Forest Conservation Program, to develop a Forest Conservation Program or to assign the obligations under the Forest Conservation Act to the Board of County Commissioners of Washington County, Maryland, with the concurrence of the Board of County Commissioners and the Department of Natural Resources.

The Mayor and Council of Sharpsburg, by its duly constituted legislative body has determined to assign said obligations to the Board of County Commissioners of Washington County, Maryland, pursuant to the provisions of said act.

NOW, THEREFORE, BE IT RESOLVED, ENACTED, AND ORDAINED; that pursuant to the provisions of the Annotated Code of Maryland, Natural Resources, Subtitle 16, Section 5-1603(a)(3) Local Forest Conservation Program, the Mayor and Council of Sharpsburg, a municipal Corporation with Planning and Zoning Authority, does hereby request to and does assign its obligations under said act which is commonly known and designated as the Forest Conservation Act to the Board of County Commissioners of Washington County, Maryland, (Washington County); and

BE IT FURTHER RESOLVED, ENACTED, AND ORDAINED; that the Mayor is hereby authorized and directed to execute the attached assignment of obligations under the Forest Conservation Act Agreement; and

BE IT FURTHER RESOLVED, ENACTED, AND ORDAINED; that the Mayor is further authorized and directed to execute any other instruments and documents necessary to effectuate the purposes of this Ordinance, Resolution, and Agreement.

ASSIGNMENT OF OBLIGATION UNDER THE FOREST CONSERVATION ACT

Pursuant to Section 5-1603(a)(3) of the Forest Conservation Act, the Municipality of the Mayor and Council of Sharpsburg (Sharpsburg) hereby requests to assign its obligations under the Forest Conservation Act to the Board of County Commissioners of Washington County, Maryland (Washington County).

The Municipality of The Mayor and Council of Sharpsburg (Sharpsburg) agrees to abide by the program developed by the Board of County Commissioners of Washington County, Maryland (Washington County) pursuant to the County's obligations under the Forest Conservation Act. The Municipality of The Mayor and

Council of Sharpsburg (Sharpsburg) further agrees to coordinate its approval activities, if any, for subdivision plans, local government projects, grading and sediment control permits with the Forest Conservation Program of the County. The Municipality of the Mayor and Council of Sharpsburg (Sharpsburg) will not approve a subdivision or project plan or issue a grading or sediment control permit until the County has approved the Forest Conservation Plan for that activity.

Mayor and Council of Sharpsburg

BY: S/ _____
Christopher Yeager, Mayor

Pursuant to Section 5-1603(a)(3) of the Forest Conservation Act, the Board of County Commissioners of Washington County, Maryland (Washington County) acknowledges its intent to implement a Forest Conservation Program and hereby agrees to accept the assignment of The Mayor and Council of Sharpsburg's (Sharpsburg) obligations under the Forest Conservation Act and to approve Forest Conservation Plans within the Municipality of the Mayor and Council of Sharpsburg (Sharpsburg).

BOARD OF COUNTY COMMISSIONERS
OF WASHINGTON COUNTY, MARYLAND

BY: S/ _____
County Administrator

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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.

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.

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 of 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.

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.

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 or 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.

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."

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.

- 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 (see also Section 503.)	75	8	20
- 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)
21. Bed and Breakfast (see Article 5 Section 514)

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).

- 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.

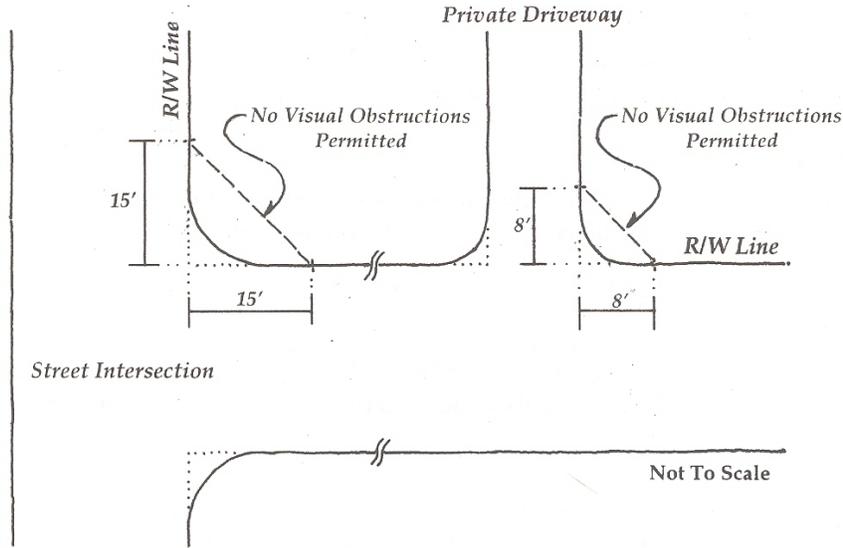
503 FRONT YARD REDUCTION

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.

505 ACCESSORY STRUCTURES IN SIDE AND REAR YARDS



Required minimum street and driveway sight lines

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) The owner shall reside on the premises.
- 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) One off-street on-site parking space required per nonresident employee. On lots where this requirement cannot be met, see Section 514, B.
- 8) No cooking facilities shall be permitted in any guestroom.
- 9) Upon conversion of an existing dwelling to a bed and breakfast facility, no additional entrance shall be permitted in the front facade.
- 10) No guest shall be permitted in a bed and breakfast facility more than ten (10) consecutive nights.
- 11) No more than four (4) adult persons shall simultaneously occupy any one guest room in a bed and breakfast facility.
- 12) There shall be no more than two (2) of nonresident employees in or about the bed and breakfast facility.
- 13) 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.
- 14) A sidewalk shall be placed connecting the parking area to the main building.
- 15) Must meet the requirements of the Maryland State Fire Marshal's Office.

B. Required off-street, on-site parking spaces shall be located on the same lot where the principal structure is located, except as follows, through a long term lease or other suitable arrangement;

- 1) Required parking spaces serving the Bed and Breakfast 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.

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>
<u>Parallel</u>	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 OF APPLICATIONS AND RECOMMENDATIONS TO THE BOARD OF ZONING APPEALS

- 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.

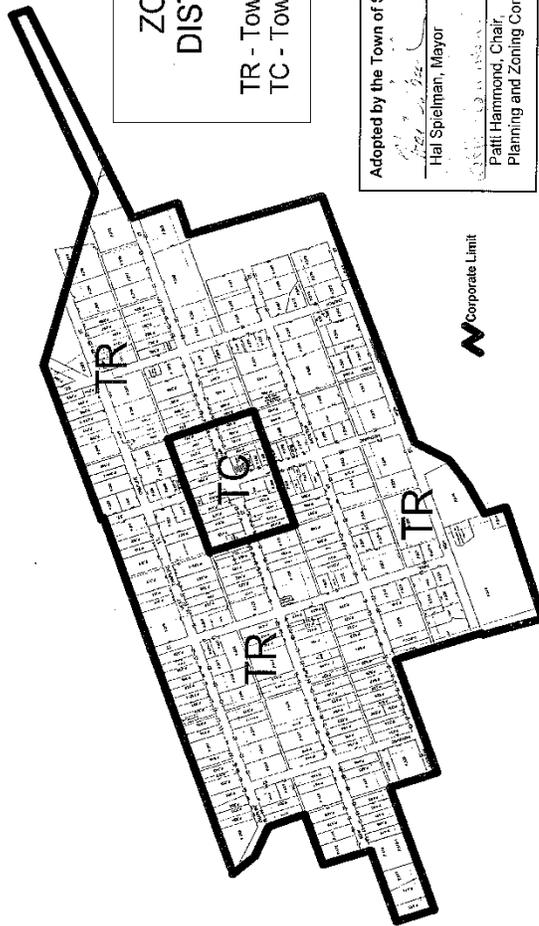
1110 CIVIL ACTIONS

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

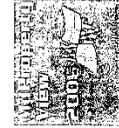
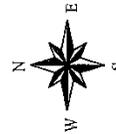
Adopted by the Town of Sharpsburg

Har Spielman, Mayor _____ Date _____

Patti Hammond, Chair, _____ Date _____
Planning and Zoning Commission



Corporate Limit



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



Maryland Department of Planning

**Chapter 15 - AN ORDINANCE PERTAINING TO THE
SALARIES AND COMPENSATION OF THE MAYOR AND
COUNCIL OF THE TOWN OF SHARPSBURG,
MARYLAND**

Section 1. The Town Charter provides that each of the officers of the Town of Sharpsburg shall receive an annual salary as may be ordained by the Mayor and Council. This ordinance is passed for the specific purpose of establishing the salaries of the Mayor, Assistant Mayor, and council members as set forth herein.

Section 2. Salaries.

A. The Mayor. The Mayor shall receive the sum of Seventy-Five (\$75.00) Dollars per Quarter year, plus \$2.00 for every meeting attended in his official capacity other than the regular monthly meetings of the Mayor and council, payable from the date of the commencement of his or her term of office.

B. The Assistant Mayor. The Assistant Mayor shall receive the sum of Seven Dollars and Fifty Cents (\$7.50) per annum, plus \$2.00 for every meeting attended in his official capacity other than the regular monthly meetings of the Mayor and Council, payable from the date of the commencement of his or her term of office.

C. Council Members. Each council member elected to the Council of the Town of Sharpsburg shall receive the sum of Seven Dollars and Fifty Cents (\$7.50) per annum, plus \$2.00 for every meeting attended in his official capacity other than the regular monthly meetings of the Mayor and Council, payable from the date of the commencement of his or her term of office.

D. The Mayor. Assistant Mayor and Council Members shall receive an expense allowance each month as may be determined by Resolution of the Mayor and Council at a duly constituted meeting.

Section 3. Definitions.

1. Mayor and Council. The Mayor and Council as used herein, shall be defined as the Mayor, Assistant Mayor, and five Council Members as provided in the Charter of the Town of Sharpsburg, Maryland, as adopted together with any subsequent amendments.

2. Officers. The term "Officers," as used herein, shall be defined to mean all persons to whom this Ordinance is applicable, to-wit: The Mayor and Council.

Chapter 16 - SIDEWALKS AND STREETS

ARTICLE ONE - Streets, Sidewalks and Pavements.

- Section 1-1. Responsibility for curb and sidewalk construction and repair. Abutting Property Owners' Responsibility.
- Section 1-2. Notice to Owner.
- Section 1-3. Construction Permits to reconstruct, repair, or remove and sidewalk.
- Section 1-4. Standards and Specifications.
- Section 1-5. Applicability of Ordinance: Repair of Existing Sidewalks, Driveways, Curbs, Curb Cuts.
- Section 1-6. Notice: Method of Notice.
- Section 1-7. Special Exceptions/Exemptions.
- Section 1-8. Removal from Sidewalks: Snow.
- Section 1-9. Guarding of openings; Openings to be kept closed.
- Section 1-10. Material not to be left on streets.
- Section 1-11. Trees to be trimmed and Obstruction of view at intersections, etc.
- Section 1-12. Burning Leaves, Paper, etc.
- Section 1-13. Tampering with barricades and signs on or across streets, etc.
- Section 1-14. Removal of grade indicators, etc.

ARTICLE TWO - Grass and Weeds.

- Section 2-1. Grass and Weeds, in general.
- Section 2-2. Notice to destroy weeds: Generally.
- Section 2-3. Service of Notice.
- Section 2-4. Prohibited acts: penalty for Violations.

ARTICLE THREE - Plantings in sidewalks and curb strips.

- Section 3-1. In General.

ARTICLE FOUR - Digging In and Restoration of Street Surfaces

- Section 4-1. Precautions while digging Streets.
- Section 4-2. Digging up Streets, Alleys, Curbs and Pavements for Water, Sewerage, and/or any other Type of Pipe Lines, Wiring or Cables.
- Section 4-3. Digging up Streets, Alleys, Curbs and Pavements for Water, Sewerage, and/or any other Type of Pipe Lines, Wiring or Cables-Responsibility of Contractor.

ARTICLE ONE - STREETS, SIDEWALKS AND PAVEMENTS

Section 1-1. Responsibility for curb and sidewalk construction and repair. Abutting Property Owners' Responsibility.

A. In conjunction with the construction of new, replacements, or substantial replacement of residential or commercial improvements within the Town, sidewalks, curbs, driveways and any other improvements located along and in the public streets and thoroughfares within the corporate limits of the Town of Sharpsburg shall be constructed and paved with some material authorized by The Mayor and Council of Sharpsburg or its designee, except as otherwise provided in this Ordinance.

B. Same shall be constructed in accordance with specifications that may be established by the Mayor and Council from time to time or by some other person, agency, or designee authorized by the Mayor and Council to establish said standards.

C. Said improvements shall be constructed at the expense of the owner of any lot, lots, or parts of a lot abutting existing streets or future streets, as the same are presently approved for subdivision or as may hereafter be approved for subdivision or as may hereafter be approved for subdivision and/or construction within the corporate limits of the Town.

D. All sidewalks, curbs, driveways and any other improved or unimproved areas located along and in the public streets and thoroughfares within the corporate limits of the Town of Sharpsburg shall be maintained and kept in a reasonable state of repair at the expense of the abutting property owner of such lot, lots, or parts of a lot as referenced to herein, free and clear of any obstruction, debris, or hazard to the public.

E. In addition to the above, the owners of lots located along and in the public streets and thoroughfares within the corporate limits of the Town of Sharpsburg may be directed by the Mayor and Council to construct sidewalks and curbs along and the public streets and thoroughfares within the corporate limits of the Town of Sharpsburg, which sidewalks and curbs shall then be constructed and paved with some material authorized by The Mayor and Council of Sharpsburg or its designee.

Section 1-2. Notice to Owner.

A. When the owner of any lot, lots, or part of a lot, as referred to herein, is given notice to construct or repair a sidewalk, curb, driveway or any part thereof, as provided for in this Ordinance, and if said owner fails to comply with said notice within ninety (90) days after said notice is given, then said person, firm or corporation failing to observe the provisions of this section shall be deemed guilty of a violation of this Ordinance and subject to the penalty provisions set forth herein.

B. In addition thereto, in the event that the owner of any lot, lots, or part of a lot refuses or neglects to comply with said notice within the period set forth in reference to the repair of said sidewalks, curbs, driveways or other improvements, after having been ordered to do so by the Mayor and Council or its authorized designee, the Mayor and Council is hereby authorized to cause said work to be performed in a proper manner, and the cost of same shall be charged to the owner of the abutting property. The cost of said work shall be considered a lien upon the real estate and shall be collected in the same manner as are town taxes or by suit at law.

C. In addition to the reasonable charges that may be incurred in the enforcement and collection of same, any other costs and expenses that may be incurred shall be charged to the owner of the abutting property.

Section 1-3. Construction Permits to reconstruct, repair, or remove any sidewalk.

It shall be unlawful for any person to construct, reconstruct, repair, or remove any sidewalk, curb, or driveways or any portion of same which is in a public right of way, without first obtaining a permit to do so in compliance with this Ordinance. Permits shall be issued by the Town Clerk or designee of the Mayor and Council in the same manner as are all other permits and there shall be a basic administrative fee established from time to time by Resolution of the Mayor and Council.

Section 1-4. Standards and Specifications.

A. All sidewalks, footwalks, driveways, curbs and curb cuts shall be constructed as set forth in this Ordinance in accordance with standards and specifications as shall be established by the Mayor and Council or their duly authorized representative or designee. Said standards and specifications, once promulgated, shall be adopted by Resolution of the Mayor and Council and shall be incorporated and made a part of this Ordinance as from time to time may be revised or changed.

B. Such standards and specifications shall be furnished to each person, firm or corporation obtaining a permit under this Ordinance. Each notice or notification given to owners or occupants to construct, reconstruct or repair sidewalks, driveways, curbs or other improvements shall also contain a copy of the standards and specifications referred to herein.

Section 1-5. Applicability of Ordinance: Repair of Existing Sidewalks, Driveways, Curbs, Curb Cuts.

Sidewalks, driveways, curbs, curb cuts, and improvements to any portion of the public right of way of the Town of Sharpsburg after the effective date of this Ordinance shall be constructed, reconstructed or repaired in accordance with the standards and specifications established as set forth in the preceding Section. Sidewalks and curbs along the public streets within the corporate limits of the Town shall be constructed and maintained in a reasonable state of repair by the abutting property owner. If an abutting property owner is given notice by the Mayor and Council to construct or repair a sidewalk or curb, or both, and said owner fails to comply with said notice within ninety days after said notice is given, such violation is subject to the general penalty provisions of this Code.

Section 1-6. Notice: Method of Notice.

A. The notice provided for in this Ordinance shall be given by personally serving a copy of the same on said abutting property or occupant or by sending a copy thereof by registered or certified United States mail addressed to said owner/occupant as the same appears on the tax records of the Town of Sharpsburg.

B. In the event that service cannot be made in accordance therewith, notice shall also be placed in a conspicuous manner and posted upon the property.

Section 1-7. Special Exceptions/Exemptions.

It is recognized that certain areas within the geographical confines of the Town are not susceptible to construction of sidewalks and/or curbs from a practical standpoint. The Mayor and Council are hereby granted the authority to make certain special exceptions upon application of the abutting property owners in reference to the requirement of construction of sidewalks and/or curbs upon proper application therefore. The Mayor and Council in establishing those standards are also hereby authorized, if it deems it advisable and in the best interest of the public, to provide for certain areas to be exempt and to provide for special exceptions to application of Sections 1-1 to 1-6 herein.

Section 1-8. Removal from Sidewalks: Snow.

A. Every person in charge or control of any building or lot of land within the Town fronting or abutting on a paved sidewalk, whether as owner, tenant, occupant, lessee or otherwise, shall remove and clear away or cause to be removed and cleared away snow and ice from a path, upon and along so much of said sidewalk as is in front of or abuts on said building or lot of land. Snow and ice shall be removed from all sidewalks within the Town on the same day of the cessation of any fall of snow, sleet or freezing rain or within the first ten (10) hours of daylight after the cessation of any such fall, whichever period is longer.

B. However, in the event that snow and ice on a sidewalk has become so hard that it cannot be removed without the likelihood of damage to the sidewalk, the person charged with its removal shall, within the time mentioned in paragraph A hereof, cause enough calcium chloride (CaCl₂) or some comparable substance to be put on the sidewalk to make travel thereon reasonable safe and shall then, as soon thereafter as weather permits, cause a path in said sidewalk to be thoroughly cleaned.

C. Deposit of ice and snow restricted. No person shall deposit or cause to be deposited any snow or ice on or against a fire hydrant or on any sidewalk, roadway or loading and unloading area of a public transportation system, except that snow and ice may be windrowed on public roadways incident to the cleaning thereof.

Section 1-9. Guarding of openings; Openings to be kept closed.

(A) No owner of any improved or unimproved property fronting on any sidewalk or pavement shall allow any cellar area or other opening extending outward into the pavement or sidewalk to the depth of one foot or more to remain open unless guarded by a railing at least three feet high.

(B) No person shall allow any cellar door or other opening on any street or sidewalk to remain unclosed.

Section 1-10. Material not to be left on streets.

No person shall allow or permit any firewood, coal, logs, lumber of any kind, bricks, stones or building materials to remain on any of the streets, roadways, or alleys of the Town for a longer period than eight hours, except as otherwise provided by applicable law.

Section 1-11. Trees to be trimmed and obstruction of view at intersections, etc.

(A) No person shall allow, suffer or permit the limbs of any tree on his property to extend over any sidewalk of the Town at a height of less than eight (8) feet from the sidewalk, or over any street, alley, or highways at a height of less than fifteen (15) feet from the street, alley, or highway.

(B) No person shall allow, suffer or permit any tree or shrubbery, its foliage or branches thereof, or any structure, to obstruct the view of the public using the streets, alleys and highways of the Town.

Section 1-12. Burning Leaves, Paper, etc.

No person shall allow, suffer or permit the burning of any waste paper, leaves, straw or other loose material in any public street, highway or alley in the Town.

Section 1-13. Tampering with barricades and signs on or across streets, etc.

It shall be unlawful for any person to tamper with, remove or destroy barricades, barriers, trestles, signs, or signals placed across or on any streets, alleys or highways of the Town if the same have been authorized by the Mayor and Council or other authorized official of the Town. The Mayor and Council may delegate this authority.

Section 1-14. Removal of grade indicators, etc.

It shall be unlawful for any person to molest, destroy or remove any stake, post, stone, or pin planted or placed in any street, alley, highway or sidewalk for the purpose of indicating the grade thereof, or in connection with its construction, maintenance or repair.

ARTICLE TWO - GRASS AND WEEDS

Section 2-1. Grass and Weeds, in general.

No person shall permit vegetation, other than shade trees and/or grass, to grow between the pavement and curb in front of his or her real property, except as otherwise permitted by the ordinances of the Town.

Section 2-2. Notice to destroy weeds: Generally.

Notwithstanding the penalty provisions of this Ordinance, and in addition thereto, when the Mayor and Council of Sharpsburg, or its designated representative ascertains that the owner, occupant or person in control of any lot or lands within the Town has allowed or maintained on such lot or lands any growth of weeds or other rank vegetation to a height over twelve (12) inches or that noxious weeds, are growing on lands within the Town, it shall cause written notice to be served upon the owner, lessee, agent or tenant having charge of any lot or lands within the Town, that weeds or other rank vegetation have been allowed to grow to a height exceeding twelve (12) inches, and that such weeds or other vegetation must be cut to a height not exceeding three (3) inches, or that noxious weeds are growing on such lands and that they must be destroyed by any of the methods, and that the cutting of such weeds or other rank vegetation or the destruction of noxious weeds must be commenced within five (5) days after the service of such notice. If any such order of the representative of or from the Town issued under the authority of the provisions of this section is not complied with within ten (10) days after the service thereof, then the Town may cause said growth of weeds or other rank vegetation to be cut to a height not exceeding three (3) inches or shall cause said noxious weeds to be destroyed and the expense incurred incident to said order shall be paid by the owner of said lot or land, and until so paid shall be a lien upon the reality and recoverable as other liens on realty in the Town.

Section 2-3. Service of Notice.

Service of the notice to any person or persons within the Town may be made by registered mail or by any designated representative of the Town. If the owner or other person having charge of such lands is a nonresident whose address is known such notice shall be sent to his address by registered mail. If the address of any owner or person having charge of such lot or lands cannot be located after diligent search it shall be sufficient to post such notice on the lot or land.

Section 2-4. Prohibited acts: penalty for violations.

A. It shall be unlawful for any owner, occupant or person in control of any lot or parcels of land within the Town to allow or maintain on any such lot or parcel of land any growth of grass, weeds or other rank-vegetation to a height over twelve (12) inches; and every owner, occupant or person in control of any lot or lands within the Town shall cause said lot or lands to be kept free from ragweeds, poison ivy and all other noxious weeds which are generally known to be either allergenic, a skin irritant or toxic when ingested. Such weeds may be destroyed by spraying with a chemical compound, by cutting and removal, by plowing under, or by such other method recommended by the department of health.

B. The above requirement may be modified at the discretion of the Mayor and Council of Sharpsburg after consultation with the Washington County Health Department in the following cases:

- (1) On any lot not within a residential subdivision;
- (2) On any existing lot of record not developed residentially;
- (3) On any existing lot of record undeveloped, whether commercially or residentially, adjacent to a developed lot or recorded residential lot;
- (4) On bona fide agricultural property, natural wooded areas, unimproved areas of more than 3 acres, areas publicly owned and maintained as natural areas, public and/or private open-space areas covenanted with the Town as recreational areas to be maintained in their natural state.

In no case shall noxious weeds as described above be allowed to grow within twenty (20) yards of any property line adjoining an occupied residential, commercial, or industrial property. The requirement shall not apply to wetlands, bird or game sanctuaries, and nature study areas.

C. Any owner, occupant, person, corporation, partnership, or association in control of any lot or parcel of land within the Town who shall fail to comply with any of the provisions of this section shall upon conviction thereof be fined in any such amount not exceeding fifty dollars (\$50.00). Each day's violation shall constitute a separate offense.

ARTICLE THREE - -PLANTINGS IN SIDEWALKS AND CURB STRIPS.

Section 3-1. In General.

A. It shall be unlawful for any person to plant or set a tree or trees within any sidewalk or a plot between the sidewalk and curb along any public street or highway, subject to the following conditions:

(1) Any tree planted within any sidewalk or plot between the sidewalk and the curb shall be of a species approved for streetside planting by the Mayor and Council. The approved species are: Amur maple (*Acer palmatum*); Bradford pear (*Pyrus calleryana*); Columnar maple (*Acer rubrum conica "scalon"*); Goldenrain tree (*Koelreuteria paniculata*); Green ash (*Fraxinus pennsylvanica*); Japanese maple (*Acer palmatum*); Little leaf linden (*Tilia cordata "greenspire"*); London plane (*Platanus acerifolia*); Red Oak (*Quercus borealis*); Sawtooth oak (*Quercus acutisima*); and Sweetgum (*Liquidambar styraciflua*).

(2) Additional species may be approved by the Mayor and Council. Application should be made to the Mayor and Council if a tree of a species not listed above is proposed to be planted within a sidewalk or in a plot between the sidewalk and the curb.

B. It shall be unlawful for any person to plant or set any vegetation in a plot between the sidewalk and curb along any public street or highway, except lawn grasses, low growing ground covers, low growing flowers and trees as permitted in this Section.

C. It shall be unlawful for any person to plant, suffer or permit to grow any vegetation within a sidewalk, except trees as permitted in this Section.

ARTICLE FOUR - - DIGGING IN AND RESTORATION OF STREET SURFACES

Section 4-1. Precautions while digging streets.

Any person or persons who may now have or may hereafter receive a permit to dig up or disturb any of the streets, lanes or alleys of the Town for the purpose of laying or relaying railroad tracks or repairing the same or constructing walls, ditches, drains, sewers, tunnels, conduits, laying pipes or wires of any kind or repairing the same, shall be, and they are hereby required to take all proper measures to insure the safety of

passing vehicles and pedestrians from loss of life or injury to person or property by the erection of a fence or barrier by day, and in addition thereto by displaying one or more lanterns at night at the portion or portions of the streets, lanes or alleys of the Town so dug up or disturbed.

Section 4-2. Digging up streets, alleys, curbs and pavements for water, sewerage, and/or any other type of pipe lines, wiring or cables.

A. Any and all persons wishing to dig up any street, lane or alley for laying, repairing, replacing or construction of any water, sewerage or/and any other type of pipe lines, wiring or cables, shall first apply for a permit from the Mayor and Council. Said permit must be obtained before any street, alley, curb, pavement can be dug up. Each permit shall cost ten dollars (\$10.00), which sum shall be paid in full before the permit is issued.

B. After pipes, and/or wires and cables are placed in ditches, dirt or crushed stone must be placed in the open ditch to a depth of not more than twelve (12) inches, and to be tampered each time twelve inches thereof is put in the ditch. The said ditch to be filled to within ten (10) inches of top of surface, said ditch shall have a shelf twelve (12) inches wide and ten (10) inches deep on each side of the ditch walls. Six (6) inches of grade "A" or "B" reinforced concrete, reinforcement to be steel construction wire, is to be placed over entire area of ditch; then after a waiting or curing period of three (3) days, at least four (4) inches of bituminous concrete or equivalent material to the top of the surface of the street, lane or alley, with said bituminous concrete being rolled with a roller specified for said purpose; and be it further enacted that tunneling is required wherever required by the Mayor and Council in lieu of creation of a ditch.

C. All above mentioned projects may be inspected on behalf of the Town or by a qualified person or persons approved in advance by the Mayor. Such approval shall be in writing.

Section 4-3. Digging up streets, alleys, curbs and pavements for water, sewerage, and/or any other type of pipe lines, wiring or cables - responsibility of Contractor.

The contractor shall be held responsible for the condition of the street, lane or alley in the area where any excavation was made for a period of one (1) year from the date of completion of the project.

**Chapter 17 - CONCERNING THE ADMINISTRATION OF
THE WASHINGTON COUNTY STORMWATER
MANAGEMENT ORDINANCE IN THE TOWN OF
SHARPSBURG**

WHEREAS, the Board of County Commissioners of Washington County, Maryland adopted an Ordinance entitled, "An Ordinance for Stormwater Management in Washington County, Maryland" (hereinafter called the "County Ordinance") on July 24, 1984, pursuant to Md. Ann. Code, Environment Article, Sections 4-201, et. seq. (formerly subtitle 8-11A of the Natural Resources Article); and

WHEREAS, The Mayor and Council of Sharpsburg have reviewed the County Ordinance, and believe it to be satisfactory to protect the lives and property of the residents of the Town; and

WHEREAS, The Board of County Commissioners of Washington County, Maryland have agreed to provide for the administration and enforcement of the County Ordinance within the Corporate limits of the Town;

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of Sharpsburg, pursuant to Md. Ann. Code, Environment Article, Section 4-201, et. seq. and the regulations promulgated thereunder, that The Mayor and Council of Sharpsburg hereby adopts the County Ordinance, and be it further

RESOLVED, that the Board of County Commissioners of Washington County, Maryland, the Washington County Engineering Department and, if applicable, other appropriate and designated agencies thereof, shall administer and enforce the provisions of the County Ordinance within the corporate limits of the Town.

Chapter 18 - VEHICLES AND TRAFFIC

- Section 1: Parking
 - Section 2: Speed limit.
 - Section 3: Parallel parking required; exceptions.
 - Section 4. Disabled Vehicles
-

Section 1. Parking.

Parking of vehicles is prohibited as follows:

- (a) When a section of the curb along any street is colored red by the application of paint or other material by property authority, no person shall park a vehicle there at any time.
- (b) Within twenty feet of the driveway entrance to any fire or ambulance station.
- (c) When signs prohibiting parking are erected, no person shall park a vehicle in any such designated place.
- (d) When signs prohibiting parking are erected upon approaches to hazardous or congested places, no person shall park a vehicle in any such designated place.
- (e) Within an alley or upon a street or highway in such a manner or under such conditions as to block the free movement of vehicular traffic.
- (f) When signs are erected or posted in each block giving such notice, no person shall park any vehicle, either attended or unattended, upon any street over which any scheduled parade shall pass, notice of such scheduled parade having been given to the public by such signing at least seventy-two hours in advance.
- (g) On an intersection street within eight feet of the intersection of such street with an alley.
- (h) On an intersecting street within three feet of the intersection of such street with a driveway.
- (i) Within eight feet of any fire hydrant.
- (j) Nearer than three (3) feet to the vehicle parked in front of or in the rear thereof.

(k) For the duration of an emergency, within twenty-five (25) feet of any sign or device posted by an authorized official of the Town, (including the Police Department or Fire Department) indicating that parking is prohibited because of an emergency, unless such sign or device sets forth in the area in which parking is prohibited because of an emergency, then, in such cases, within such designated area.

(l) At a location contrary to directions given by any member of the Police Department or Fire Department to keep clear fire lines or police lines or to facilitate the flow of traffic at or near the scene of a fire, accident or other emergency, provided that the prohibition of parking at such a location is made known to the person so parking.

(m) In front of any barricade or sign that has been placed for the purpose of closing a street.

(n) At any place on any street posted with signs properly designating work being performed by or for the Town, including but not limited to the construction, repair and cleaning of streets. However, where street cleaning is to be performed, signs restricting parking must be posted by a duly designated Town employee or agent at least twenty-four (24) hours prior to the scheduled time of cleaning.

(o) Any vehicle requiring a license plate on any public street within the Town or on any property owned or leased by the Town, unless said vehicle shall have affixed or attached thereto currently valid registration plates displayed as required conspicuously on said vehicle in accordance with the applicable provisions of the Transportation Article of the Annotated Code of Maryland or, in the case of a nonresident, the state, county or territory where such vehicle is registered.

(p) Upon any roadway, street, lane or alley for the principal purpose of displaying it for sale, for or greasing or repairing such vehicle, including the elevation of such vehicle on repair ramps or jacks, except for repairs necessitated by an emergency or to render the vehicle operable in order to remove it to a service garage.

(q) In a space designated for the handicapped unless the vehicle bears the appropriate special registration, plate or permit.

(r) Wherever a space shall be marked off on any street for the parking of an individual vehicle, every vehicle there parked shall be parked within the lines bounding such space.

Section 2. Speed limit.

Unless otherwise established and posted by appropriate authority, it shall be unlawful for any person to operate any vehicle over any street, alley or highway in the Town at a rate of speed in excess of twenty-five miles per hour.

Section 3. Parallel parking required; exceptions.

No person shall stand or park a vehicle in a roadway other than parallel with the edge of the roadway, headed in the direction of traffic and with the curbside wheels of the vehicle within twelve (12) inches of the edge of the roadway, except that upon those streets or public parking lots which have been marked or signed for angle parking, vehicles shall be parked at the angle to the curb indicated by such mark or signs.

Section 4. Disabled Vehicles.

A. It shall be unlawful for any person to permit, suffer or allow a vehicle owned or operated by that person to be left hanging upon a crane, chain, cable or blocked up from its own wheels at any time upon the streets and alleys within the limits of the Town, except for the purpose of changing a "flat" tire or in connection with immediate towing to a garage or other place for repairs.

B. It shall be unlawful for any person to permit, suffer or allow a vehicle owned or operated by that person to be parked or placed upon the streets, alleys or highways within the Town if said vehicle is without current valid registration plates or is disabled from operating under its own power. For purposes of this subsection, a vehicle is not disabled from operating under its own power unless the vehicle is parked or placed in one, or substantially the same location for more than forty-eight hours.

Chapter 19 - **ENFORCEMENT OF PARKING REGULATIONS**

- I. PARKING PROHIBITED.
 - II. VIOLATIONS AND PENALTIES
 - III. IMPOUNDMENT OF VEHICLE.
 - IV. FLAGGING SYSTEM.
 - V. LEGAL STATUS.
-

AN ORDINANCE REGULATING AND AUTHORIZING THE BOARD OF COUNTY COMMISSIONERS OF WASHINGTON COUNTY, MARYLAND TO ENFORCE CERTAIN PARKING REGULATIONS WITHIN THE CORPORATE LIMITS OF THE TOWN OF SHARPSBURG, MARYLAND

RECITAL

The Mayor and Council of Sharpsburg, a municipal Corporation, existing under and by virtue of the Laws of the State of Maryland, through its Council as its duly authorized legislative body, have determined that it is in the best interests of the Town of Sharpsburg and the citizenry to authorize the Board of County Commissioners of Washington County, Maryland to regulate parking in the corporate limits under certain conditions.

The Board of County Commissioners of Washington County, Maryland, a body politic, wherein Sharpsburg is geographically located, has adopted a certain Resolution regulating parking of vehicles under certain conditions. Said Resolution was adopted and is recorded among the Acts, Ordinances and Resolutions in the office of the Clerk of the Circuit Court for Washington County, Maryland. A copy of same is attached, made a part hereof, and incorporated herein by reference.

Article 23A, Section 2(b) of the Annotated Code of Maryland provides that municipal corporations can and may adopt Ordinances and authorize the county wherein said municipality is located to administer and/or enforce said legislation on its behalf.

The Mayor and Council of Sharpsburg, by its duly constituted legislative body, is desirous of having said County administer and enforce same pursuant to the provisions of the aforementioned Resolution.

NOW, THEREFORE, pursuant to the provisions of the Charter of the Mayor and Council of the Town of Sharpsburg, the Constitution of the State of Maryland, and the general Laws of the State of Maryland, it is hereby

RESOLVED, ENACTED and ORDAINED as follows:

1. The Mayor and Council of the Town of Sharpsburg do hereby adopt this Resolution adopted December 15, 1992, by the Board of County Commissioners of Washington County, Maryland, as attached and as it may be subsequently amended in the future.

2. This Ordinance shall be and is hereby declared to be applicable and effective within the corporate limits of the Town. The Mayor and Council of the Town of Sharpsburg hereby requests and authorizes the Board of County Commissioners (Washington County) to implement, enforce and regulate said Ordinance in accordance with the provisions set forth therein as follows:

"WHEREAS, Article 25, Section 2 of the Annotated Code of Maryland provides that the Board of County Commissioners of Washington County, Maryland, may by Resolution regulate the parking of vehicles on the public highways provided appropriate notice thereof is given to the public by posting or otherwise, and further providing that any person violating any regulation adopted pursuant to the authority conferred in this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not exceeding One Hundred Dollars (\$100.00) for any such violation; and

WHEREAS, the Board of County Commissioners believe that in order to promote traffic safety and to prevent accidents caused by the indiscriminate stopping or parking of vehicles on or along the highways of Washington County, that it is necessary to pass a Resolution regulating parking on the public highways; and

WHEREAS, by Resolution dated August 21, 1984, the Board of County Commissioners adopted a Resolution regarding parking or stopping on the public highways, said Resolution having been filed September 26, 1984 among the Acts, Ordinances, and resolutions of Washington County in Liber 3, folio 991, in the Office of the Clerk of the Circuit Court of Washington County, Maryland; and

WHEREAS, the Board of County Commissioners passed a further Resolution regulating parking in handicapped spaces, said Resolution having been passed February 6, 1990 and recorded on February 7, 1990 in Acts, Ordinances, and resolutions for Washington County in Liber 4, folio 263, in the Office of the Clerk of the Circuit Court for Washington County, Maryland; and

WHEREAS, the Board of County Commissioners desires to pass a Resolution incorporating the previous two Resolutions and providing further for the impounding of vehicles registered in Maryland and other states for failure to satisfy outstanding County parking violations, the purpose of which is to ensure payment of fines for parking violations occurring in Washington County, Maryland; and

WHEREAS, the Board of County Commissioners believes that in order to promote traffic safety and to prevent accidents caused by the indiscriminate parking of vehicles on or along the public highways of Washington County, and to assist the handicapped in parking, and furthermore to ensure payment of fines for a violation of this Resolution, it is necessary to pass and approve this Resolution.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Washington County, Maryland, pursuant to the power and authority granted to the Board of County Commissioners of Washington County, by Article 25, Section 2 of the Annotated Code of Maryland, that the parking of vehicles on the public highways will be restricted, limited, or prohibited on or along any road or highway or portion thereof in said County as provided hereinafter:

I. PARKING PROHIBITED.

A. The roads or sections thereof where parking or stopping is to be restricted, limited, or prohibited, shall be designated by appropriate signs.

B. A person may not park a motor vehicle in a space designated for the handicapped unless the vehicle bears a special registration, plate, or permit issued by the State of Maryland.

C. A person may not park a motor vehicle along any road in said county in which parking or stopping is restricted, limited, or prohibited as designated by the appropriate sign.

II. VIOLATIONS AND PENALTIES.

Any person, corporation, or firm violating this Resolution of the Board of County Commissioners of Washington County, Maryland, relating to the parking or stopping of vehicles along roads in Washington County shall be guilty of a misdemeanor and shall be subject to a fine as provided below:

A. SCHEDULE OF FINES

Violation	Payment on or before Payment Date	Payment after 10 days following payment date	Payment after 30 days following payment date	Additional fine for impoundment	Flagged
Handicapped parking	\$100.00	\$125.00	\$150.00	\$75.00	\$50.00
All other parking violations	\$24.00	\$30.00	\$35.00	\$65.00	\$40.00

B. Each day of violation of any of the provisions of this Resolution shall be considered a separate offense.

C. The penalties provided for in this provision shall be in addition to and not in derogation of any other penalties provided for, and all towing and/or storage charges as provided for in the Annotated Code of Maryland.

D. The roads or sections thereof where parking or stopping or handicapped parking is to be restricted, limited, or prohibited, shall be designated by appropriate signs.

III. IMPOUNDMENT OF VEHICLE

A. When any vehicle is found parked or moving at any time on any roadway of Washington County against which there are three (3) or more unsatisfied or unpaid County parking citations when at least thirty (30) days have elapsed since the issuance of the third unsatisfied County parking citation, the Washington County Sheriff's Department or any person, official or enforcement officer assigned to enforce this Resolution is hereby authorized and empowered to remove or cause to be removed said vehicle, either by towing, conveying, or in any other manner, and impound the same in a place designated by the Sheriff or as may be set forth in other provisions of this Resolution.

B. Whenever a vehicle has been impounded pursuant to the provisions of this section, notice of the removal and storage of said vehicle shall be mailed within twenty-four hours, Saturday and Sunday, and holidays excepted, by registered or certified mail to the last registered owner of the vehicle. The notice shall contain at least the following information:

1. The complete description of the vehicle, including the year, make, model and vehicle identification number.
2. A statement advising the vehicle has been impounded pursuant to the provisions of this section and the exact location where the vehicle is held.
3. The date the owner has the right to reclaim the vehicle. This date shall be thirty (30) days within receipt of the notice, upon payment of all fines, penalties, and towing, preservation and/or storage charges resulting from impounding the vehicle.
4. Notice that the failure of the owner to exercise his right in the time provided shall be considered a waiver of all rights,

title and interest in the vehicle and be considered a consent to the sale of the vehicle at public auction.

C. The registered owner of a vehicle having against it three (3) or more violations as set forth herein shall be presumed to be the driver of the vehicle at the time the County Parking Citations was issued and shall be responsible for the offense(s) and the cost of impoundment except where the use of the vehicle was obtained by the operator without the owner's consent.

D. The owner shall have a right to contest the impoundment of the vehicle by requesting a hearing. The request for a hearing shall be granted within forty-eight (48) hours, excluding Sundays and holidays, from the time the owner filed the application for hearing before the hearing officer.

E. The hearing shall be held before a hearing officer consisting of the following: any shift supervisor, corporal or above of the Washington County Sheriff's Department.

F. The findings of the hearing officer shall be in writing. A copy of the same shall be furnished to the owners.

G. If it is determined by the hearing officer that the vehicle should not have been impounded, the owner shall not be required to pay the towing, storage and preservation charges provided for under this section to secure the release of said vehicle. If the charges were paid prior to the hearing, a refund shall be made to the owner who by providing proof they have paid said charges, in order to have the vehicle released.

H. The decision of the hearing officer shall not have any effect on or be considered a determination of the outstanding unsatisfied County Parking Citations against the impounded vehicle.

I. The owner is and shall be entitled to a hearing in the District Court on said parking charges.

J. A vehicle impounded pursuant to this Resolution will be released to its lawful owner (or person entitled to possession and upon payment of all accrued fines and cost for each outstanding unsatisfied County Parking citation against said vehicle or the depositing of the same pending the outcome of said hearing and trial in the District Court of Maryland on the outstanding citation(s). In addition thereto, the charges for impounding, as set forth herein, shall be paid or deposited prior to said hearing.

K. If, following a trial in the District Court of Maryland or other tribunal, a not-guilty verdict is entered upon any of the violations charged against the stored vehicle, notwithstanding the ruling of the hearing officer with respect to the impounding of the vehicle, all charges advanced as having accrued upon the vehicle by

virtue of its impounding, including the collateral advanced for the violation(s) upon which a not-guilty verdict was entered, shall be returned to the person who advanced such sums upon presentation of the official receipt issued at the time said vehicle was released.

M. Whenever any vehicle impounded pursuant to the provisions of this Resolution shall remain unclaimed by the owner or other person legally entitled to possession thereof for a period of thirty (30) days from the date that a notice to the owner was received as set forth herein, the Washington County Sheriff's Department shall sell such vehicle at a public auction in accordance with the provisions of Title 23 of the Transportation Article of the Annotated Code of Maryland.

N. The proceeds of the sale shall be applied in the following order:

1. Satisfaction of all liens of record.
2. Payment of any expenses of giving notice and advertising and holding the same, including reasonable attorneys fees.
3. All storage, towing and preservation charges.
4. All fines and administrative charges outstanding against the owner of the vehicle impounded under this Resolution.
5. The balance to the registered owner of the vehicle and lienholder of record, if applicable.

IV. FLAGGING SYSTEM

A. The Washington County Sheriff's Office will "flag" Maryland vehicle registrations for non-payment of parking or impoundment fines through the Motor Vehicle Administration. Motor vehicle owners will be denied a registration renewal until the parking or other fines enumerated in this Resolution are paid.

B. The Records Coordinator of the Washington County Sheriff's Department will maintain a list using W.C.S.D. Form A-74, Flagging Request, indicating the registration number, month/year of expiration, of those vehicles for which the owner has failed to pay a parking citation within 35 days from issuance. Once notified of the request for flagging, the Motor Vehicle Administration will notify the owner by mail of the "flag" and the procedure to be followed before a removal is issued. The owner will be required to appear at the Sheriff's Department to pay the fine. The Records Coordinator will issue a receipt to be used at the Motor Vehicle Administration as proof of payment in acquiring the registration renewal. After the payment is received, the Records Coordinator will request the flagged registration be purged.

C. The flagging request prepared by the Records Coordinator will be forwarded to Data Processing, City Hall, Hagerstown, no later than the sixth of each month. In order for this procedure to be effective, it is essential the information entered on the Parking Citations be complete, accurate, and legible.

D. A separate fine for flagging will be imposed above and beyond the fine for the parking violation in the event flagging is necessary to obtain payment of the parking fine.

V. LEGAL STATUS

A. Validity. Should any paragraph, clause, or provision of this Resolution be declared, by a court of competent jurisdiction, to be invalid, such action shall not affect the validity of the Resolution as a whole or any part hereof other than the part so declared to be invalid, each paragraph, clause, and provision hereof being declared severable.

B. The previous Resolutions relating to parking on public roads passed August 21, 1984, and February 6, 1990, are hereby repealed.

BE IT FURTHER RESOLVED that the effective date of this Resolution shall be the date of adoption by the Board of County Commissioners of Washington County, Maryland.

ADOPTED this 15th day of December 1992." - miscellaneous

Chapter 20 - MISCELLANEOUS

Article One.

- Section 1-1. Urinating in public places.
- Section 1.2. Injury to lighting systems or appliances.
- Section 1-3. Tombstones or monuments. Defacing of cemeteries.
- Section 1-4. Snowballs and other missiles.
- Section 1-5. Telegraph poles, trees, etc. not to be used for advertisement.
- Section 1-6. Acetylene and gas, use of and storage.

Article Two.

- Section 2-1. Citation - "Sharpsburg Noise Ordinance."
- Section 2-2. Noise Prohibition.
- Section 203. Penalty.

Article Three.

- Section 3-1. Nuisance, in general.
- Section 3-2. Nuisances - outbuildings, stables, and slaughterhouses.
- Section 3-3. Penalty.

ARTICLE ONE.

Section 1-1. Urinating in public places.

No person shall urinate or commit any nuisance in any street, lane or alley within the Town.

Section 1-2. Injury to lighting systems or appliances.

No person shall deface, injure, or tamper with any of the property, poles, wires, fixtures, lamps, apparatus or appliances belonging to or connected with the electric light plant or system of the town, whether owned by the Town or some other person or entity; or deface, injure, or tamper with any lamp, lamppost, or fixture; or tie or fasten any horse or other animal to any such lamp, lamppost, or fixture.

Section 1-3. Tombstones or monuments. Defacing of cemeteries.

No person shall deface or mutilate any tombstone or monument or despoil any evergreen or shrubbery in any graveyard or cemetery in the town.

Section 1-4. Snowballs and other missiles.

No person shall throw or cause to be projected or throw any stone, brick, snowball or any other missile within the corporate limits of the Town.

Section 1-5. Telegraph poles, trees, etc. not to be used for advertisement.

No person shall affix upon any of the poles required and used by any telegraph, telephone, electric distribution, cable television or any other utility, or upon any tree, any paper, pasteboard, or metallic substance whether the same shall be intended or advertisement or any other purpose, unless (1) affixed by rope, cord or string or similar material; (2) is maintained in place for no longer than 48 hours or such longer time period approved in advance by the Mayor and Council; and (3) is approved in advance by the Mayor and Council.

Section 1-6. Acetylene and Gas, use of and storage.

No person shall haul, store, or use acetylene or other flammable gas in a tank or other container if the tank or other container is in the lying down position or in any other position so that the valve on the tank or other container is not at the highest vertical position.

ARTICLE TWO.

Section 2-1. Citation "Sharpsburg Noise Ordinance."

This article shall be known as and may be cited as the "Sharpsburg Noise Ordinance."

Section 2-2. Noise Prohibition.

It shall be unlawful for any person to make, continue or cause to be made within the Town any unreasonably loud, disturbing and unnecessary noise, or noises of such character, intensity or duration as to be detrimental to the life or health of any individual.

Section 2-3. Penalty.

If any person allows said noises to exist, such person, upon conviction thereof, shall be fined not less than \$25.00 nor more than \$500.00 for each offense. A separate offense shall be deemed to be committed on each day during or on which said noise is permitted to exist.

ARTICLE THREE.

Section 3-1. Nuisance, in General.

It shall be unlawful for the owner or occupant of any lot or premises within the corporate or sanitary limits of the town to create or produce any unwholesome or offensive odor or any unusual dust, smoke or noises so as to be a nuisance to the neighborhood where the lot or premises is situated.

Section 3-2. Nuisances - Outbuildings, stables and slaughterhouses.

It shall be unlawful for the owner or occupant of any lot or premises within the corporate or sanitary limits of the town and having thereon any hogpen, stable, pigsty, kennel or other outbuilding for the custody of domestic animals or any privy, to keep or permit the same or any part thereof or any lot or yard attached thereto or adjacent thereto to become foul or filthy so that the odor therefrom may become offensive to persons in the neighborhood or to persons passing along any of the public streets or alleys of the town.

Section 3-3. Penalty.

If any person violates any of the terms of this article, such person, upon conviction thereof, shall be fined not less than \$25.00 nor more than \$500.00 for each offense. A separate offense shall be deemed to be committed on each day during or on which said violation is permitted to exist.

Chapter 21 - **PEDDLERS AND VENDING MACHINES**

Article One - Ordinance Regulating Hawkers and Peddlers

- Section 1-1. Purpose.
- Section 1-2. Definitions.
- Section 1-3. Application for permit.
- Section 1-4. Permit fees.
- Section 1-5. Regulations of activities of permittees.
- Section 1-6. Food vendors - pushcart peddlers.
- Section 1-7. Pushcart employee - application form.
- Section 1-8. Exhibition of pushcart peddler or pushcart employee permit.
- Section 1-9. No transfer of permit.
- Section 1-10. Suspension and revocation of permits.
- Section 1-11. Waiver of permit fees.

Article Two - Vending Machines

- Section 2-1. Vending machines on sidewalks.

ARTICLE ONE - ORDINANCE REGULATING HAWKERS AND PEDDLERS

Section 1-1. Purpose.

Ordinance for the purpose of regulating the practice of going in and upon private residences and the public ways of the Town of Sharpsburg, Maryland by solicitors, peddlers, hawkers, itinerant merchants, and transient vendors of merchandise, not having been requested or invited so to do by the owner or owners, occupant or occupants of the residence, or by invitation of the Town of Sharpsburg, Maryland, for the purpose of soliciting orders for the sale of goods, wares, merchandise, newspapers, books, pictures, periodicals, magazines, insurance, or foodstuffs, and/or for the purpose of demonstrating or advertising the same and/or for the disclosing of and/or peddling or hawking the same, is hereby declared to be a public nuisance, and misdemeanor.

Section 1-2. Definitions.

(a) Solicitor: A solicitor is any person, whether a resident of the Town of Sharpsburg or not, traveling either by foot, wagon, automobile, motor truck, or any other type of conveyance, from place to place, from house to house, or from street to street,

taking or attempting to take orders for sale of goods, wares, and merchandise, personal property of any nature whatsoever, for present or future delivery, or for services, whether or not such individual has, carries, or exposes for sale a sample of the subject of such sale, or whether he is collecting advance payment on such sales or not.

(b) Peddler: A peddler is any person, whether a resident of the Town of Sharpsburg or not, traveling either by foot, wagon, automobile, motor truck, or any other type of conveyance, from place to place, from house to house, or from street to street, carrying, conveying, or transporting goods, wares, merchandise, meat, fish, vegetables, fruits, truck garden or farm products or provisions, offering and exposing them for sale, or making sales and delivering articles to purchasers, or who, without traveling from place to place, sells or offers the same for sale from a wagon, automotive vehicle, railroad car, or other vehicle or conveyance. The word "peddler" shall include the words "hawker" and "huckster."

Section 1-3. Application for Permit.

Except as otherwise provided in this Ordinance, applications for permits by solicitors and peddlers shall be made to the Town Clerk, shall be sworn or affirmed and in writing, and shall contain the following information:

- (a) Name and physical description of applicant;
- (b) Applicants address;
- (c) A brief description of the nature of the business to be conducted and the goods to be sold, and, if the goods are farm or orchard products, a statement whether they are produced or grown by the applicant;
- (d) If applicant is employed, the name and address of the employer, together with credentials establishing exact relationship;
- (e) The length of time for which the right to do business is desired;
- (f) If a vehicle is to be used, a description of the same, together with vehicle license or registration plate number or other means of identification, including the State or registration of such vehicle.
- (g) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance, and, if so the nature of the offense, and the punishment or penalty assessed therefor;

(h) Such other information as the Mayor and Council of the Town of Sharpsburg, by regulation may deem reasonably necessary for the proper protection of the Town of Sharpsburg and its residents.

(i) Each applicant must file with his or her application two recent photographs of himself or herself, one of which shall be affixed to his or her permit when issued.

Section 1-4. Permit fees.

The fee for solicitors and peddlers shall be:

(a) Five Dollars (\$5.00) per day, Twenty-five Dollars (\$25.00) per quarter, or One Hundred Dollars (\$100.00) per year for all peddlers and solicitors having an established place of business or residence within the Town.

(b) Fifteen Dollars (\$15.00) per day, Fifty Dollars (\$50.00) per quarter, or Two Hundred Dollars (\$200.00) per year for all other peddlers and solicitors.

(c) Additional permits may be issued to employees of a permit holder on the payment of Fifteen Dollars (\$15.00) per year for each employee after application therefore has been filed. The application for employees is the same application as specified in Section 3 of this Ordinance.

Section 1-5. Regulations of activities of permittees.

A peddler or solicitor, or any person in his behalf, shall not:

(a) shout, make any outcry, blow a horn, ring a bell, or use any sound device or musical instrument, including any loud speaking radio or sound amplifying system, on any of the streets, alleys, parks, or other public places of the Town or on any private premises in the Town where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard on the streets, avenues, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares, or merchandise which such licensee proposes to sell;

(b) have any exclusive right to any location in the public streets, shall not be permitted a stationary location, and shall not be permitted to operate in any congested area where his operations might impede or inconvenience the public. For the purpose of this ordinance, the judgment of a police officer or other authorized official representative of the Town of Sharpsburg, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced;

(c) sell or offer for sale goods, wares, or merchandise from vehicles on any of the public streets of the Town, provided, however, that the prohibition herein contained shall not include the peddling from door to door or from vehicles, of fresh food products of farm or garden, nor bona fide deliveries of goods, wares, merchandise or food made on a regular route to regular customers;

(d) solicit or peddle on premises at any time when a sign has been posted on a building stating "No solicitors or peddlers," or words to that effect, except that a licensed solicitor or peddler may call upon the occupant of a residence at other times when he has received express prior permission from such occupant to do so;

(e) solicit within the Town for a contribution of funds religious, educational, community, recreational, or similar nonprofit purpose by means of direct personal contact in public places or upon public property without obtaining a permit as provided by this ordinance. Any peddling or soliciting as defined in this ordinance by means of representation that all or a portion of the proceeds thereof are to be used for a charitable, or similar nonprofit purpose, or are to be transmitted to any person, firm, or corporation for any such purpose, is unlawful unless a permit is first obtained as provided by this ordinance;

(f) cast, throw, distribute, deposit, scatter, pass out, give away, circulate, or deliver any commercial or business handbill, dodger, circular, or other advertising material or device to any residence or business, or leave the same on any porch, doorstep, or vestibule thereof, or in any yard or public hallway thereof, or on any vacant lot or other private property in the Town, without first having obtained the express consent or without the express request of an adult resident or occupant thereof;

(g) cast, throw, deposit, leave upon, distribute, scatter, pass out, give away, circulate, or deliver to any premises any commercial advertising sample or device or other merchandise of any kind, except into the hands of an adult person who resides upon or occupies such premises.

Section 1-6. Food vendors - pushcart peddlers.

(a) Pushcart Peddler. Any person in the Town of Sharpsburg engaged in the business of operating any wagon, cart or other vehicle ("Push-cart"), whether stationary or movable, wherein or wherefrom any food or foodstuffs are sold, served, distributed, offered for sale at retail, or given away to the public, whether consumed at said pushcart or elsewhere.

(b) Pushcart Employee. Any person hired or employed to operate a pushcart within the Town of Sharpsburg.

(c) It shall be unlawful for any person to engage in or carry on the business of pushcart peddler, or to operate, or cause or permit to be operated any pushcart upon any public street, sidewalk, alley, or any other public place in the Town of Sharpsburg, without first having obtained a permit from the Town after approval of the Push-cart by the Washington County Health Department or other appropriate Maryland licensing agency for such use.

(d) Every person desiring a pushcart peddler permit pursuant to this Ordinance shall file an application set forth in Section 3 of this Ordinance with the Town Clerk upon and shall pay a filing fee of Fifteen Dollars (\$15.00) which shall not be refundable.

(e) No pushcart peddler permit shall be issued unless the pushcart has a current, valid approval for such use from the Washington County (Maryland) Health Department or other appropriate Maryland licensing authority.

(f) Every permit issued pursuant to this section of this ordinance shall specify the location at which the pushcart peddler may operate.

(g) No person shall be employed to operate any pushcart upon any public street, sidewalk, alley, or other public place in the Town unless he or she holds a pushcart employee permit from the Town Clerk. Such permit shall be valid for one year from the date it is issued.

(h) All pushcarts shall be subject to and shall comply with any and all requirements for the construction, operation and maintenance of pushcarts as administered by the Washington County Health Department or other appropriate Maryland licensing authority.

Section 1-7. Pushcart Employee - application form.

Each applicant for a pushcart employee permit, other than the owner thereof, shall file an application with the Town Clerk and shall furnish the following information:

- (a) Name and residence address;
- (b) Written proof that the applicant is at least 18 years of age, or has an appropriate work permit;
- (c) Applicant's weight, height, and color of eyes and hair;
- (d) Place of birth;
- (e) Whether a citizen of the United States;

(f) Such other information pertinent to the operation of the proposed activity, not inconsistent with this Ordinance, as the Mayor and Council may reasonably require of the applicant.

(g) A fee of Five Dollars (\$5.00) shall accompany the application.

Each applicant must file with his or her application two recent photographs of himself or herself, one of which shall be affixed to his or her permit when issued. In the event the owner of the pushcart is the operator, the owner must file with his or her application two recent photographs of himself or herself, one of which shall be affixed to his or her permit when issued.

Section 1-8. Exhibition of Pushcart Peddler or Pushcart Employee Permit.

Upon demand by any police officer or other authorized representative of the Town, a pushcart peddler or pushcart employee shall exhibit the pushcart peddler permit so that the location of the pushcart may be checked and verified. A pushcart peddler or pushcart employee shall upon demand by any police officer or other authorized representative of the Town exhibit his or her permit and photograph for inspection.

Section 1-9. No transfer of permit.

A permit issued pursuant to this Ordinance is not transferable.

Section 1-10. Suspension and revocation of permits.

The Mayor may suspend or revoke for good cause any permit which has been issued pursuant to this Ordinance, if it is found, after a public hearing, that the permit holder has engaged in or been found guilty of any of the following acts:

(a) Fraud, misrepresentation, or false statement contained in the application for permit.

(b) Violation of provisions of this Ordinance or the applicable health laws and regulations of the State of Maryland.

On revocation of any permit as provided herein, no part of the license fee shall be returned.

Section 1-11. Waiver of permit fees.

Upon application for waiver of the permit fees provided for by this Ordinance, the Mayor and Council may exempt from such fees solicitors or peddlers for a charitable, religious, educational, community, recreational, or similar nonprofit organization. In case of the granting of such exemption, the permits required by this ordinance shall be issued for one year or other appropriate period of time as the Mayor and Council deems appropriate under the circumstances.

In case of granting of such waiver, the organization shall compile an accurate and complete list of the names, ages and addresses of all persons who may act as solicitor or peddlers for the organization. Such list shall be filed with the Town Clerk prior to the issuance of any permits. No photograph needs to be displayed on permits for which fees have been waived.

ARTICLE TWO - VENDING MACHINES

Section 2-1. Vending machines on sidewalks.

(a) It shall be unlawful for any person or persons to erect upon, over or along any street or alley any type of vending machine within the corporate limits of Sharpsburg, Maryland without first obtaining approval from the zoning administrator and a permit from the Mayor and Council.

(b) **Penalty.** Any person or persons failing to comply with the requirements of the preceding subparagraph shall be subject to a fine of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00) for each violation. Each day of noncompliance shall be considered a separate violation.

Chapter 22 - **GENERAL SANITATION/GARBAGE, RUBBISH AND REFUSE ORDINANCE**

Article One - General Sanitation

- Section 1-1. Deposit of filth prohibited.
- Section 1-2. Excrement from stables, etc.
- Section 1-3. Creating smoke and odor.
- Section 1-4. Removing night soil.
- Section 1-5. Clearing Chicken-houses, hog-pens, stables.
- Section 1-6. Stores sweeping, ashes, etc. not to be thrown in streets, etc.
- Section 1-7. Filthy and stagnant water, etc.
- Section 1-8. Burying dead animals.
- Section 1-9. Penalty.

Article Two - Sharpsburg Garbage, Rubbish and Refuse Ordinance

- Section 2-1. Citation.
 - Section 2-2. General provisions.
 - Section 2-3. Placement of containers in public areas.
 - Section 2-4. Waste containers in public areas.
 - Section 2-5. Depositing trash, etc. on streets prohibited.
 - Section 2-6. Responsibility for cleanup.
 - Section 2-7. Penalty.
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ARTICLE ONE - GENERAL SANITATION

Section 1-1. Deposit of filth prohibited.

No person shall cast, throw or deposit any carcass or any part thereof, or any garbage, excrement, filth, or other offensive matter from vaults, privies, cesspools, sinks or any other source into or on any lot, house, building or other place within the corporate or sanitary limits of the town, except that cattle or horse manure can be used as a garden fertilizer if plowed under within 24 hours after application.

Section 1-2. Excrement from stables, etc.

It shall be unlawful for the owner or occupant of any lot or premises within the corporate or sanitary limits of the town to suffer any excrement or other offensive matter

to drain or flow from any stable, hog pen or manure pile or from any other source or from any manufacturing establishment into any street, watercourse or onto any adjacent lot.

Section 1-3. Creating smoke and odor.

It shall be unlawful for any person or persons to destroy motor vehicles, or any part thereof, any rubber or any other objects, by fire which creates smoke and/or odor within the corporate limits of Sharpsburg, Maryland.

Section 1-4. Removing night soil.

It shall be unlawful for the owner or driver of any cart, wagon, or other vehicle used or employed in moving night soil, dirt, manure, garbage, refuse, or other offensive matter along or over the public streets or alleys of the town, to cause, suffer or permit any such material to be scattered upon or to fall upon any of public streets or alleys within the corporate or sanitary limits of the town.

Section 1-5. Cleaning chicken-houses, hog-pens, stables.

It shall be unlawful for the owner or occupant of any lot or premises within the corporate or sanitary limits of the town and having thereon any hog pen, stable, pigsty, kennel or other outbuilding for the custody of domestic animals or any privy, to keep or permit the same or any part thereof or any lot or yard attached thereto or adjacent thereto to become foul or filthy so that the odor therefrom may become offensive to persons in the neighborhood or to persons passing along any of the public streets or alleys of the town.

Section 1-6. Store sweeping, ashes, etc. not to be thrown in streets, etc.

It shall be unlawful for any person to throw, cast or place any ashes, truck dirt or sweepings, store dirt or sweepings or any other refuse substance of any trade, occupation or business, or of any other sort or kind, public or private, commercial or noncommercial, into or onto the public streets, alleys, watercourses, or any adjoining lot within the corporate or sanitary limits of the town.

Section 1-7. Filthy and stagnant water, etc.

A. It shall be unlawful for the owner or occupant of any lot or premises within the corporate or sanitary limits of the town to keep or permit stagnant water on any part thereof.

B. It shall be unlawful for the owner or occupant of any lot or premises within the corporate or sanitary limits of the town to fail to keep in a good, fully functional and safe state all water courses, drainage easements, drains and appurtenances thereto which are on said lot or premises.

Section 1-8. Burying dead animals.

It shall be unlawful for the owner or occupant of any lot or premises within the corporate or sanitary limits of the town to fail to cause to be buried or to be removed from the town any dead rate, cat, dog, chicken or other vertebrate, whether domesticated or not, which has died or been found dead upon such lot or premises.

Section 1-9. Penalty.

If any person violates any of the terms of this Article, such person, upon conviction thereof, shall be fined not less than \$25.00 nor more than \$500.00 for each offense. A separate offense shall be deemed to be committed on each day during or on which said violation is permitted to exist.

Article Two - Sharpsburg Garbage, Rubbish and Refuse Ordinance.

Section 2-1. Citation - "Sharpsburg Garbage, Rubbish and Refuse Ordinance"

This Article shall be known as and may be cited as the "Sharpsburg Garbage, Rubbish and Refuse Ordinance."

Section 2-2. General Provisions.

A. It shall be the duty of each householder to provide one or more containers for the reception of garbage and household refuse, as said terms are defined in this Article.

B. Except as herein provided, a container in which any garbage is deposited shall be made of metal or rigid plastic and be free of leaks and shall be provided with a suitable cover or lid and an adequate handle for lifting the container.

C. A container in which household refuse only is deposited shall be made of metal, plastic, wood or other material not affected by water or inclement weather conditions and shall be of sufficient size and strength to conveniently hold its contents.

D. A good quality plastic bag may be used as a container for both garbage and household refuse, the same to be free of leaks and of sufficient size and strength to conveniently hold its contents, any such bag to be securely fastened or tied so as to prevent leakage or loss of any part of its contents.

E. Containers generally known as "cartons" or "pasteboard cartons" may be used as a container for both garbage and household refuse, the same to be free of leaks and of sufficient size and strength to conveniently hold its contents, any such container to be securely fastened or tied so as to prevent leakage or loss of any part of its contents.

F. It shall be unlawful for any person to use or permit to be used a container for the reception of garbage or household refuse, preparatory to its collection as hereinafter set forth, that does not comply with the provisions of this Article.

Section 2-3. Placement of containers for collection.

It shall be the duty of the householders, no earlier than 4:00 p.m. of the day before the date on which the collector shall make his rounds on their street or block of the town, to place their garbage and household refuse containers in front of their premises at the edge of the curb, so as to be of easy access to the collector, and as soon as possible after rigid material containers are emptied, to return such containers to some convenient place about the premises out of view, it being understood that if good quality plastic bags are used as containers, the collector will take both the bags and their contents.

Section 2-4. Waste containers in public areas.

It shall be unlawful for any person to throw upon the sidewalks or streets of the town any wastepaper or waste matter of any kind, character or description whatsoever, but such waste matter may be deposited in cans or other containers, if any, placed upon the sidewalks by the town for the reception of such refuse matter.

Section 2-5. Depositing trash, etc. on streets prohibited.

It shall be unlawful for any person to throw, dump or deposit any trash, junk, garbage, household refuse, or other refuse upon any public street or alley within the town or upon any land owned by the town, save and except with the confines of a public dump or transfer station owned and operated by or on behalf of the town, and then only in accordance with the rules and regulations adopted for the operation thereof.

Section 2-6. Responsibility for cleanup.

In the event a person uses or permits to be used a container for the reception of garbage or household refuse that leaks or loses any part of its contents prior to collection, that person is responsible for cleanup of the leaked or lost contents.

Section 2-7. Penalty.

If any person violates any of the terms of this Article, such person, upon conviction thereof, shall be fined not less than \$25.00 nor more than \$500.00 for each offense. A separate offense shall be deemed to be committed of each day during or on which said violation is permitted to exist.

Chapter 23 - TOWN OF SHARPSBURG, MARYLAND SUBDIVISION ORDINANCE

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- 901 Subdivision Control
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ARTICLE 1. GENERAL PROVISIONS

101 TITLE

This document shall be known as the Town of Sharpsburg Subdivision Ordinance.

102 PURPOSE

The purpose of these regulations are to regulate and control the division of land located within Sharpsburg in order to promote the public health, safety, and general welfare of the residents of the Town of Sharpsburg. The regulations also implement requirements of the State of Maryland under Article 66B of the Annotated Code of Maryland to:

- A. Concentrate development in suitable areas
- B. Protect sensitive areas
- C. Conserve and reduce the consumption of natural resources
- D. Establish compliance with the Maryland Building Performance Standards

103 JURISDICTION

All lands within the incorporated limits of the Town of Sharpsburg shall be subject to the provisions of this ordinance. No such land shall be subdivided and offered or negotiated for sale, sold, or ownership transferred except in accordance with the provisions of this ordinance.

104 EFFECTIVE DATE

The provisions of these Regulations will be in full force 5 days after the adoption date.

105 SEVERABILITY CLAUSE

Should any article or provision of these regulations be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.

106 INTERPRETATION & APPLICATION OF REGULATIONS

In their interpretation and application the provisions of these regulation standards shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and general welfare. Wherever these regulations are at variance with the requirements of any lawfully adopted laws, rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive or that imposing the higher standards shall govern.

107 FEES

The Mayor and Council shall establish a schedule of fees to cover the cost of reviewing the plans and plats described herein. The Development Administrator shall collect fees for this process for the Town of Sharpsburg at the time of filing.

108 REPEAL OF CONFLICTING ORDINANCES

All ordinances and regulations or parts thereof which are in conflict or inconsistent with the provisions of these Land Subdivisions Regulations are hereby repealed to the extent necessary to give these regulations full force and effect; except, that if a conflict occurs between these regulations and the official *The Town of Sharpsburg Zoning Ordinance*, then the Planning Commission will make a decision.

109 MUNICIPAL LIABILITY

The granting of a permit or approval of a subdivision and/or land development plan in any identified flood plain, mined area, slopeland, or other area shall not constitute a representation, guarantee, or warranty of any kind by the Town of Sharpsburg or by any official or employee thereof the practicability or safety of the proposed use, and shall create no liability upon the Town, its officials or employees.

ARTICLE 2. DEFINITIONS

201 GENERAL INTERPRETATION

For the purpose of these regulations, certain terms or words used herein shall be interpreted as follows:

1. The word person includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.
2. The present tense includes the future tense.
3. The singular number includes the plural; the plural number includes the singular.
4. The word shall is mandatory; the word may is permissive.
5. The word lot includes the words plot or parcel.

202 DEFINITIONS

For the purpose of these regulations, the following definitions shall apply:

Approval, Final – Final Approval is the official action of the Planning Commission taken on a tentatively approved Preliminary Plat after all requirements, conditions, engineering plans, etc., have been completed and the required improvements have been installed or bonds properly posted to guarantee their completion.

Block - A lot or group of lots bounded on one side by a street, and the other three sides by a street, railroad right-of-way, waterway, a tract of land and other definite barriers, or combinations thereof.

Comprehensive Plan – The current Town of Sharpsburg Comprehensive Plan and amendments.

Cartway – The portion of a street right-of-way, paved or unpaved, intended for vehicular use.

Cul-de-Sac – The terminus (terminating point) of a public street which is at least 80 feet in diameter of pavement and 100 feet of property in diameter, and designed to allow the turning around of motor vehicle.

Development Administrator – The municipal officer so designated by the Town Manger and the Sharpsburg Mayor and Council to enforce the Town of Sharpsburg Zoning and Subdivision Ordinance.

Drainage Rights-of-Way – The lands required for the installation of storm water sewers or drainage ditches or required along a natural stream or watercourse for preserving the channel and providing for the flow of water therein to safeguard the public against flood damage.

Easement – A grant of the use of a parcel of land for the use of the public, a corporation or person for a specific purpose, without including title to the land.

Engineer, Registered Civil – A civil engineer licensed by the State of Maryland.

Engineer, Town – An engineer employed by the Mayor and Council to perform engineering services at their direction.

Flood Plain – A relatively flat or low land area adjoining a river, stream or watercourse which is subject to partial or complete inundation; or, any area subject to the unusual and rapid accumulation or runoff of surface waters from any source; and, specifically including those areas subject to flood by waters of the 100-year flood as shown on the U. S. Department of Housing and Urban Development, Federal Insurance Administration, Flood Insurance Rate Map for Sharpsburg.

Flood Way – The designated area of a flood plain required to carry and discharge flood waters.

Improvements – Those physical additions, installations, and changes, such as streets, curbs, sidewalks, water main, sewers, drainage facilities, street trees, public utilities, and other appropriate items required to render land suitable for the use proposed.

Landowner – The legal beneficial owner or owners of land, including the holder of an option of contract to purchase (whether or not such option or contract is subject to any conditions), a lessee if he is authorized under the lease to exercise the rights or the landowners, or other person having a proprietary interest in the land.

Lot – A parcel or portion of land separated from other parcels or portions by description on a subdivision plat, or record of survey map, or by metes and bounds for the purpose of sale, lease or separate use.

Owner – Any individual, firm, association, syndicated, partnership or corporation having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under this ordinance.

Performance Guarantee – Any security which may be accepted in lieu of a requirement that certain improvements be made before the Planning Commission approves a plat including but not being limited to performance bonds, escrow agreements and other similar collateral or surety agreements with surety to be approved by the Planning Commission.

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

Plat – A plat is the finished map or layout of subdivision.

Plat, Final – The final map of layout of all or a portion of the subdivision which is submitted to the Planning Commission for final approval in accordance with these regulations and which, if approved, shall be filed with the office of the Clerk of the Circuit Court of Washington County.

Plat, Preliminary – A preliminary map or layout indicating the proposed layout of the subdivision which is submitted for Planning Commission consideration and conditional approval and which meets the requirements of Articles 4 & 5 of this Ordinance.

Right-of-Way – A strip of land occupied or intended to be occupied by a street, alley, crosswalk, sanitary or storm sewer, drainage ditch, or other special use. The usage of the term “right-of-way” for land plotting purposes in the Town shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels.

Sketch Plan – An optional subdivision procedure to ensure the subdivider has the opportunity to consult early and informally with Town agencies and officials and in accordance with Article 4.

Streets & Alleys – The term shall mean a way for vehicular traffic whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place or however otherwise designated.

1. Arterial streets and highways are those which are used primarily for fast or heavy traffic.
2. Collector streets are those which carry traffic from minor streets to the major arterial streets and highways including the principal entrance streets of a major residential development and streets for circulation within such a development.
3. Minor streets are those which are used primarily for access to the abutting properties.
4. Marginal access streets are minor streets, which are parallel to and adjacent to arterial streets and highways; and which provide access to abutting properties and protection from through traffic. They do not provide access to properties between the arterial highway and the marginal access streets.
5. Alleys are minor ways, which are used primarily for vehicular service access to the back or the side of properties otherwise abutting on a street.

Subdivider – Any individual, firm, association, syndicate, partnership, corporation, trust or other legal entity commencing proceedings under this ordinance to effect a subdivision of land thereunder for himself, herself or another.

Subdivision – The term subdivision means the division of a parcel of land into two or more lots or parcels for the purpose of transfer of ownership or building development, except that for purposes of these regulations, the transfer or sale of land between owners of adjoining properties which does not involve the creation of any new buildable lots under the terms of the Town of Sharpsburg Zoning Ordinance shall not constitute a subdivision. The term includes re-subdivision and when appropriate to the context shall relate to the process of subdividing or to the land subdivided.

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

Water Supply System – A utility system designed and operated to supply potable water, in compliance with Washington County and the State of Maryland Health regulations.

Centralized Water Supply System – A utility system serving two or more dwelling units, businesses, commercial, industrial or other establishment.

Private Water System – A utility system serving only one dwelling unit or single commercial, business, industrial or other establishment.

Zoning Ordinance – The officially adopted Zoning Ordinance of the Town of Sharpsburg, together with any and all amendments thereto.

ARTICLE 3. STANDARD REQUIREMENTS

301 STREET DESIGN

The following general standards shall apply:

1. The minimum standard for road construction in a subdivision is as follows: eight inches (8") of crusher run #6 after compaction for the road base in two four-inch (4") courses and four inches of bituminous concrete in two layers. A two and one half inch (2 ½") layer of bituminous concrete binder (base) course paving plus the curbing on both sides of the street must be completed prior to the selling of the first lot in the designated area and the final one and one half inch (1 ½") of bituminous concrete surface course after sixty percent of the lots are sold in the designated development area. A tack coat shall be provided for between asphalt layers. This standard is for Minor/Local roads only. The Town Engineer and Planning Commission shall approve the width of the road and will be thirty feet (30') wide from inside of curb to inside of curb unless other uses are approved by the Planning Commission.
2. All utility lines (water, sewerage, gas, electricity, telephone, cable television) must be placed at each lot prior to the two and one half inch (2 ½") layer of bituminous concrete binder (base) course paving. The Code Enforcement Officer and Planning Commission shall approve the water lines, sewer lines, fire hydrant locations and stormwater system.
3. All adjacent roadway shoulders' slopes shall be graded to a 3.5:1 run to rise away from road surface prior to any asphalt paving.
4. The Subdivider shall be responsible for road construction. The obtaining of a bond in accordance with Article 504 3(b) of the Subdivision Ordinance shall be enforced by the Town. A schedule of the road construction process shall be established and approved by the Town Engineer and Planning Commission.
5. Included in the subdivision site plan shall be engineered drawings, which shall include profiles and cross section views of roads, drainage, and all utilities. The Town Engineer shall determine the frequency of cross section. The minimum frequency shall be in fifty-foot (50') intervals or any significant structure or natural or man-made drainage swale. The site plan shall included existing and proposed contours at intervals of two-feet (2') vertical or less.
6. The Subdivider shall maintain roads until they are completely finished; then the Town may accept them. Maintenance of roads includes snow and ice removal

and the repair of roadway surface due to normal wear. This includes repairing potholes and all drainage facilities before the Town gains acceptance.

7. The Town Engineer and Planning Commission shall approve the placement of curbs to control parking and stormwater. Curbs shall be constructed of concrete. Precast shall be approved by the Town prior to placement.
8. The developer shall submit a timetable or road construction with the final plat to be approved by the Town Engineer and Development Administrator.
 - a) The alignment, character, extent, width, and location of all streets within or bordering the subdivision shall conform to the Comprehensive Plan for Sharpsburg and shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.
 - b) Where such is not shown in the Comprehensive Plan, the arrangement of streets in a subdivision shall either:
 - i) Provide for the continuation or appropriate projection or existing principal streets in surrounding areas; or
 - ii) Conform to a plan for the neighborhood approved or adopted by the Planning Commission to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impracticable.
 - c) Minor streets shall be so laid out that their use by through traffic will be discouraged.
 - d) Where a subdivision abuts or contains an existing proposed arterial street or railroad right-of-way, the Planning Commission may require marginal access streets at a distance from such right-of-way suitable to the appropriate use of the intervening land, as for park purposes in residential districts or such other treatment as may be necessary for adequate protection or residential properties and to afford separation of through and local traffic. To these ends, the Planning Commission may require the subdivision to be designed so as to limit the number of street intersections and to limit access from abutting properties to arterial streets and highways.

302 RIGHT-OF-WAYS

1. Street right-of-way widths shall not be less than follows:

Street Type	Right-of-Way
1. Arterial	80 feet
2. Collector	60 feet
3. Minor/Local	50 feet
4. Marginal Access	50 feet
5. Alley	25 feet

2. Half streets shall be prohibited, except where essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations and where the Planning Commission finds it will be practicable to require the dedication of the other half when the adjoining property is subdivided. Wherever a half street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.
3. Cul-de-sacs, designed to be so permanently, shall not be longer than eight hundred feet (800') and shall be provided at the closed end with a turn-around having an outside roadway diameter, right-of-way, of at least eighty feet (80'), and a street right-of-way diameter of at least one hundred feet (100') and shall not furnish access to more than twenty-five (25) dwelling units.
4. The Planning Commission may require a suitable turn-around when a street is temporarily dead-ended and over two hundred feet (200') from its nearest intersection.
5. Street grades, curves and intersections shall be subject to the approval of the Planning Commission and Town Engineer, and in general shall conform to the following specifications:
 - a) Street jogs with centerline offsets of less than one hundred and twenty-five feet (125') shall be avoided.
 - b) A tangent at least one hundred feet (100') long shall be introduced between reverse curves on arterial and collector streets.
 - c) When a deflection angle of more than ten (10) degrees in the alignment of a street occurs, a curve shall be introduced having a centerline radius of a curvature not less than four hundred feet (400') on arterial streets, three hundred feet (300') on collector streets, and two hundred feet (200') on minor/local streets.
 - d) All changes in grade shall be connected by vertical curves to current stop distance design criteria as approved by the Planning Commission.

- e) Clear visibility, measured along the road centerline, shall be provided for at least three hundred feet (300') on arterial streets, two hundred feet (200') on collector streets, and one hundred feet (100') on minor streets.
- f) No street grade shall be less than 0.75 percent, and wherever feasible, shall not exceed the following, with due allowance for reasonable vertical curves:

Street Type	Percent Grade
1. Arterial	6
2. Collector	6
3. Minor/Local	10
4. Marginal Access & Alleys	10

Streets shall be laid out so as to intersect at right angles and no street shall intersect any other street at less than ninety (90) degrees.

Property lines at street intersections shall be rounded with a radius of fifteen feet (15'), or of a greater radius where the Planning Commission may deem it necessary. The Planning Commission may permit comparable cut-off or chords in place of rounded corners.

- 6. Alleys shall be provided in commercial and industrial districts, except that the Planning Commission may waive this requirement where other definite and assured provisions are made for service access, such as fire/rescue service, off-street loading, unloading and parking consistent with and adequate of the uses proposed.
- 7. Proposed streets which are obviously in alignment with others already existing and named shall bear the name of the existing streets duplicate, or be phonetically similar to existing street names, irrespective of the use of the suffix: street, avenue, boulevard, drive, place or court.
- 8. All Collector and Arterial streets shall be constructed to standards approved by the Town Engineer and Planning Commission.

303 PLANNED RESIDENTIAL DEVELOPMENT

Planned residential areas provide flexibility in developing larger unused tracts. The areas would be residential in nature, permitting limited types and amounts of supporting commercial uses. There are three techniques for Planned Residential Developments “PRD” - Cluster, Traditional Neighborhood and Open Space Developments. PRDs must

meet the requirements of this Ordinance as well as the Town of Sharpsburg Zoning Ordinance.

1. Cluster Developments permit developers to group homes together on smaller lots in exchange for setting aside areas of permanent open space.
2. Traditional Neighborhood Developments accommodate development in a manner that encourages community interaction and cohesion, a mixing of housing densities and types, as well as mixed commercial and open space.
3. Open Space Development is a complete approach to designing residential subdivision which considers the significant physical features of the site in determining the development which the site can support.

304 INTERSTATE HIGHWAY BUFFER

A non-development buffer shall be maintained 100 feet from the State of Maryland right-of-way for I-70. This includes the structure and its surrounding lot. The buffer should include the planting of evergreen trees parallel to the right-of-way. The Planning Commission & the MD Department of Natural Resources Forest Service Division must approve a site plan detailing the buffer. This buffer is used to maintain a rural setting for the motorists, the lot owner, and reduce noise.

305 EASEMENTS

1. Existing Developmental Easement – A non-developmental easement shall be maintained when a new subdivision is proposed for development adjacent to an existing subdivision. The easement shall be no less than 100 feet in width and shall not be subject to development, but may be utilized as Open Space meeting the requirement of Article 3, Section 307.
2. Easements across lots or centered on lot lines shall be provided for utilities where necessary and shall be at least twenty-five feet (25') wide.
3. Where a subdivision is traversed by a watercourse, drainage way, channel, or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such watercourse, and of such further width or construction, or both, as will be adequate for the purpose, as approved by the Planning Commission. To aid in its review, the Planning Commission will require the submission by the Subdivider of a storm water runoff analysis for the proposed development certified by a professional civil engineer. The analysis may include the establishment of the 100-year and 500-year flood plains.

306 BLOCKS

The lengths, widths and shapes of blocks shall be determined with due regard to provision of adequate building sites suitable to the special needs, contemplated, zoning requirements as to lot sizes and dimensions, Article 301 to 306 in these regulations, needs for convenient access, circulation, control and safety of street traffic, and limitations and opportunities of topography among others.

Block length shall not exceed sixteen hundred feet (1,600'), or be less than five hundred feet (500'), except that in unusual situations this provision may be waived by the Planning Commission.

Blocks shall be designed with sufficient width to provide two (2) tiers of lots, except that where blocks adjoin arterial streets, railroads, streams or other drainage courses, multi-family, commercial or industrial areas, schools, churches or similar land uses, the Planning Commission may approve blocks with only one (1) tier of lots.

Pedestrian crosswalks not less than ten feet (10') wide may be required where deemed essential by the Planning Commission to provide circulation or access to schools, playgrounds, shopping centers, transportation, and other community facilities.

Nonresidential blocks designed for business or industry shall be of such length and width as may be determined necessary by the Planning Commission, including adequate provisions for traffic circulation, off-street parking, loading and unloading zones and truck maneuvering.

307 PUBLIC SITES & OPEN SPACES

1. Where a proposed park, playground, school, street or other public use shown in the Comprehensive Plan or other supporting plan is located in whole or in part in a subdivision, the Planning Commission may require the dedication or reservation of such area within the subdivision in those cases in which the Planning Commission deems such requirements to be reasonable.
2. Where deemed essential by the Planning Commission, upon consideration of the particular type of development proposed in the subdivision, and especially in large-scale neighborhood developments, the Planning Commission may require the dedication for public use, or reservation by deed covenant for common use by all or property owners in the subdivision, of such other areas or sites of a character, extent and location suitable to the needs created by such development for schools, parks and other neighborhood purposes.

3. Open Space Definition:

- a) Consideration shall be given to the arrangement and location of Open Spaces to take advantage of physical characteristics of the site and to place Open Spaces within easy access and view of dwelling units, at the same time preserving and, where applicable, enhancing natural features.
 - i) The property dedicated for Open Space shall not have a slope greater than 25%.

4. Open Space Ownership and Responsibility:

- a) Open space areas shall be maintained so that their use and enjoyment as open space is not diminished or destroyed. Open space areas may be owned, reserved and maintained by any of the following:

Dedication of open space to the Town or an appropriate public agency willing to accept the dedication.

Common ownership of the open space by a homeowner's association which assumes full responsibility for its maintenance.

Dedication of development rights of open space may be made to an appropriate public agency with ownership remaining with the developer or homeowner's association. Maintenance responsibility shall remain with the property owner.

Deed-restricted private ownership which shall prevent development and/or subsequent subdivision of the open space land and provide maintenance responsibility.

- b) Maintenance of natural areas is limited to the removal of litter, dead tree and plant materials and brush. Natural watercourses shall be maintained as free flowing and devoid of debris. Stream channels shall be maintained so as not to alter floodplain level.
- c) Maintenance of recreational areas is limited to insuring that no hazards, nuisances, or unhealthy conditions exist (high grass, compost, litter, construction equipment/material, recreational equipment).
- d) Pedestrian amenities shall be maintained in a clean and safe condition.

ARTICLE 4: PROCEDURE FOR SUBMISSION & REVIEW OF PLATS

401 INTRODUCTION

THE PROCEDURES CONTAINED HEREINAFTER PROVIDE FOR A THREE-STEP PROCESS IN THE REVIEW OF PLATS FOR PROPOSED SUBDIVISIONS. THESE THREE STEPS CONSIST OF:

1. Submission and review of a Sketch Plan (optional).
2. Submission and review of a Preliminary Plat.
3. Submission and review of a Final Plat.
 - a) The first step, involving submission and review of a Sketch Plan of a proposed subdivision, shall be optional and shall not be a prerequisite for approval of the Preliminary or Final Plats.
 - b) This optional procedure is highly recommended to any potential applicant because it provides an opportunity to resolve problems early in the proceedings and to make necessary modifications and revisions prior to incurring the expense of preparing Preliminary and Final Plats.
 - c) Steps 2 and 3 above, involving submission and review of Preliminary and Final Plats shall both be mandatory; except, that in certain cases the Planning Commission, with concurrence of the Mayor & Town Council, may grant a procedural waiver, consistent with the provisions of Article 8.

402 PURPOSE OF THE SKETCH PLAN

The purpose of the “Sketch Plan” is to afford the Subdivider the opportunity to consult early and informally with the Planning Commission, Development Administrator, County Health Department, Soil Conservation Service, and other agencies before preparation of the Preliminary Plat and formal application for approval.

During the “Sketch Plan” procedure, the applicant can advantageously make use of the services of the administrative personnel of the Town as well as the Planning Commission to help analyze the proposed development and to plan more effectively for its sound coordination with the community. This procedure also affords the administrative

personnel and Planning Commission the opportunity to give informal guidance to the applicant at a stage when potential points of difference can be most easily resolved.

403 PROCEDURES FOR SUBMISSION & REVIEW OF THE SKETCH PLAN

1. The subdivider may submit a Sketch Plan prepared in accordance with the provisions of this ordinance to the Planning Commission in care of the Development Administrator.
2. If the subdivider chooses to submit a Sketch Plan to the Planning Commission, he shall file such copies as the Development Administrator may request. The Development Administrator may distribute copies to the following:
 - One copy to the County Health Department
 - One copy to the County Planning Department
 - One copy to the Soil Conservation Service

Additional copies to such officials as the Planning Commission may designate.

3. Within thirty (30) days of its last regularly scheduled meeting receipt of the complete submission, the Planning Commission shall:
 - a) Receive and review the reports by the Development Administrator, the County Health Department, the County Planning Department, the Soil Conservation Service and other agencies, if applicable, and:
 - i) Provide the Subdivider an opportunity to be heard and discuss the submission with the Subdivider if he so desires.
 - ii) Inform the Subdivider that the plans and data as submitted or as modified do or do not meet the objectives of these regulations. When the Planning Commission finds that the plans and data do not meet the objectives of these regulations, it shall express its reasons therefore.
 - iii) The Planning Commission's review of any subdivision shall include consideration of the provisions, standards, policy and plans contained in Articles 7 and 8 of this ordinance, the Town's Comprehensive Plan and generally accepted planning and design practices.

404 CONDITIONAL APPROVAL OF PRELIMINARY PLAT

The purpose of the Preliminary Plat is to require formal, but conditional approval in order to determine what changes and decisions must be made prior to submission of the Final Plat.

1. The Preliminary Plat and all information and procedures shall comply in all respects with the provisions of these regulations before conditional approval may be given, except where a waiver therefrom may be specifically authorized in accordance with the provisions of Article 8 hereof.

405 PROCEDURES FOR SUBMISSION & REVIEW OF PRELIMINARY PLAT

The following procedures shall be used:

1. The Preliminary Plat shall be prepared in accordance with the following regulations and shall be submitted prior to the completion of the final surveys of streets and lots, and before any street grading or street construction has been started, and before any map of said subdivision is made in final form for recording.
2. The Preliminary Plat and supplementary material specified shall be submitted to the Planning Commission, with the written application on forms provided by the Planning Commission for its study, review and recommendations. Such material shall be filed with the Planning Commission in care of the Development Administrator.
3. The Subdivider shall file five copies plus an original as the Development Administrator may request. The Development Administrator may distribute copies to the following:
 - One copy to the County Planning Department
 - One copy to the County Health Department
 - One copy to the Soil Conservation Service
 - One copy to each utility company which would be responsible for providing utility service to the proposed development
 - One copy to the Sharpsburg Fire Department

Additional copies to such officials as the Planning Commission may designate.

4. Within sixty (60) days of receipt of the complete submission by the Planning Commission, the Planning Commission shall:

- a) Receive and review the reports by the Development Administrator, the County Health Department, the County Planning Department, the Soil Conservation Service, appropriate utilities and other agencies if applicable.
 - b) Provide the Subdivider an opportunity to be heard and discuss the submission with the Subdivider if he so desires.
 - c) Inform the Subdivider that the plans and data as submitted or as modified do or do not meet the objectives of these regulations.
 - d) The Planning Commission shall express its approval as Conditional Approval and state the conditions of such approval, if any, or if disapproved, shall express its disapproval and its reasons therefore.
5. The action of the Planning Commission shall be noted on two copies of the Preliminary Plat including any special conditions attached to such action and attested to by the signature of the Commission chairman or acting chairman. One copy shall be returned to the Subdivider and the other retained by the Planning Commission.

406 CONDITIONAL APPROVAL

Conditional Approval of a Preliminary Plat shall not constitute approval of the Final Plat. Rather, it shall be deemed an expression of approval of the Preliminary Plat as a guide to the preparation of the Final Plat. Upon fulfillment of the requirements of these regulations and the conditions of the Conditional Approval, if any, the Final Plat shall be submitted for the approval of the Planning Commission and for recording with the Clerk of the Circuit Court.

407 FINAL PLAT SUBMISSION

Should the Subdivider fail to submit the Planning Commission a Final Plat affecting all or a part of the area covered by the Preliminary Plat within one year of the date of the Conditional Approval, the Conditional Approval shall expire and the Subdivider shall begin the subdivision process under this ordinance anew.

408 APPROVAL OF FINAL PLAT

The Final Plat shall conform substantially to the Preliminary Plan as approved. However, it may constitute only that portion of the approved Preliminary Plat, which the Subdivider

proposes to record and develop at the time, provided that such portion conforms to all requirements of these regulations.

1. A Final Plat shall be submitted conforming to the changes recommended during the Preliminary Plat procedure. The Final Plat and all information and procedures relating thereto shall in all respects be in compliance with the provisions of these regulations, except where waiver therefrom may be granted in accordance with the provisions of Article 6 hereof.
2. The Planning Commission shall require to be submitted in conjunction with the Final Plat, a notarized statement of intent describing generally the manner and sequencing of the development of the subdivision. When the Planning Commission requires such a statement of intent, it shall be attached as an addendum to the plat, and if the plat is approved, shall be recorded with the plat.

409 PROCEDURES FOR SUBMISSION & REVIEW OF THE FINAL PLAT

The following procedures shall be used:

1. The Final Plat and other exhibits required for approval shall be prepared as specified in Article 4 and shall be submitted to the Planning Commission in care of the Development Administrator, within twelve (12) months after approval of the Preliminary Plat.
2. The Subdivider shall file a minimum of five copies, and such additional as the Development Administrator may request. The Development Administrator may distribute copies to the following:
 - One copy to the County Health Department
 - One copy to the County Planning Commission
 - One copy to the Soil Conservation Service
 - One copy to each utility company which would be responsible for providing utilities to serve the proposed subdivision
 - One copy to the Sharpsburg Fire Department

Additional copies to such officials as the Planning Commission may designate.

3. Within thirty (30) days following receipt of the complete submission, the Planning Commission shall:

- a) Receive and review reports by the Development Administrator, County Health Department, County Planning Commission, Soil Conservation Service, and other agencies, if applicable;
- b) Provide the Subdivider an opportunity to be heard, and discuss submission with the Subdivider if he so desires;
- c) Determine whether the Final Plat meets the objectives and requirements of this ordinance and other regulations; and,
- d) Inform the Subdivider in writing of the decision including required changes in the Final Plat, if any, and the reason for the decision.

4. Approval shall not be final until:

- a) One exact copy of the approved Final Plat on lined or mylar and one additional reproducible copy with the required signatures as specified by the Planning Commission and the Development Administrator shall be submitted to the Planning Commission.
- b) The applicant shall then file the lined or mylar copy for record with the Clerk of the Circuit Court of Washington County providing promptly thereafter a written receipt to the Planning Commission indicating that the plat has been filed.
- c) The Applicant shall distribute other prints to official agencies as may be required by the Planning Commission. Such agencies shall include but not be limited to: the utility companies which will be responsible for serving the subdivision; and the local office of State Department of Assessment and Taxation.

410 PURPOSE OF THE SIMPLIFIED PLAT

The purpose of the Simplified Plat is to allow the subdivision of an area where the subdivider is neither to develop the land nor to divide land containing existing development, a simplified plat may be submitted for the Commission's review. Examples of this type of subdivision may include the conveyance of land between adjacent property owners for the purpose of property enlargement, readjustment of property line and/or correction of deed discrepancies, acquisition in fee simple of utility right-of-way or access right-of-way, and acquisition of parcels of three (3) acres or more for bona fide agricultural or conservation purposes. Other purposes not specified above will be considered individually by the Planning Commission.

1. The Planning Commission shall approve or disapprove a simplified plat with sixty (60) days after submission, otherwise such plat shall be deemed to have been approved and the certificate to the effective date shall be issued by the Planning Commission on demand. The grounds of disapproval of said plat shall be stated upon the records of the Planning Commission.

411 PROCEDURES FOR SUBMISSION & REVIEW OF THE SIMPLIFIED PLAT

The Subdivider must submit the simplified plat in black or blue line reproductions and one (1) reproducible transparency, drawn to scale at one inch (1”) equals one hundred feet (100’) to the Planning Commission in care of the Development Administrator.

If the Subdivider submits a Simplified Plat to the Planning Commission, he shall file such copies as the Development Administrator may request. The Development Administrator may distribute copies to the following:

- One copy to the County Health Department
- One copy to the County Planning Department
- One copy to the Soil Conservation Service

Additional copies to such officials as the Planning Commission may designate.

ARTICLE 5. DATA & INFORMATION REQUIRED ON SKETCH PLANS & PLATS

501 INTRODUCTION

The procedures which must be followed in order for an applicant to have a proposed subdivision reviewed and approved by the Planning Commission are set forth in Article 4 of these regulations. The purpose of this section is to set forth the requirements for data and information, which must be contained on the Sketch Plan and Plats.

502 SKETCH PLAN REQUIREMENTS

The following data and information shall be included on the Sketch Plan:

1. Name of the Subdivision. The name of the proposed subdivision shall not be similar or identical to the name of any existing subdivision in the Town or surrounding areas.
2. Name and address of the owner.
3. Name and address of the engineer or surveyor, if any.
4. Tract boundaries and existing zoning.
5. North arrow, scale and date.
6. Streets on and adjacent to the tract.
7. Significant topographical and physical features.
8. Proposed general street layout.
9. Proposed general lot layout.
10. Designations of the general character of use for the various portions of the tract. (Including, for example, any proposed commercial or industrial uses, or the general type of housing proposed.)

503 REQUIREMENTS FOR THE PRELIMINARY PLAT

The following requirements shall apply to the preliminary plat:

1. Drafting standards:
 - a) The preliminary Plat shall be at a scale of one hundred feet (100') to one inch (1") or other scale as the Planning Commission may direct. It shall show or have attached the following information and proposals:
2. Topographic data shall include the following information on existing conditions except when otherwise specified by the Planning Commission:
 - a) Existing boundary lines: bearing and distances;
 - b) Existing easements: location, width and purpose;
 - c) Contours at an interval of not more than five feet (5');
 - d) Subsurface conditions on the tract, if required by the Planning Commission: location and results of tests made to ascertain subsurface soil, rock and groundwater conditions where drainage systems are proposed;
 - e) Other existing conditions on the tract such as watercourses, marshes, wooded areas, isolated preservable trees, houses, barns, shacks and other significant features;
 - f) Other existing conditions on adjacent land such as approximate direction and gradient of ground slope, including any embankments or retaining walls; location of railroads, power lines, towers, and other nearby non-residential land uses; names of owners of adjacent unplatted land; for adjacent platted land refer to subdivision plat by name, recordation date and number. Where the proposed subdivision lies partially or completely in the flood plain areas, or where the subdivision borders on the flood plain areas, the Preliminary Plat map shall include detailed information giving the location and elevation of proposed roads, utilities and building sites and the extent of 100-year flood.
3. Improvements on or adjacent to the site, as follows:
 - a) Existing streets on and adjacent to the tract; name and right-of-way width location, type, width and elevation of surfacing; any legal centerlines, elevations; walks, curbs, gutters, culverts, etc.
 - b) Existing utilities adjacent to and on the tract; location, size and invert elevation of sanitary, storm and combined sewers; location and size of water mains; location of gas lines, fire hydrants, electric and telephone poles, and street lights; if water mains and sewers are not on or adjacent to the tract,

indicate the directions and distance to and size of nearest ones, showing invert elevation of sewers.

- c) Proposed public improvements: highway or other major improvements planned by public authorities for future construction on or near the tract.
 - d) Location of all existing monuments.
4. Other information as follows:
- a) Zoning on and adjacent to the tract.
 - b) Key plan showing location of the tract.
 - c) The words “Preliminary Plat – Not To Be Recorded” shall be shown on the plat.
 - d) Title and certificates: present tract designation according to official records in office of the Circuit Court; title under which proposed subdivision is to be recorded, with names and addresses of owners, notation stating acreage, scale, north arrow, datum, benchmarks, certification of registered civil engineer or land surveyor, date of survey, date of application, date of submission, date of revisions, and date of any re-submission.

504 REQUIREMENTS FOR THE FINAL PLAT (Bonding Requirements)

The following requirements shall apply to the Final Plat:

1. Final Plat shall be drawn in ink on mylar (preferred sheet 18 inches by 24 inches) and shall be at a scale of one hundred feet (100') to one inch (1"). Where necessary, the Plat may be on several sheets accompanied by an index sheet showing the entire subdivision. For large subdivisions, the Final Plat may be submitted for approval progressively in contiguous sections satisfactory to the Planning Commission. The Final Plat shall show the following:
 - a) Primary control points approved by the Development Administrator, or descriptions and “ties” to such control points, to which all dimensions, angles, bearings, and similar data on the Plat shall be referred.
 - b) Tract boundary lines, right-of-way lines of streets, easements and other rights-of-way, and property lines of residential lots and other sites; with accurate dimensions, bearings of deflection angles, and radii, arch, and central angles of all curves.

- c) Name and right-of-way width of each street or other right-of-way.
 - d) Location, dimensions and purpose of any easements.
 - e) Number to identify each lot or site.
 - f) Purpose for which sites other than residential lots are dedicated or reserved.
 - g) Minimum building setback line on all lots and other sites.
 - h) Location and description of monuments.
 - i) Names of record owners of adjoining unplatted land.
 - j) Reference to record subdivision plats of adjoining platted land by record name, date and number.
 - k) Certification by registered land surveyor or civil engineer, certifying to accuracy of survey and plat.
 - l) Certification of title showing that Subdivider is the landowner.
 - m) Statement by owner dedicating streets, right-of-way and any sites for public uses.
 - n) Title, scale, north arrow and date.
 - o) The words "Final Plat" shall be shown on the plat.
 - p) Location of existing buildings, the outline of all wooded areas, areas subject to flooding including information on elevations and boundaries of the 100-year flood plain as defined by the U. S. Department of Housing and Urban Development rate maps as defined herein.
2. Cross sections and profiles of streets showing grades approved by the Development Administrator and Town Engineer. The profiles shall be drawn to Town standards scales and elevations and shall be based on a datum plan approved by the Development Administrator and Town Engineer.
 3. A Certificate by the Development Administrator certifying that the Subdivider has complied with one of the following alternatives:

- a) All improvements have been installed in accordance with the requirements of these regulations and with the action of the Planning Commission giving Conditional Approval of the Preliminary Plat, or
 - b) A certificate by the Town Engineer shall be furnished stating that the improvements required to be accomplished by the Subdivider have been satisfactorily completed; or, in lieu thereof, the Subdivider shall furnish to the Town a bond or other form of performance guarantee acceptable to both the Town Attorney and the Planning Commission, to assure the accomplishment of such improvements within the period of time fixed by the Commission in an amount recommended by the Town Engineer, and approved by the Commission, to be adequate to cover the total estimated costs of the required improvements, such as street, curb/gutter, storm water management, water/sewer requirements, lighting requirements, or in the alternative, a receipt from the Town Clerk, showing that prepayment has been made in the amount so fixed.
4. Protective Covenants in form for recording.
5. Other Data: Such other certificates, affidavits, endorsements, maps and plans of all improvements, and other provision as may provision as may be required by the Planning Commission in the enforcement of these regulations.

505 REQUIREMENTS FOR THE SIMPLIFIED PLAT

1. Drafting standards:
- a) The Preliminary Plat shall be at a scale of one hundred feet (100') to one inch (1") or other scale as the Planning Commission may direct. It shall show or have attached the following information and proposals.
2. Topographic data shall include the following information on existing conditions except when otherwise specified by the Planning Commission:
- a) Names of record owners of adjoining unplatted land.
 - b) Certification of title showing that Subdivider is the landowner.
 - c) Title, scale, north arrow and date.
 - d) Number to identify each lot or site.
 - e) Tract boundary lines, right-of-way lines of streets, easements and other right-of-way, and property lines of residential lots and other sites; with

accurate dimensions, bearings of deflection angles, and radii, arch and central angles of all curves.

- f) Other existing conditions on the tract such as watercourses, marshes, wooded areas, isolated preserveable trees, houses, barns, shacks and other significant features.
- g) Certification by registered land surveyor or civil engineer, certifying to accuracy of survey and plat.
- h) Title and certificates: present tract designation according to official records in office of the Circuit Court; title under which proposed subdivision is to be recorded, with names and addresses of owners, notation stating acreage, scale, north arrow, datum, benchmarks, certification of registered civil engineer or land surveyor, date of survey, date of application, date of submission, date of revisions, and date of any re-submission.

ARTICLE 6. REQUIRED IMPROVEMENTS

601 DESCRIPTION

Monuments, utility and street improvements shall be provided by the Subdivider in each new subdivision in accordance with the standards and requirements described in the following schedule:

602 PUBLIC WATER & SEWER SYSTEMS

Connection to a public water distribution system as approved by the Town of Sharpsburg is required for each lot. Connection to a public sewer system as approved by the Town of Sharpsburg. Minimum standards for water service shall be provided throughout new subdivisions. A minimum pressure in the water main shall be twenty-five pounds per square inch (25 PSI), and a minimum pressure of twenty-five pounds per square inch (25 PSI) shall be maintained at any house connection. A minimum fire flow at all fire hydrants shall be 1,000 gallons per minute with a residential pressure of twenty pounds per square inch (20 PSI).

All sanitary sewer systems located in flood plain areas, whether public or private, shall be flood proofed. All water systems located in flood plain areas, whether public or private, shall be flood proofed. If there is an existing public water supply system on or near the subdivisions, the Planning Commission shall require the developer to connect to this system where practical, and shall prescribe the procedures to be followed by the developer in connecting the system.

603 STORM SEWER SYSTEM

Storm sewer system and other drainage improvements as approved by the Planning Commission and; storm drainage facilities shall be designed to convey the flow of surface water without damage to persons or property. The system shall insure drainage at all points along streets, and provide positive drainage away from buildings. The Planning Commission may require a primarily underground system to accommodate frequent floods and secondary surface system to accommodate large, less frequent floods. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties.

1. In determining the proper drainage of any subdivision, the Planning Commission shall take into consideration and, if possible, make provision for future drainage problems which may arise, and shall not be restricted in imposing conditions or

regulation respecting drainage problems to the particular subdivision under consideration.

2. The subdivider shall provide for the construction of all necessary structures and storm drainage facilities required beyond the immediate boundary of the subdivision in order to conduct runoff to an acceptable point of disposal.

604 STREET NAMES & LIGHTING

Street name signs and lighting as required by the Planning Commission in order to provide proper safety. The Planning Commission may also choose the type of light fixture.

605 MEANDERING STREETS

Access streets through Subdivisions shall meander as much as possible in order to reduce the speed of vehicles in that particular Subdivision as long as the physical environment of the Subdivision allows.

606 CURBS & GUTTERS

1. **Marginal Access Streets:** 50-foot right-of-way, including a 30-foot pavement, two concrete curbs, two 4-foot sidewalks when required, and two grass utility areas.
2. **Arterial Streets:** Cross sections in accordance with the Comprehensive Plan or as determined by the Planning Commission.
3. **Collector Streets:** 60-foot right-of-way, including a 36-foot pavement, two standard grass and utility areas and two grass utility areas.
4. **Minor Streets:** 50-foot right-of-way, including a 30-foot pavement, two standard 2-foot curb and gutter sections, one 4-foot sidewalk when required, two grass and utility areas.

607 SIDEWALKS

Sidewalks may be waived by the Planning Commission unless deemed necessary to provide safe pedestrian circulation and access to schools, playgrounds, shopping centers and other community facilities.

608 MONUMENTS

Monuments shall be placed at all block corners, angle points, points of curves in streets, and at intermediate points as required by the Planning Commission, who shall also approve the material, size and length of such monuments.

609 FIRE HYDRANTS

Fire hydrants shall be located no more than 1,000 feet apart and shall be within 500 feet of any structure.

610 WIDENING OR REALIGNMENT OF EXISTING ROADS

Where the subdivision borders an existing street and the Comprehensive Plan indicates plans for realignment or widening of the street that would require reservation of some land of the subdivision, the Planning Commission may require that such areas be shown and marked on the plat "Reserved for Street Realignment (or Widening) Purposes".

ARTICLE 7. ENVIRONMENTAL REGULATIONS

701 PURPOSES

In order to provide for the health, safety and welfare of the present and future population of Sharpsburg, the Planning Commission shall refuse to approve any proposed subdivision when such subdivision would bring about the development of land which is suitable for such development due to flooding, lack of drainage, excessive slope, excessive erosive action by water, unstabilized slope or fill, inadequate access or other conditions which may cause danger to life, health, or when the lands involved would in its opinion become unsuitable through the development proposed.

702 GENERAL REGULATIONS

Proposed development projects that contain environmentally sensitive areas shall be subject to measures to protect, mitigate impacts upon, and enhance these resources. An Environmental Impact Assessment Report shall be prepared addressing identification, protection, impact mitigation, and enhancement of environmental resources of the project site and its vicinity.

703 BOUNDARIES

All areas determined by the Planning Commission to contain any resources of sensitive environmental value shall be subject to mitigation and enhancement and, whenever possible, protected and preserved as undeveloped space.

704 WOODLAND AREAS & UNIQUE VEGETATION

Forest areas and its vegetation shall be protected as much as possible on a development site in order to preserve the existing natural setting.

705 FLOOD HAZARD AREAS

1. If any grading, construction, or expansion of structures, or storage of hazardous materials is proposed within the officially designated 100-Year Flood Plain, the Development Administrator shall require that the applicant provide evidence of compliance with the Town of Sharpsburg Flood Plain Ordinance, as amended.
2. If the Development Administrator has reason to believe that a proposed development would include areas subject to a 100-Year Flood that was not

studied as part of the Official Flood Plain Maps, then the Development Administrator may require an applicant to provide a detailed study of the extent of the 100-Year Flood Plain on portions of the subject property proposed development.

3. Where not prohibited by this or any other laws or ordinances, land located in flood plain areas may be platted for development with the provision that the Subdivider construct all buildings and structures to preclude flood damage in accordance with this and any other laws or ordinances regulating such development.
4. No subdivision or part thereof shall be approved if the proposed development and/or improvements will, individually or collectively, increase the 100-year flood plain elevation.
5. Building site for residences or any other type of dwelling accommodation shall not be permitted in any flood plain area. Sites for these uses may be permitted outside the flood plain area if the lowest habitable floor level is above the elevation of the 100-year flood plain.
6. Building sites for structures or building other than for residential uses shall also not be permitted in any flood plain area. However, the subdivision and/or development of areas or sites for non-residential purposes shall be permitted outside any flood plain provided all structures are designed to withstand the hydrostatic pressure of the 100-year flood.
7. If the Planning Commission determines that only a part of a proposed plat can be safely developed, it shall limit development to that part and shall require that development proceed consistent with this determination.
8. When a Subdivider does not intend to develop the plat himself or herself and the Planning Commission determines that additional controls are required to insure safe development, it may require that Subdivider impose appropriate deed restrictions on the land. Such deed restrictions shall be inserted in every deed and noted on every recorded plat.

706 NON-TIDAL WETLANDS

1. Description: Wetlands are defined as areas that have a predominance of hydric soils and that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of hydrophilic vegetation typically adapted for life in saturated soil conditions.

2. Regulations: A buffer of at least twenty-five feet shall be maintained in all areas adjacent to wetlands. This buffer shall be used to best protect and preserve non-tidal wetlands within Sharpsburg Town Limits. This area may be used to meet the requirements of Article 3, Section 307, Public Sites and Open Space. This area may be developed with a walking/biking trail to conform to the intent of the Comprehensive Plan and the Town of Sharpsburg Trail Alignment Study. The proper location for such proposal shall be at the discretion of the Planning Commission and the Development Administrator.

707 STEEP SLOPES

1. New Slopes: If any new slope will be created of greater than 4:1, the applicant shall provide a written description of the measures that will be used to stabilize such slope, together with a legally binding timetable in for the implementation of such measures.
2. Over 25 Percent Slopes: Any construction of a new principal building or a new parking lot on land with an existing natural slope of over 25 percent shall require special exception approval by the Board of Appeals, except such approval shall not be needed within the C3 district or the HP overlay district. When special exception approval is required, the applicant shall:
 - a) 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;
 - b) Submit a plan showing that storm water runoff will be properly controlled;
 - c) 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
 - d) Submit a detailed grading plan;
 - e) Submission of structural design by a Professional Engineer may be required for principal structures on lots that have been filled or require excessive backfill.

Slopes on Proposed Lots:

1. This Section shall only apply to a lot submitted for subdivision approval after the adoption of this Ordinance, and which includes over 500 square feet of natural slopes of over 25 percent.
2. As part of the subdivision plan, the applicant shall designate a “buildable area”. The buildable area shall be the proposed maximum extent of portions of the lot where construction of a principal building shall be permitted. The applicant may voluntarily propose a smaller buildable area than is permitted by this Ordinance.
3. If the subdivision plan shows a buildable area that includes natural slopes over 25 percent, then the minimum lot area for those lots shall be increased to one and one half the size that would otherwise be required.

708 RARE & ENDANGERED SPECIES

1. Description: Any area previously or currently identified during site review and planning design as containing rare and endangered species/habitat.
2. Regulations: The applicant should consult the Department of Natural Resources Natural Heritage and Environmental Review to identify any valuable habitats on or near the project site. If any endangered habitats are detected, then those areas are off limits for structural building.

709 STREAM BUFFERS

1. Setback: No new principal building, off-street parking, loading area, or commercial or industrial outdoor storage area shall be located:
 - a) Within 50 feet of the centerline of a perennial waterway; and
 - b) Within 25 feet of the centerline of an intermittent waterway.
2. Crossings: Within 50 feet of the centerline of a perennial waterway, streets and driveways shall be limited to those approximately perpendicular crossings that are absolutely necessary for public safety or to provide reasonable use of adjacent properties.
3. Existing Vegetation: Existing natural vegetation shall be preserved to the maximum extent possible. An applicant for a permit for activity within such area shall:

- a) Specify on the plan those trees or areas of trees and other vegetation intended to be preserved, removed or replaced by new trees and vegetation; and
 - b) Be accompanied by a detailed soil erosion and sedimentation control plan, which shall be carried out in full.
4. New Trees & Vegetation: If existing trees do not exist along a perennial waterway, and if a new principal building and/or vehicle parking area is proposed adjacent to such waterway, then the applicant shall:
- a) Plant an average of one deciduous shade tree along such waterway for each 50 feet of distance along the waterway; and
 - b) Plant new grass, shrubs or similar vegetation along the bank of the waterway if such does not already exist.

710 GENERAL PLANTING & BUFFER REQUIREMENTS

1. Plant Type: A mixture of flowering and/or decorative evergreen and deciduous trees may be planted. The evergreens should be used along the perimeter of the lot for screening, and the deciduous trees for shade within the lot. The areas beneath the trees should be mulched, as well as beds planted with shrubs or ground cover.
2. Planting Specifications: All deciduous trees shall have a minimum of two-inch circumference at its trunk, shall be nursery-grown, shall be uniform in size and shape, and have straight trunks. Evergreen trees shall be a minimum of five feet in height. All trees shall be properly planted and staked according to a plan approved by The Planning Commission & the MD Department of Natural Resources Forest Service Division.
3. When Required: Every development shall provide sufficient buffering when topographical or other barriers do not provide proper screening and when the Planning Commission determines that it is necessary to preserve a natural setting.

ARTICLE 8. WAIVERS

801 WAIVER FOR EXCEPTIONAL CONDITIONS

The Planning Commission, in concurrence with the Mayor & Council, may grant a waiver from the provisions of these regulations where:

1. Such waiver would not be contrary to the public interest in the judgment of the Planning Commission;
2. Owing to exceptional conditions of the land involved a literal enforcement of these regulations would result in unnecessary hardship; and
3. Such waiver would not have the effect of substantially impairing the purpose and intent of these regulations or the Comprehensive Plan of the Town of Sharpsburg.

In granting any waiver from the terms of these regulations, the Planning Commission may prescribe such conditions and safeguards as it shall deem necessary to fulfill the purpose and intent of these regulations. Violations of such conditions upon which any waiver is granted shall be deemed a violation of these regulations and punishable under the provisions of **Article 9**.

802 PROCEDURAL WAIVER

The Planning Commission, providing that the following requirements shall be met, may waive through a Procedural Waiver the requirements for the Preliminary Plat procedure:

1. The proposed subdivision involves the division of a lot, parcel or tract into four or fewer lots, parcels, or tracts; and
2. The lots, parcels, or tracts thus created each have frontage on an existing improved public road or roads; and
3. There is not created by the proposed subdivision any new road or roads.

ARTICLE 9. CONTROL, ENFORCEMENT & PENALTIES

901 SUBDIVISION CONTROL

It shall be unlawful for the owner of any land that lies within the subdivision control jurisdiction of Sharpsburg to subdivide any lot, tract, or parcel of land unless and until the following steps are completed:

- a) A plat of such subdivision is made in accordance with the regulations set forth herein;
 - b) Approval is secured thereof from The Planning Commission as provided herein; and
1. No land in a subdivision created after the adoption of this ordinance shall be transferred, sold, or offered for sale, nor shall a building permit be issued for a structure thereon until the Final Plat or such subdivision has been recorded in accordance with these regulations and until the improvements required in connection with the subdivision have either been constructed or guaranteed as herein after provided except that after approval of a Preliminary Plat, an application may offer such land for sale provided that the contract of sale shall be conditioned upon the approval and recordation of the Final Plat and that this condition is stated upon the contract of sale.
 2. No plat of any subdivision shall be recorded until it has been approved by the Planning Commission as provided herein and witnessed by the signature of the Chairperson; and the Chairperson shall not sign any plat unless he/she is satisfied that the requirements of these regulations have been complied with.
 3. The applicant shall cause copies of said plat to be recorded in the office of the Clerk of the Circuit Court of Washington County and proof thereof provided to the Town of Sharpsburg.

902 ENFORCEMENT

These regulations shall be enforced by the Development Administrator or designee. If he/she shall find that any of the provisions of these regulations are being violated, he/she shall notify in writing the person responsible for such violation and take such action as may be necessary to prevent the violation of these regulations, including obtaining a court injunction to discontinue the transfer, sale or negotiations for sale of illegal lots or parcels.

903 PENALTIES FOR VIOLATION

Whoever, being the owner or agent of the owner of any land located within the subdivision control jurisdiction of the Town of Sharpsburg transfers, sells, offers to sell, agrees to sell, or negotiates to sell, or otherwise conveys any such land by reference to, of exhibition of, or any other use of plat of a subdivision before such plat has been approved and recorded as required in Article 901 hereof shall be guilty of a Municipal Infraction. Upon conviction thereof, the offender shall be subject to penalties as addressed in the Code of Sharpsburg, Article III, Section 1. The description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies herein provided.

1. Violations by a landowner or his agent of requirements and restrictions, which the Planning Commission may impose as conditions for approval of a subdivision plat, shall constitute a Municipal Infraction. Any person convicted of such violation shall be subject to penalties as addressed in the Code of Sharpsburg, Article III, Section 1.